

## An Interesting Case

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### January 1997

- Jury verdict in Eastern District of North Carolina: Heritage International CEO Adams, defended by Raleigh attorney Clark, not liable in federal civil securities fraud case.

### March 1998

- SEC files additional civil securities fraud claims against Heritage International alleging willful concealment of information from investors and conduct of pyramid scheme.



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### May 1998

- Heritage signs consent agreement with State of Montana, promising to reimburse \$3.5 million to disgruntled investors in that State.

### June 1998

- Heritage settles SEC case; Adams admits no wrongdoing but agrees to pay \$150,000 and to surrender his claim to a \$3.5 million bond posted by Heritage. FBI continues its investigation of Heritage and Adams for possible wire fraud, mail fraud, and securities fraud.



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### September 1998

- State of NC announces that it seeks \$900,000 in back taxes from Heritage. Attorney Clark quoted in Raleigh paper: outside auditors at Davis Accounting Firm have calculated that Heritage owes no such taxes.

### October 1998

- Heritage holds its annual meeting in the Bahamas.



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### November 1998

- Heritage announces that it will cease doing business because negative publicity and regulatory attacks from SEC, Montana Securities Commission, and Georgia Office of Consumer Affairs have made it impossible for the company to raise necessary capital.
- Heritage files for bankruptcy protection. Company has \$5.4 million in assets and \$12.9 million in liabilities. Adams received \$3.5 million in compensation in 1997.

### August 1999

- SEC announces permanent injunction against Heritage International and Adams.



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### December 1999

- Adams buys Achievement, Inc., group of companies. Sets up Achievement group of investment funds. Achievement Fund III Management Committee includes attorney Clark and CPA Davis, as well as three sales people, but not Adams.



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## May 2000

- Fund III issues term sheet; Clark listed as securities counsel.
- Fund III Offering Circular signed by all members of Management Committee, seeks to raise \$50 million. States that Clark will opine that Fund III will be bound by terms of sale of Units.
- Clark issues opinion letter; does not opine that Fund III will be bound by terms of Unit sales.



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## June 2000

- Fund III representatives meet with investors, orally promise that investments in Preferred Units will be converted to equity in high-tech firm InterBuild when InterBuild issues IPO, and will not be otherwise invested. PDQ Investments, a Texas fund, agrees to loan \$1 million for Preferred Units on condition that the money either be used to buy equity in InterBuild or returned to PDQ.



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### September 2000

- When InterBuild announces intent not to make IPO, Fund III sends letter to PDQ agreeing to rescission and informing it that counsel is preparing necessary papers.

### March 2001

- Retained counsel for PDQ sends Fund III a demand letter and draft Original Petition naming as defendants Fund III and all its Management Committee. Fund III offers to settle for less than full restitution.



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### April 2001

- PDQ files Original Petition in Harris County, Texas.

### June 2001

- Clark served with Original Petition. Asks PDQ for extension of time in which to respond.
- Counsel for PDQ refuses Clark extension request. Clark files Answers for himself and for Fund III in Harris County, Texas.
- Retained counsel for South Carolina investors writes to Clark in his capacity as counsel for Fund III. Suggests submission of malpractice claim to LMNC as means to reimburse South Carolina investors.



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## August 2001

- Clark resigns from Fund III Management Committee, surrenders all ownership rights in Achievement companies, and writes off all legal fees owed to Clark Law Firm by Adams entities.
- South Carolina investors file Complaint against Clark in Greenville County, South Carolina.



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## September 2001

- Clark files Answers on behalf of himself and Clark Law Firm in South Carolina.
- Counsel for South Carolina investors moves to strike Answers of Clark and Clark Law Firm. Court allows motions.
- Clark applies to LMNC for renewal of professional negligence liability insurance, discloses existence of Texas and South Carolina actions for first time.
- LMNC retains counsel for Clark in South Carolina and Texas, seeks to have South Carolina rulings on motions to strike reconsidered. In Texas, despite earlier general appearance by Clark, counsel seeks dismissal for lack of minimum contacts.



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### November 2001

- LMNC files Complaint for Declaratory Relief in Superior Court of Wake County, North Carolina, naming as defendants Clark, Clark Law Firm, PDQ, and South Carolina investors. Seeks judicial ruling that all PDQ and South Carolina claims are excluded from coverage.

### December 2001

- South Carolina trial court strikes Answers of Clark and Clark Law Firm and imposes \$10,000 sanction on Clark. Issue of default to be “revisited” if sanction not timely paid.



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### February 2002

- South Carolina investors move to dismiss LMNC’s declaratory judgment action dismissed for lack of subject matter jurisdiction based not on lack of minimum contacts but on “unique circumstances.” South Carolina investors threaten to file competing dec action in South Carolina on February 28, 2002.
- On February 27, LMNC obtains TRO against South Carolina investors’ filing competing dec action in South Carolina.



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### March 2002

- South Carolina investors enjoined from filing competing dec action.

### May 2002

- South Carolina investors' motion to dismiss DJ action denied.



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### July 2003

- LMNC moves for summary judgment in declaratory judgment action.
- Letter from South Carolina investors renouncing any current or future interest in outcome of LMNC dec action.



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### August 2003

- LMNC files voluntary dismissal of dec action as to South Carolina investors.

### April 2004

- Settlement between LMNC and Clark; LMNC voluntarily dismisses DJ action as against PDQ.

### May 2004

- LMNC-Clark settlement memorialized in Consent Judgment.



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### February 2005

- Adams, Clark, Davis, other members of Fund III management committee indicted for mail fraud, wire fraud, and conspiracy to commit money laundering.
- Davis enters into plea agreement.

### April 2005

- Adams enters into plea agreement.

### May 2006

- Clark jury trial. Clark convicted on all counts except money laundering conspiracy.



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### **July 2007**

- Judgment of Acquittal entered as to Clark.

### **August 2007**

- Government appeals Clark Judgment of Acquittal.

### **August 2009**

- Fourth Circuit reverses Judgment of Acquittal as to Clark.



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### **February 2011**

- Trial court in EDNC sentences Clark to 4 years probation with 6 months of home confinement, to perform 200 hours of community service, and to participate jointly and severally with other defendants in making restitution of \$5.6 million.



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## Questions?

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