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Attorneys for Lead Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

_____)	
)	Civil Action No. 07-428-N-EJL
)	
)	FIRST AMENDED CONSOLIDATED
IN RE:)	CLASS ACTION COMPLAINT FOR
)	VIOLATION OF FEDERAL SECURITIES
ATLAS MINING COMPANY,)	LAWS
SECURITIES LITIGATION)	
)	<u>JURY TRIAL DEMANDED</u>
)	
)	
)	
_____)	

Lead Plaintiffs James O’Hern and John O’Hern (“Lead Plaintiffs”), allege the following, individually and on behalf of all other persons similarly situated, based upon

the investigation by Lead Plaintiffs' counsel, which included, among other things, a review of Defendants' public documents, announcements made by Defendants, United States Securities and Exchange Commission ("SEC") filings, wire and press releases published by and regarding Atlas Mining Company ("Atlas" or the "Company"), securities analysts' reports and advisories about the Company, and information readily available on the Internet. Lead Plaintiffs believe that substantial additional evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

NATURE OF THE ACTION AND OVERVIEW

1. This is a federal class action on behalf of purchasers of the publicly traded common stock of Atlas during the period January 19, 2005 through October 8, 2007 (the "Class Period") who were damaged thereby. Lead Plaintiffs seek to pursue remedies for damages caused by Defendants' violations of Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 thereunder, and for violations of Section 20 (a) of the Exchange Act.

2. Founded in 1924, Atlas is a natural resources company based in Osburn, Idaho, that engages in the acquisition, exploration, and development of its resource properties in the states of Idaho and Utah. Atlas owns and operates the Dragon Mine in Juab County, Utah. Atlas was to exploit its Dragon Mine property for halloysite clay, a rare and high unit value clay mineral. The Company also provides contract mining services and specialized civil construction services for mine operators, exploration companies, and construction and natural resources industries. Atlas also owns approximately 900 acres of fee simple property and patented mining claims, and 260

acres of mineral rights and unpatented claims located in the Coeur d'Alene mining district in Shoshone County, Idaho. In addition, it harvests timber on approximately 420 acres of its properties that primarily consists of pine, fir, and larch.

3. This action against Atlas, certain Atlas directors and officers, Atlas' auditor Chisholm, Bierwolf & Nilson, LLC ("CBN") and Nano Clay and Technologies, Inc. ("NanoClay"), a division of or a sham subsidiary of Atlas, stems from Atlas's material misstatements in publicly disseminated press releases and Securities and Exchange Commission ("SEC") filings regarding the extent of the halloysite deposit on Atlas property, the availability and quality of halloysite for sale, and claimed sales of halloysite. The action further alleges the Company's improper accounting manipulations of reported earnings relating to purported sales of halloysite. In addition, Defendants repeatedly represented that the Company's financial statements, which were included in its SEC filings and press releases during the Class Period, were reliable in that they were prepared in accordance with generally accepted accounting principles ("GAAP") when they were not.

4. Unbeknownst to investors, the seeming success of the Company's halloysite business was not real. Rather, the Company created the illusion of a healthy and viable business through wholly improper accounting machinations and false representations to the market.

5. The Atlas Defendants (defined herein) represented that the Company's Dragon Mine was the only known commercial source of halloysite clay outside of New Zealand and that the mine was a rich cache of unique quality halloysite, when, as these defendants were well aware, it was not. *See* ¶ 52.

6. Typically, halloysite is used in the manufacturing of bone china, fine

china, and porcelain products. Yet, as represented by the Atlas Defendants, the halloysite in Atlas' possession was determined by Atlas to have a certain tubular quality enabling its use in high end production. According to the Atlas Defendants, the Dragon Mine's halloysite clay had special uses in manufacturing making it more valuable than other available halloysite. Further, Atlas represented that it had over 300,000 tons of this valuable halloysite when in fact, it had no information regarding the extent of the halloysite in the Dragon Mine.

7. Contrary to their public representations, the Atlas Defendants knew that the halloysite at the Dragon Mine was not of the quality represented. Prior to making these public representations, Atlas was aware of reputable reports regarding the quality of halloysite at the Dragon Mine, which reports noted significant impurities (including alunite and iron minerals) and contaminants in the Dragon Mine that would prevent the halloysite from being used in high-end production. To perpetrate fraud on its shareholders, Atlas retained Richard Tschauder to publish findings contrary to these reports. Mr. Tschauder's findings were false and were tainted with conflicts as he was not independent and had a financial stake in providing misleading information concerning the Dragon Mine's prospects.

8. While touting the quality and quantity of the halloysite purportedly in its possession based on the conflict-tainted findings of Tschauder, Atlas fraudulently represented to the market that it was already selling halloysite to customers and had bright prospects of selling even more halloysite. In a January 19, 2005 press release, Atlas first claimed to have sold halloysite to a customer, NaturalNano, Inc. This purported sale never occurred and Atlas' public representations were the result of collusion between Atlas and NaturalNano. Specifically, for no valid business purpose

other than NaturalNano's cooperation in creating the appearance that NaturalNano was purchasing halloysite from Atlas, and for no consideration, Atlas issued warrants to NaturalNano to acquire 750,000 shares of Atlas stock at \$0.40 a share. As of August 9, 2006, those warrants were sold for \$562,500 yielding to NaturalNano stockholders net cash proceeds after legal fees of \$506,250.00, at the expense of Atlas shareholders.¹ Tschauder, who authored the false reports for Atlas, was a shareholder of NaturalNano.

9. Atlas further orchestrated its fraud through the statements of its purported wholly-owned subsidiary, NanoClay, which was represented to shareholders as a division of Atlas. Using NanoClay as an additional voicebox, Atlas further issued false and misleading statements concerning the availability, quality and sale of halloysite clay during the Class Period. As is alleged herein, in a blatant fraud perpetrated on Atlas' shareholders, NanoClay depicted photographs of bales of halloysite being shipped to various customers and touted sales of halloysite by Atlas to the market, when in reality no halloysite was ever shipped.

10. The Company's fraud was revealed on October 9, 2007. On that day, before market open, the Company shockingly revealed that its prior financial statements for the fiscal years ended December 31, 2004, 2005 and 2006 were materially false and misleading and had to be restated. The restatements were necessary, as admitted by the Company, because Atlas had wrongfully inflated its revenues and under-reported net losses and long-term liabilities by improperly recognizing as revenues speculative, *future* deliveries of halloysite clay from Atlas's Dragon Mine that were never delivered. In fact, Atlas had never processed or sold any halloysite to the market (other than providing small

¹ NaturalNano later filed a form 8-K with the SEC on October 2, 2007, stating that NaturalNano had overstated the value of the Atlas warrant in its SEC filings in the amount of \$76,800.

samples and providing one ton of impure product to NaturalNano) and did not have any viable halloysite business. Rather, Atlas had created the illusion of a viable halloysite business through this undisclosed accounting fraud.

11. Thus, as admitted by Atlas itself, each of Atlas' financial statements, press releases and Sarbanes-Oxley certifications issued during the Class Period were materially false and misleading when made. The true facts, which were concealed from the investing public during the Class Period, are set forth in ¶¶ 37 through ¶¶ 184 below.

12. Defendants knew or were reckless in not knowing that their public representations and accounting machinations concerning halloysite sales were improper and violated GAAP.

13. Defendants' intentional malfeasance of manipulating the Company's earnings was catastrophic for Atlas shareholders because Defendants intentionally created a false portrayal of the Company's financial strength and operating results and prospects for halloysite clay. As Atlas first revealed its misconduct to the marketplace by the Company's October 9, 2007 announcement, the price of Atlas shares fell precipitously. On October 8, 2007, the last day of the Class Period, the Company's stock closed trading at \$1.64 per share with 52,700 shares trading that day. The following day—the day the Company issued its press release—Atlas' stock opened trading at \$1.06 per share and closed at \$.80 a share, or down over 51% from the previous days' close, on a share trading volume of 6,418,299 shares.

JURISDICTION AND VENUE

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

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

16. Venue is proper in this judicial district pursuant to § 27 of the Exchange Act, 15 U.S.C. § 78aa and 28 U.S.C. § 1391(b). Atlas maintains its principal executive offices in this District and many of the acts and transactions alleged herein, including the preparation and dissemination of statements containing materially false and misleading information and omissions of material fact, occurred in substantial part in this District.

17. In connection with the acts, conduct and other wrongs alleged in this Complaint, Defendants, directly or indirectly, used the means and instrumentalities of interstate commerce, including but not limited to, the United States mail, interstate telephone communications and the facilities of a national securities exchange.

PARTIES

18. Lead Plaintiffs James O'Hern and John O'Hern, as set forth in the certifications previously filed with the Court, purchased Atlas stock at artificially inflated prices during the Class Period and have been damaged thereby.

19. Defendant Atlas is an Idaho corporation with its corporate offices located at 1221 Yellowstone, Osburn, Idaho 83849. At all relevant times, the Company's common stock was listed on the OTC Bulletin Board under ticker "ALMI.OB."

20. Defendant NanoClay is an Idaho corporation located at the same address as Atlas's corporate offices: 1221 Yellowstone, Osburn, Idaho 83849. According to Atlas, NanoClay was tasked with handling the mining, processing and sale of the halloysite clay from the Dragon Mine.

21. NanoClay was established as a purported wholly-owned subsidiary of Atlas, yet, it was publically represented as a division of Atlas. NanoClay's business

letterhead represented that NanoClay was “A division of Atlas Mining Company (ALMI)” and the email signature of Defendant Price contained a representation that NanoClay was a division of Atlas. Further, the NanoClay Web site, from approximately 2006 through September 2007, stated:

NanoClay and Technologies Inc. is a *division* of the Atlas Mining Co. dedicated to the production of quality halloysite clays for technical applications in the controlled release and polymer industries. In addition we also manufacture halloysite for use in specialty ceramic applications.

(Emphasis added).

22. Because the NanoClay Web site was linked to the Atlas Web site, visitors to the Atlas site seeking information about the Dragon Mine would “click” on the NanoClay link. When Atlas Web site users clicked on this link they were directed to NanoClay’s homepage wherein NanoClay is represented to be a division of Atlas.

23. In the event that NanoClay is a division of Atlas, as Atlas represented, NanoClay is not a separate legal entity from Atlas. As such, NanoClay’s statements are the statements of Atlas. In the event that NanoClay is a wholly owned subsidiary of Atlas, as Atlas has alternatively represented, then NanoClay was at all relevant times controlled by Atlas. The two companies shared leadership. Specifically, Atlas President and CEO, Defendant William T. Jacobson, served as the President of NanoClay in 2006 and also served as NanoClay’s registered agent. Later, Defendant Dr. Ron Price, an Atlas Director, served as President of NanoClay while Jacobson was named Vice President. Both Jacobson and Price served as Directors of NanoClay along with Marqueta Martinez, an officer of Atlas.

24. Apart from shared leadership, Atlas controlled the finances of NanoClay. For example, on each annual report filed by Atlas on form 10-KSB with the SEC during

the Class Period (filed by Atlas with the SEC on March 31, 2005, March 31, 2006, April 17, 2007 and May 1, 2007), Atlas included the financials of NanoClay in its consolidated financial statements by titling the statements as those of “Atlas Mining Company and Subsidiary.” Within the consolidated financial statements, however, Atlas did not designate any of the figures as pertaining to NanoClay. Because of this intertwining of finances, it is evident that Atlas commingled its funds with NanoClay’s, thus eliminating any notion of corporate separateness between the two entities.

25. Defendant William T. Jacobson, at all relevant times, served as the Chief Executive Officer (“CEO”) and President of the Company until he was replaced by Defendant Robert Dumont on July 9, 2007. Jacobson at all times during the Class Period served as the Company’s Chairman. He also served as Chief Financial Officer (“CFO”), until the appointment of Defendant Suveg on August 8, 2007. On November 30, 2007, Jacobson was again appointed as CEO and President of Atlas. As alleged herein, Jacobson frequently spoke to the marketplace regarding the efficacy of the halloysite at the Dragon Mine and continually issued false and misleading statements concerning Atlas’ earnings and earning potential throughout the Class Period. Jacobson again resigned as the Company’s President and CEO on June 27, 2008.

