

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**GREENE, BROILLET, PANISH & WHEELER LLP**  
BRIAN J. PANISH, State Bar No. 116060  
KEVIN R. BOYLE, State Bar No. 192718  
LAWYERS  
100 WILSHIRE BOULEVARD, SUITE 2100  
P.O. BOX 2131  
SANTA MONICA, CALIFORNIA 90407-2131  
TEL. (310) 576-1200  
FAX. (310) 576-1220

(SPACE BELOW FOR FILING STAMP ONLY)

**GOODKIND, LABATON, RUDOFF & SUCHAROW LLP**  
THOMAS A. DUBBS, New York State Bar No. 9858  
RICHARD MARASSE, California State Bar No. 171058  
100 PARK AVENUE,  
NEW YORK, NEW YORK 10017  
TEL: (212) 907-0700  
FAX: (212) 818-0477

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**LEONARD ROSENTHAL,**  
**Individually and On Behalf of All**  
**Others Similarly Situated,**  
  
**Plaintiffs,**

**CASE NO. CV03-8845 MMM (CWx)**

**FIRST AMENDED COMPLAINT**

**vs.**

**JURY TRIAL DEMANDED**

**FARMER BROS. COMPANY,**  
**GUENTER W. BERGER, LEWIS A.**  
**COFFMAN, ROY E. FARMER,**  
**THOMAS A. MALOOF, JOHN M.**  
**ANGLIN, JOHN H. MERRELL and**  
**JOHN SAMORE,**  
  
**Defendants.**

1 Plaintiff has alleged the following based upon the investigation of  
2 plaintiff's counsel, which included a review of United States Securities and Exchange  
3 Commission ("SEC") filings by Farmer Bros. Company ("Farmer Bros."), as well as  
4 regulatory filings and reports, securities analysts' reports about Farmer Bros., press  
5 releases and other public statements issued by Farmer Bros., and media reports about  
6 Farmer Bros.

### 7 NATURE OF THE ACTION

8 1. This is an action on behalf of minority holders of the common stock  
9 (the "Minority Shareholders") of Farmer Bros. for violations of the Investment  
10 Company Act of 1940 (the "ICA" or "Act"), 15 U.S.C. §§ 80a-1 *et seq.* and for breach  
11 of certain common law fiduciary duties owed by Defendants to Plaintiff and other  
12 members of the Class.

13 2. Although nominally a coffee company, Farmer Bros. keeps more  
14 than 70% of its assets in cash and short-term investments, and actually operates as an  
15 unregistered investment company in violation of Section 7(a) of the ICA. Farmer Bros.  
16 is controlled by the Farmer family, specifically by Roy F. Farmer, the 87-year-old  
17 family patriarch who is currently Chairman of Farmer Bros. Board of Directors. The  
18 Farmer family/company management group, which controls a majority of the Farmer  
19 Bros.' stock, persistently and willfully oppresses the Minority shareholders by (a)  
20 interfering with their voting rights and locking them into their minority status; and (b)  
21 pursuing an estate planning strategy -- of benefit *only* to the Farmer family -- which  
22 by design depresses the stock price in order to lessen the anticipated estate taxes upon  
23 the death of Roy F. Farmer. This imposes losses on the Minority Shareholders that the  
24 Farmer family/company management shareholders willingly bear as a cost of the  
25 strategy.

26 3. The manipulative mechanism Defendants use to implement this  
27 scheme to oppress the Minority Shareholders is a series of loans to Farmer Bros.'  
28 Employee Stock Option Plan ("ESOP"). Over the past four years, management has

1 loaned significant amounts of corporate funds to the ESOP to enable it to buy Farmer  
2 Bros.' common stock, nominally on behalf of Farmer Bros.' employees. However,  
3 voting control of these ESOP shares is retained by a management committee, thereby  
4 providing enough extra votes to the Farmer family/company management group to  
5 allow it to retain voting control of a majority of the outstanding shares of Farmer Bros.'  
6 stock. The loans to the ESOP are illegal prohibited transactions under Section 17(a)(4)  
7 of the ICA, and, lacking any valid business purpose, constitute a breach of fiduciary  
8 duty owed to Plaintiff by Defendants.

9 4. The illegal loans to the ESOP have damaged the Minority  
10 Shareholders -- who do not share the twin Farmer family goals of entrenchment and  
11 minimizing estate taxes -- by the outstanding total amount of corporate funds  
12 appropriated for such loans. Plaintiff therefore seeks to recover damages, in the  
13 amount of such loans, from the Individual Defendants, who caused such loans to be  
14 made and authorized them.