26. Defendant Robert Dumont was appointed CEO and President of the Company effective July 9, 2007. On November 28, 2007, Dumont tendered his resignation which was accepted by the Board on November 30, 2007. As alleged herein, during his tenure, Dumont signed false and misleading filings submitted to the SEC.

27. Defendant Dr. Ronald Price was appointed to the Atlas Board of Directors on July 12, 2005. Dr. Price also served as the President of NanoClay. Dr. Price made numerous representations about Atlas to the marketplace through NanoClay press

releases regarding the quality and sales of halloysite that were false and misleading. Dr. Price touted his previous position as an inventor of microtubular technology while employed by the Naval Research Laboratory in Washington DC, leading shareholders to believe that representations he made regarding the quality of the halloysite were true and accurate.

28. Defendant Barbara S. Suveg was appointed as CFO of the Company on August 8, 2007. As alleged herein, during her tenure, Suveg signed false and misleading filings submitted to the SEC.

29. Defendant Chisholm, Bierwolf & Nilson, LLC (“CBN”), located at 533 West 2600 South, Suite #25, Bountiful, Utah 84010, served as Atlas’ independent auditor throughout the Class Period. CBN issued unqualified audit opinions in Atlas’ year-end financial statements for the years ended 2004 through 2006. CBN opined that the Company’s financial statements were presented in accordance with GAAP and that its audits were conducted in accordance with the standards of the Public Accounting Oversight Board and Generally Accepted Auditing Standards (“GAAS”) when they were not.

30. Defendants Jacobson, Dumont, Price and Suveg are collectively referred to herein as the “Individual Defendants.”

31. Defendants Atlas, NanoClay and the Individual Defendants are collectively referred to herein as the “Atlas Defendants.”

32. The Individual Defendants, because of their positions with the Company, possessed the power and authority to control the contents of the Company’s reports, press releases and presentations to securities analysts, money and portfolio managers and institutional investors, *i.e.*, the market. Each Individual Defendant was provided with

copies of the Company's reports and press releases alleged herein to be misleading prior to or shortly after their issuance and had the ability and opportunity to prevent their issuance or cause them to be corrected. Because of their positions and access to material non-public information available to them, each of the Individual Defendants knew that the adverse facts specified herein had not been disclosed to and were being concealed from the public and that the positive representations which were being made were then materially false and misleading. The Individual Defendants are liable for the false statements pleaded herein, as those statements were each "group-published" information, and the result of the collective actions of the Individual Defendants.

33. Each of the Individual Defendants 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 and operations as alleged herein. The Individual Defendants were involved in drafting, producing, reviewing and/or disseminating the false and misleading statements and information alleged herein, were aware of or recklessly disregarded that false and misleading statements were being issued regarding the Company, and approved or ratified these statements in violation of the federal securities laws.

34. As officers, directors and controlling persons of a publicly-held company whose common stock is and was registered with the SEC and was traded on the Bulletin Board and governed by the provisions of the federal securities laws, the Individual Defendants each had a duty promptly to disseminate accurate and truthful information with respect to the Company's financial condition 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 stock would be based upon truthful and accurate information.

35. Atlas is liable for the acts of the Individual Defendants and its employees under the doctrine of *respondeat superior* and common law principles of agency, as all of the wrongful acts complained of herein were done within the scope of their employment with authorization.

36. The scienter of the Individual Defendants and other employees and agents of the Company is similarly imputed to Atlas under *respondeat superior* and agency principles.

SUBSTANTIVE ALLEGATIONS

MATERIALLY FALSE AND MISLEADING CLASS PERIOD STATEMENTS

37. During the Class Period, Defendants artificially inflated the market price of Atlas stock by issuing and filing materially false and misleading financial statements with the SEC for the fiscal years and quarters ended December 31, 2004, 2005 and 2006 and quarterly reports issued for the quarters March 31, June 30 and September 30, for the years 2005, 2006, and 2007 and by otherwise issuing false and misleading press releases and statements to the marketplace.

38. Defendants' false and misleading statements concerned the extent of the halloysite deposit existing at the Company's Dragon Mine, the availability and quality of the halloysite clay for sale, claimed sales of the clay, accounting relating to purported deliveries of the clay and representations concerning the business prospects for the Company's halloysite.

39. With respect to its accounting improprieties, the Company improperly recorded as revenue \$250,000 received in 2004, given to Atlas for speculative, future

deliveries of halloysite clay. Because Atlas never delivered the 500 tons of clay it claimed to have sold to NaturalNano, the Company's recognition of these deposit amounts as revenues was improper and the Company's public statements concerning such improper revenue recognition were materially false and misleading when made and violated GAAP.

40. In fact, Atlas could not have delivered the clay claimed to have been sold, as the Dragon Mine was not operational or able to process enough clay with the requisite unique qualities to fulfill the clay orders that were purportedly placed.

41. Throughout the Class Period, the Atlas Defendants continually touted the Company's business prospects for halloysite clay, all the while knowing, that the Company had not delivered the clay claimed as revenue in 2004 and that the Company would be unable to deliver any significant quantity of clay.

42. The Atlas Defendants also misrepresented the quality of halloysite clay purportedly existing at the Dragon Mine. These defendants represented that the Company's Dragon Mine was the only known commercial source of halloysite clay outside of New Zealand and that the mine was a rich cache of unique quality halloysite, when in reality it was not. *See* ¶ 52.

43. Historically, halloysite was used in the manufacturing of products for filtration purposes or ceramic products including bone china, fine china, and porcelain. Typically in the industry, these uses would yield between \$400-\$500 a ton. The Atlas Defendants represented, however, that the halloysite in Atlas' possession was determined by Atlas' and other chemists and scientists to have a certain "tubular" quality enabling novel uses. According to the Atlas Defendants, the special halloysite microtubules from the Dragon Mine (which were similar to grains of rice, but considerably smaller and

hollow) could act as time-release capsules, dissolving over time, and could be filled with such things as antifouling paint, antiscalants, herbicides, pest repellents, and other agents which could benefit from a controlled release. The Atlas Defendants further represented that the unique size and shape of the Dragon Mine halloysite would enable its use as a filler in coatings and composite materials. According to the Atlas Defendants, these highly advanced uses would allegedly yield over \$1,000 a ton, which is at least double the price expected from the sale of typical halloysite

44. Defendants knew, however, that the halloysite at the Dragon Mine did not have any unique tubular qualities, due to impurities which could not be removed by commonly used separation techniques. Thus, Defendants knew that the Company would not be able to reap the extra profits which could be expected from halloysite microtubules. Thus, the Atlas Defendants' representations concerning expected profits from the sale of halloysite were false and misleading when made.

45. Defendants' misrepresentations began at least as early as September 24, 2004 when Atlas issued a false and misleading press release wherein Atlas CEO Jacobson told the marketplace: "I'm very pleased to announce that we're now operational and processing halloysite."

46. That same day, September 24, 2004, Atlas issued a press release that was later posted on SiliconInvestor.com – a Web site dedicated to providing "a single source for worldwide financial data, news and discussion." The posted section of the press release quoted Jacobson: "We currently have *commitments* for about 15,000 tons of clay per year from traditional markets (at about \$450 a ton), but feel if we work the technology side we can triple the demand and potentially increase our margins." (Emphasis added).

47. Contrary to the representations made on September 24, 2004, however, Defendants were aware that the Dragon Mine was far from operational, and thus, the Company could not have fulfilled any commitments to sell any significant quantities of clay. Upon information and belief, the mine has not processed any significant quantities of halloysite to date.

The Retention of Tschauder

48. In order to defraud the market, Atlas hired a Richard Tschauder, a geologist, in March 2003 to provide a false report regarding the quality of the halloysite at the Dragon Mine, which Atlas used, in turn, to misrepresent the prospects of its halloysite business to the market.

49. Prior to Atlas' retention of this geologist, Atlas was aware of reputable reports from the United States Geological Survey and Spectral International, Inc. regarding the quality of halloysite clay in the mine. These reports noted significant contaminants and impurities in the Dragon Mine that would prevent the halloysite from being used in high-end production markets. The halloysite could not be used for these high end purposes because contaminants could not be removed from halloysite to increase its purity. Thus, Atlas knew that its halloysite was not of the type represented to the investing public at large.

50. To defraud its shareholders, Atlas utilized Richard Tschauder's report presumably to dispute the findings of other unbiased reports. Tschauder was not independent or unbiased, however. His findings were tainted with conflicts and were motivated by his own financial interests because Tschauder had a financial stake in misleading the market concerning the Dragon Mine's prospects.

51. Tschauder was a stockholder of NaturalNano, the purported customer of Atlas' fraudulently booked sales of halloysite in 2004. As is set forth in detail below, in exchange for enabling Atlas to claim those fraudulently booked sales of halloysite, Atlas gave NaturalNano lucrative warrants in Atlas stock for no consideration. Tschauder knew that providing a positive report for Atlas would increase Atlas' stock price, thus making the Atlas warrants more valuable to NaturalNano and ultimately impacting the price of his NaturalNano stock.

52. With the help of Tschauder, the Atlas Defendants misled the market through a series of public misrepresentations about the extent of halloysite in Atlas' possession, and the availability, quality and sale of this clay.. In a January 5, 2005 Atlas press release, Tschauder represented that the Dragon Mine halloysite was unique and unparalleled: "Under an electron microscope, we have compared the tubular clay from the Dragon Mine to those clay samples which can be found in New Zealand...The clay samples from New Zealand are misshaped, blocky, and quite contaminated with various types of debris including quartz, volcanic ash, and silica." The Atlas release goes on to say that the "purity and quality of the Dragon Mine halloysite is unmatched anywhere in the world." Tschauder continues: "I told Bill Jacobson that to use this clay to make ceramic and porcelain products was like using gold or wire to plum your house...The Dragon Mine clay is a one-of-a-kind resource..."

Continued Misrepresentation

53. At the same time as the Company touted the quality of its Dragon Mine halloysite, it began to carefully craft the appearance that it would be able to sell this high quality clay both domestically and internationally. To this end, the Company announced yet another prospective purchaser of the clay. On January 5, 2005, Atlas issued another

press release announcing that it “entered into a strategic relationship to develop high value applications for the unique hollow microtubules currently being produced at the Dragon Mine... NanoDynamics, a leading nanotechnology company headquartered in Buffalo, NY, will begin purchasing Halloysite clay from Atlas immediately in order to create commercial applications for this novel material.” (Emphasis added).

54. All of these representations set the stage for the Class Period, which begins on January 19, 2005, when Atlas falsely represented to its shareholders that it was making specific and extensive sales of halloysite. On that date, Atlas issued a press release (filed with the SEC on January 21, 2005) announcing sales of halloysite to its customer, NaturalNano. Specifically, Atlas claimed that it sold 500 tons of halloysite to NaturalNano and obtained an initial payment of \$125,000 for that purchase. This was the first representation by Atlas that it was actually receiving payment for sales of halloysite.

55. Following its January 19, 2005 announcement of halloysite sales to NaturalNano, Atlas continued to mislead the market in early 2005, allowing investors to believe it was selling halloysite. In a letter to shareholders dated January 26, 2005 and filed with the SEC on January 28, 2005, Atlas reassures shareholders that the Dragon Mine is in production. Notably, the letter reads that “we are now to the point where underground production has begun...We now have purchase orders for product and have started to receive some payments.” The letter also represents that halloysite is well-suited to “micro- and nano- tubular” uses. These statements were knowingly false.

56. On February 9, 2005 Atlas issued and filed with the SEC a press release, wherein the Company stated that it had entered into a purchase order with NanoDynamics, another customer, to sell 5000 tons of halloysite at \$500 a ton. The release also claimed that NanoDynamics “already remitted a purchase of 500 tons against

this purchase order.” Jacobson claimed that Atlas was “excited” about a “relationship” with NanoDynamics because the purchase showed that their halloysite could be used in “the nanotechnology sector.” Moreover, the press release notes that Atlas issued a one-year warrant to NanoDynamics to purchase up to 1 million share of Atlas stock.

57. The Atlas Defendants were quick to represent sales of halloysite and purported revenue generated from those sales in their SEC filings. On March 31, 2005, the Company filed with the SEC a materially false and misleading annual report for the fiscal year and quarter ended December 31, 2004 on Form 10-KSB, dated March 25, 2005 (the “2004 10-KSB”). The 2004 10-KSB was signed and certified by Defendant Jacobson pursuant to Sections 302 and 906 of the Sarbanes-Oxley Act of 2002 (“Sarbanes”).

58. The Company reported in its 2004 10-KSB that its halloysite operations were profitable, and further reported Atlas’ fictitious sale of clay to NaturalNano that year:

In 2003 we completed a small diamond drilling program to verify location of clay beds at the Dragon Mine. With that information we have been able to formulate development and mining plans. *During 2004 we have worked to develop and bring the Dragon Mine into a production stage. In December 2004 we booked our first sale of halloysite clay.*

Our halloysite clay marketing efforts include contacting potential customers and distributors, which we have done. Each buyer may have a different use for the product and the price and quantity will vary as a result. *The sale of product cannot be formalized until we have verified our ability to provide the quality and quantities as required by the potential buyers.* From results of the product samples distributed we have numerous potential buyers.

(Emphasis added).

59. With respect to revenues, gross profit and other financial information relating to this fictitious sale to NaturalNano, the Company made material misstatements leading the market to believe that it received \$250,000 in halloysite sales, accounting for 24% of the total revenue in 2004. The Company further reported in its 2004 10-KSB that its sales of halloysite allowed the Company's gross profit to grow *sixteen fold*:

REVENUES

Our total revenues for the period ending December 31, 2004 were \$1,035,329, compared to \$304,851 for the period ending December 31, 2003, resulting in a 239% increase from the same period the previous fiscal year. Our contract mining revenue for the period ending December 31, 2004 was \$696,264 compared to \$298,707 for the period ended December 31, 2003, or an increase of 133%. Our timber revenue for the period ending December 31, 2004 was \$89,064 compared to \$3,955, for the same period ended December 31, 2003, which is a 21.5 time increase from 2003 to 2004. *We also received \$250,000 from halloysite clay sales in 2004 while there was no revenue from that source in 2003.*

GROSS PROFIT

Our Gross profit for the year ended December 31, 2004 was \$467,784 compared to \$(30,253) for the year ended December 31, 2003. *This is an increase of 16 times greater than the previous year. The main reasons for this increased contracting revenues, timber sales and the sale of halloysite clay in 2004, compared to 2003.*

LIQUIDITY AND CAPITAL RESOURCES

To date our activities have been financed primarily through the sale of equity securities, borrowings, and revenues from Atlas Fausett Contracting, logging operations and the *sale of halloysite clay*. We intend to continue pursuing contracting work and to log our timber properties to help pay for our operations. *We also intend to sell more halloysite clay.* In 2004 and 2003 the contracting work accounted for about 67% and 98% of the total revenues respectively. *Halloysite clay sales accounted for 24% of the revenue in 2004, while there were none in 2003.*

(Emphasis added).

The Company further explained in its 2004 10-KSB that sales of halloysite clay averaged a dramatic *\$20,833 per month* in fiscal year 2004, as compared to the year 2003, where *sales were \$0*.

Fraudulently Booked Halloysite Sales and Collusion Between Atlas And NaturalNano

60. As is set forth above, the false income reported by Atlas in the January 19, 2005 press release and its 2004 10-KSB was based upon the purported sale of halloysite to NaturalNano in 2004. Contrary to these representations, however, Atlas never sold any significant quantity of clay to NaturalNano. In fact, Atlas and NaturalNano forged a collusive agreement, whereby NaturalNano would enable Atlas to fraudulently claim the 2004 sales of halloysite on its books, in exchange for a grant by Atlas of lucrative warrants to NaturalNano.

61. In its own SEC filings, NaturalNano reported in its November 14, 2006 10-QSB that it had purchased “500 tons of processed halloysite nanotubes” on December 29, 2004. NaturalNano further indicated that on January 28, 2005, without any appropriate business purpose, Atlas issued warrants to NaturalNano enabling NaturalNano to acquire 750,000 shares of Atlas stock at \$0.40 per share. These warrants diluted the value of Atlas shares, at the expense of Atlas shareholders. There is no indication that Atlas received any consideration for these warrants, apart from NaturalNano’s apparent agreement to report purchases from Atlas that they had not made to allow Atlas to falsely report income.

62. As of August 22, 2006, the warrants to NaturalNano were sold for \$562,500 yielding net cash proceeds after legal fees of \$506,250.00.²

63. NaturalNano's form 10-KSB for the period ending December 31, 2005 states that it paid \$250,000 to Atlas for 500 tons of processed halloysite nanotubes, with an additional \$100,000 payable when shipments in excess of \$250,000 are achieved.

64. NaturalNano's SEC reports touting its halloysite purchases provided the back-up Atlas needed to file its false SEC reports in an effort to mislead the market.

65. Absent the cooperation of NaturalNano, Atlas would not have been able to book any halloysite revenue.

66. Atlas used Tschauder as an integral part of this illusory transaction. Indeed, based on Tschauder's representations, the market was led to believe that the Dragon Mine halloysite was unusually valuable, hence, resulting in false confidence of Atlas and inflated Atlas stock prices. The inflated Atlas stock price allowed NaturalNano to buy and sell the Atlas warrants at a significant profit. Clearly, Tschauder, a NaturalNano stockholder, issued his conflict-tainted report for the purpose of allowing both companies to profit, and for his personal stock holdings to become more valuable. NaturalNano did reap profits of approximately half a million dollars as a result of the Atlas warrants, which profits directly benefited Tschauder and NaturalNano's other shareholders to the detriment of Atlas shareholders.

67. Further, Atlas was well-aware that NaturalNano had no intention of purchasing halloysite from Atlas. Although Defendant Jacobson stated in the January 19, 2005 press release which first disclosed the halloysite sales that NaturalNano specializes

² NaturalNano later filed a form 8-K with the SEC on October 2, 2007, stating that NaturalNano had overstated the value of the Atlas warrant in its SEC filings in the amount of \$76,800.

in processing systems, Defendant Price admitted in writing over a year later on July 28, 2006, that NaturalNano does not have a “production or beneficiation capability and no manufacturing facility nor any real intent of establishing one.” Defendants thus knew that NaturalNano clearly had no intention of purchasing halloysite from Atlas in 2005 or 2006, but intentionally kept this information hidden from the investing public at large.

Further Misrepresentations Made in the Aftermath of the NaturalNano Fraud

68. The Company’s public statements concerning the fraudulently booked halloysite sales to NaturalNano in 2004 allowed the Atlas Defendants to further maintain the impression of a viable halloysite business throughout the Class Period.

69. On May 17, 2005, the Company filed with the SEC a materially false and misleading quarterly report for the first quarter ended March 31, 2005, on Form 10-QSB. The 10-QSB was signed and certified by Defendant Jacobson pursuant to Sections 302 and 906 of Sarbanes.

70. On August 15, 2005, the Company filed with the SEC a materially false and misleading quarterly report for the second quarter ended June 30, 2005, on Form 10-QSB. The 10-QSB was signed and certified by defendant Jacobson pursuant to Sections 302 and 906 of Sarbanes.

71. On November 17, 2005, the Company filed with the SEC a materially false and misleading quarterly report for the third quarter ended September 30, 2005, on Form 10-QSB. The 10-QSB was signed and certified by Defendant Jacobson pursuant to Sections 302 and 906 of Sarbanes.

72. On March 31, 2006, the Company filed with the SEC a materially false and misleading annual report for the fourth quarter and year ended December 31, 2005,

on Form 10-KSB. The 10-KSB was signed and certified by Defendant Jacobson pursuant to Sections 302 and 906 of Sarbanes.

73. Each of these 2005 quarterly reports outlined in ¶¶ 69-72 above contained materially false and misleading statements concerning the Company's 2004 sales of halloysite to NaturalNano, its exploration operations and prospective future sales of the clay. For example, in its May 17, 2005 Form 10-QSB, the Company reported:

The halloysite clay is considered a non-toxic material, and we feel we can produce a sellable product with minimal environmental consequences using proper containment and processing techniques. The intended processing will be the crushing, drying, and packaging of the product for shipment. In 2003 we completed a small diamond drilling program to verify location of clay beds at the Dragon Mine. With that information we have been able to formulate development and mining plans. *During 2004 we have worked to develop and bring the Dragon Mine into a production stage. In December 2004 we booked our first sale of halloysite clay.*

Our halloysite clay marketing efforts include contacting potential customers and distributors which we have done. Each buyer may have a different use for the product and the price and quantity will vary as a result. *The sale of product cannot be formalized until we have verified our ability to provide the quality and quantities as required by the potential buyers.* From results of the product samples distributed we have numerous potential buyers.

(Emphasis added).

74. In closing out 2005, Atlas continued to mislead the market making shareholders believe that the Dragon Mine was operational and processing clay. On December 6, 2005, Atlas issued a press release announcing the addition of a second shift at Dragon Mine in order to find additional beds of halloysite.

75. Atlas continued the fraudulent misrepresentations into the new year. The Atlas Web site, as posted on January 26, 2006, states "The grain size and lack of

significant impurity make Dragon Mine halloysite superior to products currently on the market.”

76. In a March 21, 2006 press release, Atlas announced the appointment of Dr. Price as President of NanoClay. In that release, Atlas represented that NanoClay is the division of Atlas tasked with the development of the halloysite and touted Dr. Price’s vast experience in the halloysite field. Atlas further represented that it would work in conjunction with NanoClay to aggressively form alliances with universities and client companies.

77. On March 31, 2006, the Company filed with the SEC a materially false and misleading annual report for the fourth quarter and year ended December 31, 2005, on Form 10-KSB. This report was later amended on May 1, 2007 on Form 10KSB/A (the “2005 10KSB/A”). The 2005 10KSB/A was signed and certified by Defendant Jacobson pursuant to Sections 302 and 906 of Sarbanes.

78. In this 2005 10KSB/A, the Company again reinforced its prior representations that the Dragon Mine was in “development” and “production” stages, touting the business prospects of its clay mining operations:

We have brought the Dragon Mine from an exploration stage into a Development stage. We intend to find other properties that can be acquired, developed and mined with minimal costs, and environmental problems.

The majority of our exploration has been at the Dragon Mine in Juab County, Utah. We have furnished samples of the halloysite clay extracted from this property to potential buyers and distributors. The preliminary results of these samples have been favorable, and we have received purchase orders as a result; and we have received non binding letters of intent from potential buyers. *We have moved into the production stage of this property.*

(Emphasis added).

79. With respect to revenues, gross profit and other financial information, the Company reported in its 2005 10KSB/A:

Revenues

Our total revenues for the period ending December 31, 2005 were \$628,176, compared to \$1,035,329 for the period ending December 31, 2004, resulting in a 39% decrease from the same period the previous fiscal year. Our contract mining revenue for the period ending December 31, 2005 was \$628,176 compared to \$696,264 for the period ended December 31, 2004, or a decrease of 10%. Our timber revenue for the period ending December 31, 2005 was \$0 compared to \$89,064, for the same period ended December 31, 2004, and we received \$0 from halloysite clay sales in 2005 compared to \$ 250,000 for the same period ended December 31, 2004, making up the remaining decrease in revenues.

Gross Profit

Our Gross profit for the year ended December 31, 2005 was \$76,917 compared to \$467,784 for the year ended December 31, 2004, resulting in a decrease of 83% from the same period the previous year. The main reason for this decrease was the lack of timber sales and the sale of halloysite clay in 2005, compared to 2004.

Liquidity And Capital Resources

To date our activities have been financed primarily through the sale of equity securities, borrowings, and revenues from Atlas Fausett Contracting, logging operations and the sale of halloysite clay. We intend to continue pursuing contracting work and to log our timber properties to help pay for our operations. *We also intend to sell more halloysite clay.* In 2005 and 2004 the contracting work accounted for about 100% and 67% of the total revenues respectively. *Halloysite clay sales accounted for 24% of the revenue in 2004, while there were none in 2005.*

...

Our principal sources of cash flow are from our timber properties, which averaged \$-0- per month in fiscal year 2005 and \$7,422 per month in 2004, our contract mining, which averaged \$52,348 per month in fiscal year 2005 and \$58,022 in 2004, *and halloysite clay sales which were \$-0- in 2005 and averaged \$20,833 per month in fiscal year 2004* In addition, we also rely on our credit facilities

and any public or private equity issuances we may conduct in the future

(Emphasis added).

80. The Company's 2005 10-KSB summarized financial information reflecting its operations as follow:

	Year Ended December 31,	
	2005	2004
Net revenues	\$ 628,178	\$ 1,035,329
Cost of revenues	\$ 551,258	\$ 567,545
Gross profit	\$ 76,918	\$ 467,784
Selling, general and administrative	\$ 3,106,027	\$ 1,010,781
Gain (Loss) from operations	\$(3,789,456)	\$ (883,654)
Net gain (loss)	\$(3,780,318)	\$ (946,274)

81. Attempting to persuade the market that its sales had gone global, Atlas issued a press release on April 5, 2006 announcing that it will sell halloysite to the European market.

82. On May 16, 2006, the Company filed with the SEC a materially false and misleading quarterly report for the first quarter ended March 31, 2006, on Form 10-QSB. The 10-QSB was signed and certified by Defendant Jacobson pursuant to Sections 302 and 906 of Sarbanes.

83. On August 14, 2006, the Company filed with the SEC a materially false and misleading quarterly report for the second quarter ended June 30, 2006, on Form 10-QSB. The 10-QSB was signed and certified by Defendant Jacobson pursuant to Sections 302 and 906 of Sarbanes.

84. On November 20, 2006, the Company filed with the SEC a materially false and misleading quarterly report for the third quarter ended September 30, 2006, on

Form 10-QSB. The 10-QSB was signed and certified by Defendant Jacobson pursuant to Sections 302 and 906 of Sarbanes.

85. On April 17, 2007, the Company filed with the SEC a materially false and misleading quarterly report for the fourth quarter and year ended December 31, 2006, on Form 10-QSB. The 10-KSB was signed and certified by Defendant Jacobson pursuant to Sections 302 and 906 of Sarbanes.

86. In each of these 2006 quarterly reports, outlined in ¶¶ 82-85 above, the Company continued to misrepresent its halloysite clay operations, and acknowledged that sales of clay could not be recognized until Atlas was able to provide the clay:

Our halloysite clay marketing efforts include contacting potential customers and distributors, which we have done. Each buyer may have a different use for the product and the price and quantity will vary as a result. *The sale of product cannot be formalized until we have verified our ability to provide the quality and quantities as required by the potential buyers.* From results of the product samples distributed we have numerous potential buyers.

(Emphasis added).

87. In its November 20, 2006 10-QSB, the Company further stated with respect to the Dragon Mine that “we anticipate bringing the Dragon Mine into a positive revenue generating position.”

88. In an October 3, 2006 press release concerning Atlas’ application for a large permit to mine 100 acres of previously undisturbed areas at the Dragon Mine, Jacobson discussed the Company’s sampling of waste material on the property. The release noted that “We have an extensive area of waste material on the property which supports no vegetation. We have done some sampling of these waste piles and have found the material to contain 30% to 60% halloysite. With the processing improvements we are making,” Jacobson stated, “this material becomes a sellable commodity.”

However, upon information and belief, halloysite cannot be extracted from waste for viable commercial uses, rendering these statements false and misleading.

89. In a message issued about a week later to the Company's shareholders, on October 10, 2006, Defendant Jacobson made further representations concerning developments at the Dragon Mine, expected mining capacity and prospects for halloysite sales. The shareholder message provides, in relevant part, as follows:

Shareholder Message

Dear Fellow Shareholders,

It's been an exciting and productive year so far here at Atlas Mining Company (Atlas), and our pace of development looks like it will not slow down any time soon. Dr. Price, president of our wholly owned subsidiary, Nano Clay and Technologies, Inc., has aggressively revamped our processing plant to better accommodate the buyers of our halloysite clay. With Dr. Price's efforts we expect to meet the strong demand from the building products, plastics, oil and gas and ceramics industries...

Significant resources have been focused on the development and ultimate commercialization of our Dragon Mine property. The Dragon Mine currently has 13 employees and the mine is moving forward quite well. One of the more exciting things we have discovered at the Dragon Mine is that *the hundreds of thousands of tons in the waste piles above ground which were left from previous mining activities contain from 30% to 60% halloysite clay. With Dr. Price's processing system, we intend to reprocess much of this material with very little mining cost to us. This additional resource will be a great supplement to the over 300,000 tons of material in the underground deposit.* We are not in the position to estimate the quantity of this additional resource, however, we do know it will add years to our mine life. Other accomplishments at the Dragon include the installation of power and phone lines to the mine. We have finally been able to wean ourselves from the generated power that has supported us for the past couple of years. We have added additional storage space and a shop. And we have also applied for a large mine permit to accommodate the "mining" of the waste piles, and to give us more freedom to operate.

The main question on everyone's mind is when will we make some sales? Dr Price has distributed samples of our product to numerous potential buyers in the plastics, building materials, oil, and the ceramics industry, and he has been guiding them on how best to incorporate our processed

halloysite into their products. For example, a building products manufacturer intends to utilize our processed halloysite in the commercialization of anti-mold applications pending regulatory review. We have a few open offers from interested buyers and expect to execute some sales in the near future. Dr. Price's newly installed systems must be tested and calibrated so that large volumes of quality material can be consistently produced. That said, *our machinery is in place and operational and we expect to be able to make those supply commitments soon*

...

As we move into the final quarter of 2006, we look forward to accomplishing the goals we have set for ourselves. *We made a strategic decision to forego the traditional ceramic markets and focus our halloysite sales efforts on the more profitable markets available to our unique product. We believe this strategy will soon be realized and the shareholders will be rewarded for their patience.* As these goals are achieved, we hope and believe that your commitment to our company will be rewarded through the appreciation of your investment. The continued creation of shareholder value is our top priority. Thank you for your support and patience.

William T. Jacobson
President and Chief Executive Officer

(Emphasis added).

90. After issuing the October 10, 2006 letter to Atlas shareholders, Defendant Jacobson was interviewed in 2006 by EmergingIssuer.com, an online financial information Web site focused on presenting information on emerging growth companies. During that interview, Jacobson discussed the Company's clay operations and its operations of NanoClay in the processing, quality control and sales of halloysite clay to potential customers. Jacobson represented that he was "pleased" with the activities of NanoClay and that the Company hit a "home run" with the work of its president, Defendant Price. Jacobson further expressed his expectation that Atlas might spin-off NanoClay and that, as a result, the Company would "make sure" that Atlas shareholders would reap the benefits of receiving "two companies for the price of one."

91. During the 2006 interview with EmergingIssuer.com, Defendant Jacobson also expressed clear expectations of profit from the company's halloysite operations, stating that over 300,000 tons of clay existed on the property, with each ton being worth approximately \$1,000 to \$2,000. "We feel that we have a very valuable asset," Jacobson represented, and that this asset would serve as a profitable contribution to the Company's "bottom line." Jacobson also represented that it is Atlas' "mantra" that Atlas would "not put news out unless it is news worthwhile."

92. In a November 28, 2006 press release entitled, "Atlas Mining Determines Production Potential at Dragon Mine," Atlas made further representations concerning the mining and production capabilities of halloysite operations:

Silver City, Utah – November 28, 2006 - Atlas Mining Company (OTCBB: ALMI) disclosed today the Dragon Mine production and processing potential for halloysite clay. After reviewing the past several months of underground production at the Dragon Mine, the only halloysite mine in the U.S. with commercial production capabilities, *Atlas management has determined its mining operation has the ability to produce over 30,000 tons of raw halloysite material annually with its existing equipment and crew structure.* The Company's wholly owned subsidiary, Nano Clay and Technologies, Inc., under the direction of Dr. Ron Price, has completed initial runs on the newly improved processing facility. According to Dr. Price, "We still have some adjustments to make to the plant, but every piece of equipment we have is operating correctly and doing what we expected of it. *At one shift per day our processing plant has the capacity to produce 12,000 tons of quality halloysite on an annual basis. Two shifts per day would double this figure and three shifts would bring the plant production up to matching the underground mine production.* Our need to increase run time by adding shifts will depend on sales as we move into the new year." Dr. Price went on to say, "Our customers have conducted extensive research and product development using the unique aspects of our halloysite clay. *We will make sales of our halloysite clay as soon as we have built a stockpile of completed product and can be assured we can match production and quality with sales orders.*"

William Jacobson, President and CEO, added, "As we move forward, we, of course, plan to add and replace machinery at both the mining operation and the processing plant in order to enhance the entire production process.

But overall, right now, I'm very pleased with the capacity we have been able to establish, knowing we will now be able to meet immediate and intermediate demands."

(Emphasis added).

93. In 2007, Atlas continued to file false and misleading statements with the SEC. On May 15, 2007, the Company filed with the SEC a materially false and misleading quarterly report for the first quarter ended March 31, 2007, on Form 10-QSB. The 10-QSB was signed and certified by Defendant Jacobson pursuant to Sections 302 and 906 of Sarbanes, and contained the same statement as other quarterly filings referenced above that, "[t]he sale of product cannot be formalized until we have verified our ability to provide the quality and quantities as required by the potential buyers."

94. On July 13, 2007, the Company filed a Form 8-K with the SEC announcing that effective July 9, 2007, Defendant Jacobson was being replaced by Defendant Dumont as Atlas' CEO and President. The Form 8-K further stated that Defendant Jacobson would, however, continue to serve as the Company's Chairman.

95. On August 14, 2007, the Company filed with the SEC a materially false and misleading quarterly report for the second quarter ended June 30, 2007, on Form 10-QSB. The 10-QSB was signed and certified by Defendants Jacobson, Dumont and Suveg pursuant to Sections 302 and 906 of Sarbanes, and made substantially the same statement as in the May 15, 2007 10-QSB referenced above. The 10QSB also contained a false and misleading representation that the halloysite at the Dragon Mine was of high quality and that "[t]he Company is in the process of extracting this clay to sell to outside parties."

96. The statements contained in all of the quarterly reports outlined in ¶¶ 93-95 above were materially false and misleading when made because Defendants failed to disclose or indicate the following: (1) that Atlas recognized \$250,000 as revenue

representing “sales” of halloysite clay in 2004, which the Company never delivered; (2) that the Company failed to inform investors of its inability to deliver the clay, and, as the Company revealed in its October 9, 2007 disclosures, the Company’s inability to enter into definitive contracts for the supply of halloysite clay from the Dragon Mine, (3) that the Company did not adequately inform investors about the true prospects of the Company’s exploration operations, and (4) that Atlas never knew the true extent of commercially viable halloysite in the mine, despite its representation that there were 300,000 tons.

**FALSE AND MISLEADING STATEMENTS MADE
THROUGH NANOCLAY, INC.**

97. The Atlas Defendants also used NanoClay, represented by these Defendants to be a division of Atlas responsible for halloysite operations, to orchestrate their fraud. During the Class Period, Atlas, through NanoClay, issued materially false and misleading statements concerning sales of halloysite.

98. Notably, in numerous public statements, including NanoClay’s letterhead, press releases and Web site, Atlas and NanoClay repeated to the public that NanoClay was a “division” of Atlas. Because NanoClay was represented as a division of Atlas, Atlas and NanoClay were telling the market that NanoClay was under the complete control of Atlas and that all of NanoClay’s misrepresentations were the misrepresentations of Atlas.

99. The NanoClay Web site was a link on the Atlas Web site. Thus, visitors to the Atlas site seeking information about the Dragon Mine would “click” on the NanoClay link. When Atlas Web site users click on this link they were directed to NanoClay’s homepage wherein NanoClay represents it is a division of Atlas.

100. NanoClay, led by Dr. Price, who was hired presumably to give consumer false-confidence regarding the potential nano-applications of the halloysite, frequently made false statements to the marketplace.

101. By way of example, on April 17, 2007, NanoClay and Dr. Price announced sales of halloysite: “What a week, Tuesday is a great day. For those of you that like to follow nanotechnology, the pictures are of a shipment of HNT (halloysite nanoclay) to a major New York Customer... A real company shipping a real product!” The Web site showed a photograph of bales of halloysite being loaded onto a truck ready for delivery, creating the illusion that the bales were shipments from Atlas and/or NanoClay.

102. On May 16, 2007, NanoClay and Dr. Price announced on its Web site that it was “shipping cosmetic grade clay to customers for use in natural cosmetics products.”

103. To further perpetrate fraud by creating the appearance of success in its halloysite business, on July 23, 2007, NanoClay and Dr. Price announced on its Web site that it had been awarded the 2007 World Technology Innovation Award by Frost & Sullivan. This award was allegedly granted for NanoClay’s technological superiority in their industry. However, Frost & Sullivan has no record of ever granting this award – or any award – to NanoClay.

104. At the time of these statements Dr. Price was also a director of Atlas, making these statements clearly attributable to NanoClay and Atlas. Dr. Price’s email signature also represented that his position was as President of NanoClay, a division of Atlas.

105. The statements contained in ¶¶ 97-104 were materially false and misleading when made because: (1) the Company affirmatively misrepresented its

halloysite sales and abilities to deliver halloysite clay, and (2) the Company did not adequately inform investors about the true prospects of the Company's exploration operations.

EVIDENCE OF SCIENTER

106. Despite the Atlas Defendants' SEC filings and numerous representations to the marketplace regarding sales of halloysite worldwide, these Defendants were aware that the Company was not selling and could not sell any significant amount of halloysite. In written correspondence dated March 31, 2006, Jacobson admitted that as of that date, there were no buyers of the Dragon Mine halloysite.

107. Later, despite the Atlas Defendants' positive representations to the market, Jacobson again admitted in writing that, as of November 29, 2006, "we have yet to sign a major sales contract." Jacobson explained that: "One thing we will not do – is the same thing the NaturalNano people do, is to put out press releases just for the promotional value, and not anything genuine." This statement was made notwithstanding the Atlas Defendants' numerous public statements which were issued in an attempt to persuade the marketplace that Atlas had been selling halloysite. Jacobson noted in the November 29, 2006 writing that he was "sure we will see this market turn around in the next 30 days."

108. While telling the public that the halloysite is being sold and shipped Jacobson further acknowledged in a September 11, 2007 writing that "Dr. Price has not been able to get any sales and this is what pays the bills" This same day, the NanoClay homepage disappeared from the World Wide Web.

THE TRUTH BEGINS TO EMERGE

109. On October 9, 2007, the Company issued a press release before market open. The press release revealed that the Company's previously reported financial

statements filed with the SEC were materially false and misleading because of accounting improprieties relating to revenue recognition for halloysite clay. The press release, provides, in relevant part, as follows:

Tuesday October 9, 8:00 am ET

KELLOGG, Idaho--(BUSINESS WIRE)--Atlas Mining Company (OTCBB:[ALMI](#) - [News](#)) today announced that the company will restate the Company's audited consolidated financial statements and other financial information at and for the fiscal years ended December 31, 2004, 2005, and 2006 and its unaudited consolidated financial statements and other financial information at and for the fiscal quarters ended March 31, June 30, and September 30, for the years 2005, 2006, and 2007, *to correct the Company's accounting for cash received in 2004 as a deposit for future deliveries of halloysite clay from the Company's Dragon Mine in Juab County, Utah.* The correction follows a meeting between members of the Company's newly appointed senior management and a company with which Atlas' former management has had a prior business relationship. At that meeting, current management was informed that the Company had been paid \$125,000 in December 2004 and \$125,000 paid in June 2005 as a deposit for future deliveries of halloysite clay.

Following a review of this transaction and confirmation of the receipt of such funds, the Company has determined that the Company recorded the funds received as revenues. *Because the Company has not delivered the clay, the Company believes such amounts should have been classified as unearned revenues and reported as liability on the Company's balance sheet.* The Company has therefore determined to account for the transaction as a deposit of funds, thus reducing previously recorded revenues and increasing long-term liabilities.

The Company estimates that as a result, its net loss as originally filed at \$946,274 will be increased by approximately \$250,000, totaling \$1,196,274, for the fourth quarter and year ended December 31, 2004. In addition, long-term liabilities will be increased by approximately \$125,000 for the year ended December 31, 2004, and quarter ended March 31, 2005, and \$250,000 for the years 2005 and 2006, and for the quarters ended June 30, and September 30, 2005 and 2006, and for the quarters ended March 31, and June 30, 2007. The affect on long-term liabilities of such restatement will be as follows:

Period Ended	Long-Term Liabilities As Originally Stated	Long-Term Liabilities As Amended (Estimated)
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Year ended Dec. 31, 2004	\$30,055	\$280,055
Quarter ended Mar. 31, 2005	29,881	279,881
Quarter ended June 30, 2005	29,068	279,068
Quarter ended Sept. 30, 2005	29,068	279,068
Year ended Dec. 31, 2005	37,188	287,188
Quarter ended Mar. 31, 2006	23,688	273,688
Quarter ended June 30, 2006	172,632	422,632
Quarter ended Sept. 30, 2006	159,496	409,496
Year ended Dec. 31, 2006	216,721	466,721
Quarter ended Mar. 31, 2007	321,237	571,237
Quarter ended June 30, 2007	344,741	594,741

In the course of its review of this transaction, the Company has identified additional potential areas of accounting uncertainty that it is currently investigating. The Company cannot currently say whether the additional items will result in further corrections to the Company's financial statements.

At this time it does not appear that there are any irregularities with respect to revenue earned or recognized from the Company's contract mining services division, which is currently generating approximately \$2.0 million in gross revenues per quarter.

As a result of these issues, the Company is canceling today's investor update conference call. On the call, the Company's newly appointed management intended to discuss the status of the Dragon Mine and provide an update on their activities and discoveries since joining the Company in July and August, 2007. Specifically, on the call, management planned to inform investors that in their opinion, a current lack of a comprehensive, independent, third-party resource evaluation and estimation, insufficient mine planning, and inadequate processing facilities at the Dragon Mine are significant ongoing factors in the Company's inability to enter into definitive contracts for the supply of halloysite clay from the Dragon Mine. *Accordingly, no short or long term contracts for halloysite clay from the Dragon mine are pending or imminent in the near future. New management further intended to inform investors that the Company has suspended mining activities at the site pending an independent, third-party geologic review and detailed evaluation of the nature and extent of the Dragon Mine halloysite deposit, and note that the Company is presently in discussions with potential contractors to begin this process in the near future.*

(Emphasis added).

110. On October 9, 2007, the Company also filed an 8-K with the SEC announcing that it would have to restate its financial statements for each of the reporting periods from 2004 through that current fiscal quarter as a result of improper revenue recognition practices and other violations of generally accepted accounting principles. Pursuant to Item 4.02 in the 8-K, titled "Non-Reliance On Previously Issued Financial Statements Or A Related Audit Report Or Completed Interim Review," the Company disclosed that:

On October 5, 2007 the chief executive officer and chief financial officer of Atlas Mining Company (the "Company") determined that it will be necessary to restate the Company's audited consolidated financial statements and other financial information at and for the fiscal years ended December 31, 2004, 2005, and 2006 and its unaudited consolidated financial statements and other financial information at and for the fiscal quarters ended March 31, June 30, and September 30, for the years 2005, 2006, and 2007.

The determination to restate resulted from recent discussions with a customer and the subsequent discovery that the Company had not properly accounted for cash received in 2004 as a deposit for the sale of halloysite clay from the Company's Dragon Mine. The deposit was improperly recorded as revenue for the year ended December 31, 2004. In addition, as a result of an ongoing review of prior period records, other areas of accounting uncertainty involving equity issuances, fixed asset ownership and long-term liabilities have been identified and, at the request of the Company's CFO and CEO, will be investigated by independent, outside accountants. Once independent sources have reviewed the information, quantification of the accounting matters will be defined and reported.

As a result of the foregoing, the Company has determined to inform the Securities and Exchange Commission of a delay in filing its Quarterly Report on Form 10-QSB.

111. The disclosures in made by Atlas in the October 9, 2007 press release and 8-K caused the Company's stock to fall. On October 8, 2007, the Company's stock closed trading at \$1.64 per share with 52,700 shares trading hands that day. On October

9, 2007, the Company's stock opened the day trading at \$1.06 and closed the day at \$.80 per share, or down over 51% from the previous day's opening, on 6,418,299 shares traded.

112. Later, in its Form 10-QSB filed on November 14, 2007 for the period ending September 30, 2007, Atlas' partner in fraud, NaturalNano, stated that: "During the three months ended September 30, 2007, the Company was notified that Atlas Mining Company suspended mining activities at its mining facility which sources halloysite pending the completion of a mining study. Due to this uncertainty, all prepaid amounts related to Atlas Mining Company have been reclassified as long term until there is resolution of this uncertainty."

ATLAS' FINANCIAL STATEMENTS WERE MATERIALLY FALSE AND MISLEADING WHEN MADE BECAUSE THEY VIOLATED GAAP

113. At all relevant times during the Class Period, Defendants represented that Atlas' financial statements, when issued, were prepared in conformity with GAAP, which are recognized by the accounting profession and the SEC as the uniform rules, conventions and procedures necessary to define accepted accounting practices at a particular time.

114. As set forth in Financial Accounting Standards Board ("FASB") Statement of Financial Accounting Concepts ("Concepts Statement") No. 1, *Objectives of Financial Reporting by Business Enterprises* (November 1978), one of the fundamental objectives of financial reporting is that it provide accurate and reliable information concerning an entity's financial performance during the period being presented. Concepts Statement No. 1, paragraph 42, states:

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 decision reflect investors' and creditors' expectations about future enterprise performance, those expectations are commonly based at least partly on evaluations of past enterprise performance.

115. As set forth in SEC Rule 4-01(a) of SEC Regulation S-X, 17 C.F.R. § 210.4-01(a)(1), “[f]inancial statements filed with the [SEC] which are not prepared in accordance with [GAAP] will be presumed to be misleading or inaccurate,” despite footnote or other disclosures. Regulation S-X further requires that interim financial statements must also comply with GAAP, with the exception that an issuer need not include in interim financial statements disclosures that would be duplicative of disclosures accompanying annual financial statements. 17 C.F.R. § 210.10-01(a).

116. According to the Professional Standards of the American Institute of Certified Public Accountants (“AICPA”) an issuer’s management is responsible for preparing financial statements in conformity with GAAP because the issuer’s “transactions and the related assets, liabilities, and equity are within the direct knowledge and control of management.” It is management that must adopt “sound accounting policies” and establish and maintain “internal control that will, among other things, record process, summarize, and report transactions (as well as events and conditions) consistent with management’s assertion embodied in the financial statements.”

117. The Company used improper accounting practices in violation of GAAP and SEC reporting requirements to falsely inflate reported revenues, net income and earnings per share in the interim quarters and fiscal years during the Class Period, as specified herein.

118. GAAP, in Concepts Statement No. 5: *Recognition and Measurement in Financial Statements of Business Enterprises*, states that revenue “recognition involves

consideration of two factors (a) being realized or realizable and (b) being earned...”

(CON 5, ¶ 83). The Concepts Statement describes the concept of “earned” in relevant part as follows:

Revenues are not recognized until *earned*. An entity's revenue earning activities involve *delivering or producing goods*, rendering services, or other activities that constitute its ongoing major or central operations, and revenues are considered to have been earned when the entity has substantially accomplished what it must do to be entitled to the benefits represented by the revenues. . . .

(CON 5, ¶ 83b).(Emphasis added).

Further, the Concepts Statement states:

The two conditions (being realized or realizable and being earned) are usually met by the time *product or merchandise is delivered* or services are rendered to customers, and revenues from manufacturing and selling activities and gains and losses from sales of other assets are commonly recognized at time of sale (usually meaning delivery).

(CON 5, ¶ 84a).(Emphasis added).

119. Additionally, the SEC provided its views in applying GAAP to selected revenue recognition issues through the issuance of Staff Accounting Bulletin (“SAB”) No. 101 – *Revenue Recognition in Financial Statements* on December 3,1999. SAB 101 states, in relevant part, as follows:

The staff believes that revenue generally is realized or realizable and earned when *all* of the following criteria are met:

- Persuasive evidence of an arrangement exists,
- *Delivery has occurred* or services have been rendered,
- The seller's price to the buyer is fixed or determinable, and
- Collectibility is reasonably assured. (Emphasis added)

120. Atlas violated GAAP by recording revenue from 2004 sales of halloysite to NaturalNano that it had not yet made. Atlas knowingly or with deliberately reckless

disregarded that the revenue it did not yet receive as a result of its collusion with NaturalNano, as quantified above, was not “earned.”

121. In each SEC filing during the Class Period, Atlas materially overstated its revenue in violation of GAAP. Specifically, Atlas improperly recorded revenue that was for speculative, future purchases of halloysite. Accordingly, Atlas was required to restate any previously issued financial statement to correct for revenues improperly recognized.

122. In view of the “potential dilution of public confidence in financial statements resulting from restating the financial statements of prior periods,” according to GAAP, a retroactive restatement of financial statements is reserved for *material* accounting errors that existed at the time the financial statements were prepared. APB Opinion No. 20, Accounting Changes, ¶¶ 18, 27, 34-38 (July 1971). This accounting mandate was reaffirmed through the issuance of FASB Statement No. 154 in May 2005. Since GAAP allows only for correction of errors that are *material*, by restating its financial statements, Atlas admitted the materiality of errors in its previously issued financial statements for fiscal years 2004 through 2006.

123. On January 31, 2002, the SEC, the ultimate authority regarding GAAP and matters of financial reporting (SEC Accounting Series Release Nos. 4 and 150), submitted an Amicus Curiae Brief (*In re Sunbeam Securities Litigation*, 98-8258-Div-Middlebrooks, S.D. FL, Miami Div.)(the “SEC Brief”) which unequivocally stated its position with regard to restated financial statements as follows:

... corrected financial statements are highly probative of at least two of the elements of a private action under the federal securities laws: whether there was a misstatement in the original financial statements and whether the misstatement was material. See, e.g., In re Telxon Corp. Secs. Litig., 133 F. Supp. 2d 1010, 1025 (N.D. Ohio 2000) (when ruling on defendants’ motion to dismiss action under PSLRA, court held that company defendant was not in a position to dispute that it misstated

material facts in its financial disclosures because company admitted its prior disclosures were materially misstated when it issued the restatements which gave rise to the litigation) (citing In re Peritus Software Servs., Inc. Secs. Litig., 52 F. Supp. 2d 211, 223 (D. Mass. 1999) (“after the fact accounting admissions may suffice to show that material misstatements occurred”)). *Restated financial statements are probative of these two issues because under GAAP and GAAS they cannot be filed unless the original financial statements contained material errors as defined in GAAP. See pages 11-12 above. Thus, under GAAP, restated financial statements must constitute an admission of past errors.*

(Emphasis added).

124. There is no question that by announcing its intended filing of restated financial statements with the SEC, Atlas announced that it had previously disseminated materially misstated financial statements to the investing public.

**DEFENDANTS’ SARBANES-OXLEY CERTIFICATIONS AND OTHER
ATTESTATIONS TO THE EFFICACY OF INTERNAL CONTROLS WERE
ALSO MATERIALLY FALSE AND MISLEADING WHEN MADE**

125. Section 13(b)(2) of the Exchange Act states, in pertinent part, that every reporting company must: (A) make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect the transactions and disposition of the assets of the issuer; and (B) devise and maintain a system of internal controls sufficient to provide reasonable assurances that transactions are recorded as necessary to permit the preparation of financial statements in conformity with GAAP. These provisions require an issuer to employ and supervise reliable personnel, to maintain reasonable assurances that transactions are executed as authorized, to properly record transactions on an issuer’s books and, at reasonable intervals, to compare accounting records with physical assets.

126. The Atlas Defendants violated Section 13(b)(2)(B) of the Exchange Act by failing to implement procedures reasonably designed to prevent accounting irregularities. Atlas failed to put into place proper reviews and checks to ensure that its

management did not engage in accounting improprieties. It failed to ensure that transactions were reported in accordance with GAAP.

127. Atlas' and the Individual Defendants' lack of adequate internal controls rendered the Company's Class Period financial reporting inherently unreliable and precluded the Company from preparing financial statements that complied with GAAP. Nonetheless, during the Class Period, the Company regularly issued quarterly and annual financial statements without ever disclosing the existence of the significant and material deficiencies in its internal accounting controls and falsely asserted that its financial statements complied with GAAP.

128. Each Sarbanes-Oxley certification issued during the Class Period, in which Defendants Jacobson, Dumont and Suveg specifically warranted that they had personally designed and implemented internal disclosure control procedures to ensure the disclosure of "any fraud, whether or not material, that involves management or other employees who have a significant role in the small business issuer's internal control over financial reporting" were false and misleading when made for the reasons set forth above.

**CBN'S AUDIT OPINIONS WERE MATERIALLY FALSE AND MISLEADING
WHEN MADE BECAUSE ATLAS' FINANCIAL STATEMENTS DID NOT
CONFORM TO GAAP AND CBN'S AUDITS DID NOT CONFORM TO GAAS**

129. During the Class Period, CBN, the Company's auditor, issued audit opinions on the financial statements of the Company for the years ended December 31, 2004 through December 31, 2006. In each audit opinion, CBN represented that Atlas' financials fairly presented the financial condition of the Company. Yet, they did not. In fact, CBN's audit opinions were materially false and misleading because Atlas' financials statements did not comply with GAAP and CBN's audits did not comply with GAAS.

130. As is particularized herein, CBN either identified and ignored, or recklessly failed to investigate the extremely questionable halloysite sale made by Atlas to NaturalNano, and made audit judgments that no reasonable auditor would have made if confronted with the same facts.

131. Unlike many large audits consisting of millions of transactions, CBN was only tasked to review a *single* halloysite sale. As claimed by the Company, the 2004 sales of halloysite increased Atlas' gross profit *sixteen fold*. Even the most rudimentary of audits would have examined this sale which so dramatically increased Atlas' revenues. Had such an audit been performed, it would have revealed that Atlas did not sell any of the halloysite it claimed to have sold. Further, a basic audit would have detected the suspicious grant by Atlas of warrants to NaturalNano for no consideration. Yet, CBN's audits did not reveal any of these crucial, material facts. In reality, CBN's audits were so deficient that they amounted to no audit at all.

132. On or about January 28, 2005, CBN issued its unqualified audit opinion on the consolidated financial statements of Atlas as of December 31, 2004 and 2003. The audit opinion, contained in CBN's report as reproduced in the Company's 10-KSB for the year ended December 31, 2004 which was filed with the SEC on March 31, 2005 with the written consent of CBN, stated: "In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of Atlas Mining Company as of December 31, 2004 and 2003 and the results of its operations and cash flows for the years then ended in conformity with U.S. generally accepted accounting principals."

133. On or about January 26, 2006, CBN issued its unqualified audit opinion on the consolidated financial statements of Atlas as of December 31, 2005 and 2004. The

audit opinion, contained in CBN's report as reproduced in the Company's 10-KSB for the year ended December 31, 2005 which was filed with the SEC on March 31, 2006 with the written consent of CBN, stated: "In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of Atlas Mining Company as of December 31, 2005 and 2004 and the results of its operations and cash flows for the years then ended in conformity with U.S. generally accepted accounting principals."

134. On or about February 2, 2007, CBN issued its unqualified audit opinion on the consolidated financial statements of Atlas as of December 31, 2006 and 2005. The audit opinion, contained in CBN's report as reproduced in the Company's 10-KSB for the year ended December 31, 2006 which was filed with the SEC on April 17, 2007 with the written consent of CBN, stated: "In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of Atlas Mining Company as of December 31, 2006 and 2005 and the results of its operations and cash flows for the years then ended in conformity with U.S. generally accepted accounting principals."

135. On or about April 17, 2007, CBN issued an updated and still unqualified audit opinion on the consolidated financial statements of Atlas as of December 31, 2005 and 2004. The audit opinion, contained in CBN's report as reproduced in the Company's 10-KSB/A for the year ended December 31, 2005 which was filed with the SEC on May 1, 2007 with the written consent of CBN, stated: "In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the consolidated financial position of Atlas Mining Company as of December 31, 2005 and

2004 and the results of its operations and cash flows for the years then ended in conformity with U.S. generally accepted accounting principals.”

136. CBN’s unqualified audit opinions on the financial statements of the Company for the years ended December 31, 2004 through December 31, 2006, were materially false and misleading because these financial statements were not presented in accordance with GAAP nor were they audited in accordance with GAAS.

137. GAAS, as set forth in the AICPA Professional Standards Volume 1, U.S. Auditing Standards (“AU”) in section AU 411, describes “The Meaning of Present Fairly in Conformity With Generally Accepted Accounting Principles in the Auditor’s Report.”

It states:

The auditor’s opinion that financial statements present fairly an entity’s financial position, results of operations, and cash flows in conformity with generally accepted accounting principles should be based on his judgment as to whether (a) the accounting principles selected and applied have general acceptance; (b) the accounting principles are appropriate in the circumstances; (c) the financial statements, including the related notes, are informative of matters that may affect their use, understanding, and interpretation...; (d) the information presented in the financial statements is classified and summarized in a reasonable manner, that it, neither too detailed nor too condensed...; and (e) the financial statements reflect the underlying events and transactions in a manner that presents the financial position, results of operations, and cash flows within a range of acceptable limits, that is, limits that are reasonable and practicable to attain in financial statements.

See AU 411.04

138. During the Class Period, the audited financial statements of the Company, which were publicly disseminated, were not presented “fairly in conformity with generally accepted accounting principles” because the:

- a. Accounting principles selected and applied did not have general acceptance.

- b. Accounting principles were not appropriate in the circumstances.
- c. Financial statements, including the related notes, were not informative of matters that affected their use, understanding and interpretation.
- d. Financial statements did not reflect the underlying events and transactions in a manner that presented the financial position and the results of operations within a range of acceptable limits that were reasonable and practicable to attain in financial statements.

139. CBN knew it was required to adhere to standards and principles of GAAS, including the requirement that the financial statements comply in all material respects with GAAP. CBN, in issuing its unqualified audit opinions, as alleged herein, knew that by doing so it was engaging in a gross departure from GAAS, or issued such certification with reckless disregard for whether or not GAAS was being complied with.

140. In the introductory portion of Accounting Series Release 173, the SEC made the following comments pertaining to economic substance:

Another problem... is the need for emphasizing the importance of substance over form in determining accounting principles to be applied to particular transactions and situations. In addition to considering substance over form in particular transactions, *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.*

We believe that the auditor must stand back from his resolution of particular accounting issues and assess the aggregate impact of the particular issues upon a reasonable investor's perception of the economic substance of the enterprise for which the financial statements are being presented.

(Emphasis added).

141. In opining on the fairness of the financial statements of the Company, CBN failed to assess the propriety of the principles used by the Company to account for purported sales of halloysite, which were not sales at all. CBN failed to consider the importance of substance over form in determining accounting principles to be applied.

142. Due to the failure of the Atlas to account for transactions in accordance with their substance rather than their form, the overall impression created by the financial statements was inconsistent with the business realities of the Company's financial position and operations, and as a result they were deceptive and materially misleading.

143. CBN knew and recklessly disregarded, or was reckless in not knowing, the facts set forth herein concerning the non-GAAP accounting for 2004 halloysite sales and the materially false and misleading disclosures which were contained in the Company's filings with the SEC during the Class Period. CBN further knew and disregarded, or was reckless in not knowing that such non-GAAP accounting and the materially false and misleading disclosures resulted in material misstatements of the Company's financial position and results of operations.

144. CBN's unqualified audit opinions were also false and misleading because the following GAAS (section AU 150 entitled, "Generally Accepted Auditing Standards") were knowingly or recklessly violated:

- a. General Standard No. 1 was violated, which standard required that the examination is to be performed by a person or persons having adequate technical training and proficiency as an auditor.
- b. General standard No. 3 was violated, which standard requires that due professional care is to be exercised in the performance of the examination and in the preparation of the report.

- c. Standard of Field Work No. 1 was violated, which standard required that the work is to be adequately planned and assistants, if any, are to be properly supervised.
- d. Standard of Field Work No. 2 was violated, which standard requires that a sufficient understanding of the internal control structure is to be obtained to plan the audit and to determine the nature, timing and extent of tests to be performed.
- e. Standard of Field Work No. 3 was violated, which standard requires that sufficient competent evidential matter is to be obtained through inspection, observation, inquiries, and confirmations to afford a reasonable basis for an opinion regarding the financial statements under examination
- f. Standard of Reporting No. 1 was violated, which standard requires that the report shall state whether the financial statements are presented in accordance with Generally Accepted Accounting Principles.
- g. Standard of Reporting No. 3 was violated, which standard requires that informative disclosures in the financial statements are to be regarded as reasonably adequate unless otherwise stated in the report.

See AU 150.02

145. As discussed above, Atlas announced its intention to restate its previously issued financial statements to correct its prior accounting. These corrections are required to rectify improper accounting for halloysite clay sales that were not earned. These

accounting issues were material to Atlas' financial statements and they were not disclosed during the Class Period.

146. Both CBN and Atlas understood the appropriate accounting for halloysite sales. Nevertheless, Atlas failed to recognize obvious accounting improprieties and CBN failed to qualify their Class Period audit opinions as a result of flagrant violations of GAAP as required by GAAS (AU Section 508 "Reports on Audited Financial Statements").

147. Each and every audit opinion which CBN expressed during the Class Period stated that its audit assessed the accounting principles used by Atlas and that CBN's audits provided reasonable bases for their opinions. These representations were materially false and misleading because CBN either failed to assess the propriety of the accounting principles used by the Company and to consider the Company's use of non-GAAP accounting as specified above, or did so in an egregiously reckless matter.

148. In auditing the Company's financial statements as specified herein, CBN either identified and ignored, or recklessly failed to investigate the extremely questionable halloysite transactions with NaturalNano and the related issuance of warrants to purchase Atlas stock by Atlas NaturalNano, and made audit judgments that no reasonable auditor would have made if confronted with the same facts. CBN's audits were so deficient that they amounted to no audit at all.

149. Had CBN undertaken the performance of those audit procedures which were required by GAAS, and with the due professional care which was required by GAAS, it would have known that the Company's 2004, 2005 and 2006 financial statements were materially false and misleading because these financial statements were not presented in accordance with GAAP.

150. In reckless disregard of professional standards, CBN failed to audit the Company's financial statements in conformity with GAAS.

151. As particularized herein, CBN either knew and ignored, or recklessly failed to know that the Company's audited financial statements which were disseminated to the investing public during the Class Period improperly reported revenues, earnings, assets, liabilities and shareholders' equity, and failed to disclose material facts that were necessary in order to make these financial statements, in light of the circumstances, not misleading.

152. Further, GAAS (AU Section 331 "Inventories") states that the observation of inventories is a generally accepted auditing procedure, and that an auditor who issues an opinion without having observed inventory "has the burden of justifying the opinion expressed." Accordingly, CBN observed the Company's inventories in conjunction with each of its audits. In connection therewith, CBN learned that there was no usable halloysite in the Company's inventory.

153. During its audits, CBN either knew and ignored, or recklessly failed to know of the lack of halloysite in the Company's inventory, and CBN failed to issue a qualified audit opinion and disclose the material facts regarding the Company's improper accounting for halloysite clay sales that were necessary in order to make these financial statements, in light of the circumstances, not misleading.

154. GAAS (AU Section 326 "Evidential Matter") notes that underlying accounting data and all corroborating information available to the auditor (including books of original entry, the general and subsidiary ledgers, related accounting manuals, and records such as work sheets and spreadsheets supporting cost allocations, computations, checks, purchase orders, bills of lading, invoices, records of electronic

fund transfers, invoices, contracts, minutes of meetings and reconciliations) constitute evidence that should be subjected to inquiry, observation, inspection, confirmation, and physical examination. It is inconceivable that CBN could have inquired about, observed, inspected, confirmed and physically examined the available documentation and failed to detect the Company's improper accounting for a single sale of halloysite, which resulted in a sixteen fold revenue increase, as reported by the Company. It is further inconceivable that CBN could not have inquired about, observed, inspected, confirmed and physically examined the available documentation and failed to detect the Company's suspicious grant of warrants to NaturalNano for no consideration. Accordingly, CBN either performed audits which were so deficient that they amounted to no audit at all, or it identified and ignored, or recklessly failed to investigate extremely questionable halloysite transactions, and made audit judgments that no reasonable auditor would have made if confronted with the same facts.

155. Had CBN performed even the most perfunctory audit of halloysite sales, it could not have avoided knowing that, in contravention of GAAP, the Company had never sold any halloysite and was not in possession of any available halloysite that could be sold. Indeed, the 2004 halloysite sales constituted the one -- and only -- halloysite transaction by the Company. It is inconceivable that CBN did not detect the fraudulent nature of the sales, given that they were only responsible for auditing this *single* halloysite transaction.

156. Pursuant to GAAS, CBN was required to express a qualified audit opinion on the Company's 2004 through 2006 financial statements (AU Section 508 "Reports on Audited Financial Statements") because they were not prepared in conformity with GAAP. In doing so, CBN was required to disclose to the investing public the nature and

extent of the Company's false and misleading accounting and to provide those disclosures which the Company's financial statements failed to provide. CBN either knew and ignored or recklessly failed to know these facts and, therefore, failed to express a qualified opinion on the Company's financial statements and make those required disclosures.

157. CBN's audit opinions failure to disclose the truth about the audits, had the effect of maintaining the artificially high price of the Atlas stock throughout the Class Period. As a result, Lead Plaintiffs and members of the Class sustained damages when the truth about the accounting improprieties became known on October 9, 2007.

ADDITIONAL SCIENTER ALLEGATIONS

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

159. As alleged herein, the Atlas Defendants disseminated to the investing public false and misleading press releases and filed false and misleading quarterly and

annual reports with the SEC. The statements made in these documents described Atlas' positive financial performance, but failed to disclose and/or misrepresented adverse material facts.

160. Furthermore, as illustrated by the Individual Defendants' positions with the Company, they had and used their influence and control to further the scheme alleged herein. The Individual Defendants had broad responsibilities that included communicating with the financial markets and providing the markets with financial results. The Individual Defendants were privy to and directed the making of financial projections and results. By making the misleading statements contained herein, the Individual Defendants knew that they would artificially inflate the value of the Company's securities. Defendants' actions in doing so resulted in damage to Lead Plaintiffs and the Class.

161. Chief Executive Officers of Atlas, Defendants Jacobson and Dumont, and Chief Financial Officer, Defendant Suveg, were responsible for the preparation of Atlas' financial statements and for ensuring that the periodic reports filed with the SEC containing such financial statements complied fully with the disclosure requirements of the federal securities laws. The Individual Defendants signed and/or reviewed Atlas' SEC filings containing the Company's falsely reported financial results, as alleged herein, were the persons responsible for the preparation and filing of Atlas' financial statements, and had the responsibility to verify the underlying facts of any publicly released financial statements.

162. In addition, given that Atlas is a relatively small company with only five total officers and directors at all relevant times as reported on each of the Company's annual reports filed on form 10KSB with the SEC, and given that the accounting

irregularities involved accounting for the revenues of the Company's core business- halloysite clay sales- the Individual Defendants, as senior executive officers and directors of the Company, approved, knew of, or recklessly ignored the improper conduct complained of herein.

163. The Individual Defendants, as experienced executives, should have known that revenue should not be recognized before it was earned and realized or realizable. 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.

164. In sum, all Defendants acted with scienter in that they knew or recklessly disregarded that the public documents and statements issued or disseminated in the name of the Company were materially false and misleading when made; knew or recklessly disregarded that such statements or documents would be issued or disseminated to the investing public; and knowingly or recklessly and substantially participated or acquiesced in the issuance or dissemination of such statements or documents as primary violations of the federal securities laws. As set forth herein, Defendants acted with a knowing or reckless disregard for the falsity of Atlas' financial statements.

CLASS ACTION ALLEGATIONS

165. Lead Plaintiffs bring this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3) on behalf of a Class, consisting of all those who purchased or otherwise acquired Atlas common stock during the Class Period and who were damaged thereby. Excluded from the Class are Defendants, the officers and directors of the Company, at all relevant times, members of their immediate families and

their legal representatives, heirs, successors or assigns and any entity in which Defendants have or had a controlling interest.

166. The members of the Class are so numerous that joinder of all members is impracticable. Throughout the Class Period, Atlas' common stock was actively traded on the OTC Bulletin Board. There were 54,173,594 shares of Atlas stock outstanding as of August 6, 2007. While the exact number of Class Members is unknown to Lead Plaintiffs at this time and can only be ascertained through appropriate discovery, Lead Plaintiffs believe that there are at least hundreds of members in the proposed Class. Record owners and other members of the Class may be identified from records maintained by Atlas or its transfer agent and may be notified of the pendency of this action by mail, using the form of notice similar to that customarily used in securities class actions.

167. Lead Plaintiffs' claims are typical of the claims of the members of the Class as all members of the Class are similarly affected by Defendants' wrongful conduct in violation of federal law that is complained of herein.

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

169. There is a well-defined community of interest in the questions of law and fact involved in this case. Common questions of law and fact exist as to all members of the Class and predominate over any questions solely affecting individual members of the Class. Among the questions of law and fact common to the Class are:

- a. whether the federal securities laws were violated by Defendants' acts as alleged herein;

- b. whether statements made by Defendants to the investing public during the Class Period misrepresented material facts about the business, operations and management of Atlas; and
- c. to what extent the members of the Class has sustained damages and the proper measure of damages.

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

UNDISCLOSED ADVERSE INFORMATION

171. The market for Atlas' securities was open, well-developed and efficient at all relevant times. As a result of these materially false and misleading statements and failures to disclose, Atlas' securities traded at artificially inflated prices during the Class Period. The artificial inflation continued until at least October 8, 2007, the last day of the Class Period. Lead Plaintiffs and other members of the Class purchased or otherwise acquired Atlas securities relying upon the integrity of the market price of Atlas' securities and market information relating to Atlas, and have been damaged by the disclosure of the truth.

172. During the Class Period, Defendants materially misled the investing public, thereby inflating the price of Atlas' securities, by publicly issuing false and misleading statements and omitting to disclose material facts necessary to make Defendants' statements, as set forth herein, not false and misleading. Said statements and

omissions were materially false and misleading in that they failed to disclose material adverse information and misrepresented the truth about the Company, its business and operations, including, inter alia:

- (a) That the Company's financial statements were not prepared in accordance with GAAP and/or in accordance with the federal securities laws and SEC regulations concerning fair reporting; and
- (b) That the Company's seeming success and growth in its halloysite business was, in material part, the result of improper accounting.

173. At all relevant times, the material misrepresentations and omissions particularized in this Complaint directly or proximately caused or were a substantial contributing cause of the damages sustained by Lead Plaintiffs and other members of the Class. As described herein, during the Class Period, Defendants made or caused to be made a series of materially false or misleading statements about Atlas' business, prospects and operations. Notably, the Atlas Defendants represented that they had 300,000 tons of high quality halloysite and several consumers interested in purchasing this halloysite at a premium, none of these representations are true. These material misstatements and omissions had the cause and effect of creating in the market an unrealistically positive assessment of Atlas and its business, prospects and operations, thus causing the Company's securities to be overvalued and artificially inflated at all relevant times. Defendants' materially false and misleading statements during the Class Period resulted in Lead Plaintiffs and other members of the Class purchasing the Company's securities at artificially inflated prices, causing the damages complained of herein upon disclosure of the truth.

LOSS CAUSATION

174. During the Class Period, as detailed herein, Defendants engaged in a scheme to deceive the market and a course of conduct that artificially inflated the price of Atlas securities and operated as a fraud or deceit on Class Period purchasers of Atlas securities by misrepresenting the Company's financial results, business success and future business prospects as detailed above. Defendants achieved this façade of success, growth and strong future business prospects via improper accounting (prematurely recognizing revenue) in violation of GAAP and by misrepresenting the quality and profitability of the halloysite at the Dragon Mine.

175. The false financial statements caused and maintained the artificial inflation in Atlas' stock price throughout the Class Period.

176. Defendants' false and misleading statements had the intended effect and caused Atlas securities to trade at artificially inflated levels throughout the Class Period, reaching as high as \$2.98 per share.

177. Over three years, Defendants improperly inflated Atlas' reported earnings. On October 9, 2007, however, when Defendants' prior misrepresentations and fraudulent conduct were first disclosed and became apparent to the market, Atlas stock fell precipitously as the prior artificial inflation came out of Atlas' stock price. As a result of their purchases of Atlas securities during the Class Period, at artificially inflated prices, and the diminution in value attributable to the disclosure of the truth, Lead Plaintiffs and other members of the Class suffered economic loss, *i.e.*, damages under the federal securities laws.

178. As a direct result of Defendants' admissions and public revelations regarding the truth about Atlas' previously reported financial results and its actual

business prospects for halloysite going forward, Atlas' stock price plummeted. On October 8, 2007, the last day of the Class Period, the Company's stock closed trading at \$1.64 per share with 52,700 shares trading that day. The following day—the day the Company issued its press release revealing the truth about its halloysite operations—Atlas' stock opened trading at \$1.06 per share and closed at \$.80 a share, or down over 51% from the previous days' close, on a share trading volume of 6,418,299 shares.

179. This dramatic drop removed the inflation from Atlas' stock price, causing real economic loss to investors who had purchased the stock during the Class Period. In sum, as the truth about Defendants' fraud and Atlas' business performance was revealed, the Company's stock price plummeted, the artificial inflation came out of the stock and Lead Plaintiffs and other members of the Class were damaged.

180. The timing and magnitude of Atlas' stock price decline negates any inference that the loss suffered by Lead Plaintiffs and other Class members was caused by changed market conditions, macroeconomic or industry factors or Company-specific facts unrelated to Defendants' fraudulent conduct.

181. The economic loss, i.e., damages suffered by Lead Plaintiffs and other members of the Class, was a direct result of and was proximately caused by Defendants' fraudulent scheme to artificially inflate Atlas' stock price and the subsequent significant decline in the price of Atlas' stock when Defendants' prior misrepresentations and other fraudulent conduct were revealed.

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

182. At all relevant times, the market for Atlas common stock was an efficient market for the following reasons, among others:

- a. Atlas stock met the requirements for listing, and was listed and actively traded on the Bulletin Board, a highly efficient and automated market;
- b. During the Class Period, on average, thousands of shares of Atlas stock were traded on a weekly basis, and shares were traded on each day of the Class Period, demonstrating a very active and broad market for Atlas stock and permitting a very strong presumption of an efficient market;
- c. As a regulated issuer, Atlas filed periodic public reports with the SEC;
- d. Atlas regularly communicated with public investors via established market communication mechanisms, including through regular disseminations of press releases and through other wide-ranging public disclosures, such as communications with the financial press and other similar reporting services;
- e. Atlas was followed by securities analysts who wrote reports that were publicly available and entered the public marketplace; and
- f. Unexpected material news about Atlas was reflected and incorporated into the Company's stock price during the Class Period.

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

reliance applies.

NO SAFE HARBOR

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

FIRST CLAIM FOR RELIEF

**Violation of Section 10(b) of the Exchange Act
and Rule 10b-5 Promulgated Thereunder Against All Defendants**

185. Lead Plaintiffs repeat and realleges each and every allegation contained above as if fully set forth herein.

186. During the Class Period, Atlas, NanoClay, CBN, and the Individual Defendants, and each of them, carried out a plan, scheme and course of conduct that was intended to and, throughout the Class Period, did: (a) deceive the investing public, including Lead Plaintiffs and other Class members, as alleged herein; and (b) cause Lead

Plaintiffs and other Class members to purchase Atlas securities at artificially inflated prices. In furtherance of this unlawful scheme, plan and course of conduct, Defendants, and each of them, took the actions set forth herein.

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

188. In addition to the duties of full disclosure imposed on Defendants as a result of their making of affirmative statements and reports, or participation in the making of affirmative statements and reports to the investing public, Defendants had a duty to promptly disseminate truthful information that would be material to investors in compliance with the integrated disclosure provisions of the SEC as embodied in SEC Regulation S-X (17 C.F.R. Sections 210.01 et seq.) and Regulation S-K (17 C.F.R. Sections 229.10 et seq.) and other SEC regulations, including accurate and truthful information with respect to the Company's operations, financial condition and earnings so that the market price of the Company's securities would be based on truthful, complete and accurate information.

189. Atlas, NanoClay, CBN and the Individual Defendants, individually and in concert, directly and indirectly, by the use, means or instrumentalities of interstate commerce and/or of the mails, engaged and participated in a continuous course of

conduct to conceal adverse material information about the business, operations and future prospects of Atlas as specified herein.

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

191. Defendants had actual knowledge of the misrepresentations and omissions of material facts set forth herein or acted with reckless disregard for the truth in that they failed to ascertain and disclose such facts, even though such facts were available to them. Defendants' material misrepresentations and/or omissions were done knowingly or recklessly for the purpose and effect of concealing Atlas's operating condition and future business prospects from the investing public and supporting the artificially inflated price of its securities. As demonstrated by Defendants' overstatements and misstatements of the Company's business, operations and earnings throughout the Class Period, Defendants, if they did not have actual knowledge of the misrepresentations and omissions alleged, were deliberately reckless in failing to obtain such knowledge by consciously refraining from taking those steps necessary to discover whether those statements were false or misleading.

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

193. As a result of the dissemination of the materially false and misleading information and failure to disclose material facts, as set forth above, the market price of Atlas securities was artificially inflated during the Class Period. In ignorance of the fact that market prices of Atlas's publicly traded securities were artificially inflated, and relying directly or indirectly on the false and misleading statements made by Defendants or upon the integrity of the market in which the securities trade and/or on the absence of material adverse information that was known to or recklessly disregarded by Defendants but not disclosed in public statements by Defendants during the Class Period, Lead Plaintiffs and the other Class members acquired Atlas securities during the Class Period at artificially high prices and were damaged thereby.

194. At the time of said misrepresentations and omissions, Lead Plaintiffs and other Class members were ignorant of their falsity and believed them to be true. Had Lead Plaintiffs, the other members of the Class and the marketplace known the truth regarding the problems Atlas was experiencing, which were not disclosed by Defendants, Lead Plaintiffs and other members of the Class would not have purchased or otherwise acquired their Atlas securities or, if they had acquired such securities during the Class Period, would not have done so at the artificially inflated prices they paid.

195. By virtue of the foregoing, Defendants have violated §10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

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

SECOND CLAIM FOR RELIEF

Violation of Section 20(a) of the Exchange Act Against the Individual Defendants

197. Lead Plaintiffs repeat and reallege each and every allegation contained above as if fully set forth herein.

198. The Individual Defendants acted as controlling persons of Atlas within the meaning of §20(a) of the Exchange Act as alleged herein. By virtue of their high-level positions and their ownership and contractual rights, participation in and/or awareness of the Company's operations and/or intimate knowledge of the false financial statements filed by the Company with the SEC and disseminated to the investing public, the Individual Defendants had the power to influence and control, and did influence and control, directly or indirectly, the decision making of the Company, including the content

and dissemination of the various statements that Lead Plaintiffs contend are false and misleading. Individual Defendants were provided with or had unlimited access to copies of the Company's reports, press releases, public filings and other statements alleged by Lead Plaintiffs to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

199. In particular, the Individual Defendants had direct and supervisory involvement in the day-to-day operations of the Company and, therefore, are presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

200. As set forth above, Atlas and the Individual Defendants each violated §10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of their positions as controlling persons, the Individual Defendants are liable pursuant to §20(a) of the Exchange Act. As a direct and proximate result of Defendants' wrongful conduct, Lead Plaintiffs and other members of the class suffered damages in connection with their purchases of Atlas securities during the Class Period.

THIRD CLAIM FOR RELIEF

Violation of Section 20(a) of the Exchange Act Against Atlas

201. Lead Plaintiffs repeat and reallege each and every allegation contained above as if fully set forth herein.

202. Atlas acted as a controlling person of NanoClay within the meaning of §20(a) of the Exchange Act as alleged herein. By virtue of Atlas' ownership and contractual rights, participation in and/or awareness of NanoClay's operations and/or

intimate knowledge of the false and misleading statements made by NanoClay and disseminated to the public, Atlas had the power to influence and control, and did influence and control, directly or indirectly, the decision-making of NanoClay, including the content and dissemination of the various statements that Lead Plaintiffs contend are false and misleading. Atlas was provided with or had unlimited access to copies of the NanoClay's reports, press releases and other statements alleged by Lead Plaintiffs to be misleading prior to and/or shortly after these statements were issued and had the ability to prevent the issuance of the statements or cause the statements to be corrected.

203. In particular, Atlas had direct and supervisory involvement in the day-to-day operations of NanoClay and, therefore, is presumed to have had the power to control or influence the particular transactions giving rise to the securities violations as alleged herein, and exercised the same.

204. As set forth above, Atlas and NanoClay each violated §10(b) and Rule 10b-5 by their acts and omissions as alleged in this Complaint. By virtue of its position as a controlling person of NanoClay, Atlas is liable pursuant to §20(a) of the Exchange Act. As a direct and proximate result of Defendants' wrongful conduct, Lead Plaintiffs and other members of the class suffered damages in connection with their purchases of Atlas securities during the Class Period.

PRAYER FOR RELIEF

WHEREFORE, Lead Plaintiffs pray for relief and judgment, as follows:

A. Determining that this action is a proper class action pursuant to Fed. R. Civ. P. 23(a) and (b)(3) on behalf of the Class defined herein and certifying Lead Plaintiffs as class representatives and designating Lead Plaintiffs' counsel as Class Counsel;

B. Awarding Lead Plaintiffs and the members of the Class compensatory damages, including rescissionary damages, where applicable, against all Defendants, jointly and severally, for all damages sustained as a result of Defendants' wrongful conduct;

C. Awarding Lead Plaintiffs and the members of the Class pre-judgment and post-judgment interest, as well as reasonable attorneys' fees, expert witness fees and other costs;

D. Awarding extraordinary, equitable and/or injunctive relief as permitted by law, equity and federal statutory provisions sued hereunder, including rescission and the imposition of a constructive trust, pursuant to Fed. R. Civ. P. 65 and any appropriate state law remedies;

E. Ordering Individual Defendants to forfeit and reimburse Atlas for any bonus or other incentive-based or equity-based compensation received by them, and any profits realized from the sale of securities during the time periods set forth in §304 of the Sarbanes-Oxley Act of 2002; and

F. Awarding such other relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

Lead Plaintiffs hereby demand a trial by jury.

Dated: July 28, 2008

By: /s/ B. Newal Squyres
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