15 5. The Minority Shareholders have also been damaged because the  
16 acts of the Individual Defendants have effectively thwarted the exercise of the  
17 Minority Shareholders' voting rights. Specifically, the illegal loans to the ESOP have  
18 illegitimately created enough management-controlled votes to lock the Minority  
19 Shareholders into permanent minority status. Further, the Individual Defendants are  
20 threatening to use their manufactured majority, at an annual shareholder meeting  
21 scheduled for January 5, 2004, to impose a whole slew of provisions designed to  
22 further consolidate their entrenched positions. Therefore Plaintiff also seeks injunctive  
23 relief, barring Farmer Bros. management from directing the voting of those shares of  
24 Farmer Bros.' stock beneficially owned by the ESOP.

#### 25 **JURISDICTION AND VENUE**

26 6. The claims asserted herein arise under and pursuant to Sections  
27 7(a), 8, and 17(a)(4) of the ICA (15 U.S.C. §§ 80a -7(a), 80a – 8, and 80a – 17(a)(4)).  
28



1 solely affecting individual members of the class. Among the questions of law and  
2 fact common to the class are:

3 a. whether the Investment Company Act of 1940 was  
4 violated by defendants' acts as alleged herein;

5 b. whether Defendants have breached their fiduciary duty to  
6 Plaintiff and others similarly situated;

7 c. to what extent the members of the class have sustained  
8 damages and the proper measure of damages;

9 d. whether the injunctive relief sought is appropriate.

10 **B. Defendants**

11 13. Defendant Farmer Bros. Company is incorporated in California,  
12 and maintains its principal place of business at 20333 South Normandie Avenue,  
13 Torrance, California 90502. Farmer Bros. is listed on the NASDAQ under the  
14 symbol "FARM," and is thinly traded. Farmer Bros.' market capitalization is  
15 approximately \$609.71 million and its closing share price on December 3, 2003 was  
16 \$316.50.

17 14. Defendant Guenter W. Berger ("Berger") was, at all relevant  
18 times, a member of the Board of Directors of Farmer Bros., and has served  
19 continuously as a Director since 1980. He is also Farmer Bros. Vice President,  
20 Production.

21 15. Defendant Lewis A. Coffman ("Coffman") was, at all relevant  
22 times, a member of the Board of Directors of Farmer Bros., and has served  
23 continuously as a Director since 1983. He was formerly Farmer Bros. Vice  
24 President, Sales.

25 16. Defendant Roy E. Farmer was, at all relevant times, a member of  
26 the Board of Directors of Farmer Bros., and has served continuously as a Director  
27 since 1993. He is currently Farmer Bros. President and Chief Executive Officer,  
28 and was previously Chief Operating Officer.

1           17. Defendant Roy F. Farmer was, at all relevant times, a member of  
2 the Board of Directors of Farmer Bros., and has served continuously as a Director  
3 since 1951. He is currently Farmer Bros. Chairman of the Board of Directors, and  
4 was previously Chief Executive Officer of Farmer Bros.

5           18. Defendant John M. Anglin was a member of the Board of  
6 Directors of Farmer Bros. during the period from 1985 through April 30, 2003. He  
7 is currently Farmer Bros. Secretary. Mr. Anglin is an attorney, and a member of a  
8 law firm which provides legal services to Farmer Bros.

9           19. Defendant Thomas A. Maloof ("Maloof") has served as a  
10 member of the Board of Directors of Farmer Bros. since April 30, 2003.

11           20. John H. Merrell ("Merrell") is a member of the Board of  
12 Directors of Farmer Bros., and has served continuously as a Director since 2001.

13           21. Defendant John Samore, Jr. ("Samore") has served as a member  
14 of the Board of Directors of Farmer Bros. since April 30, 2003.

15           a. Defendants Berger, Coffman, Roy E. Farmer, Roy F.  
16 Farmer, Maloof, Merrell, Anglin and Samore are collectively referred to herein as  
17 the "Individual Defendants."

18           22. Each of the Individual Defendants, by virtue of his position as  
19 Director, participated in the Farmer family/company management policy of  
20 improperly loaning Farmer Bros.' funds to the ESOP which persistently oppressed  
21 the Minority Shareholders by: (a) interfering with the voting power of the Minority  
22 shareholders in order to maintain the Farmer family/company management group's  
23 control over Farmer Bros.; and (b) depressing the value of Farmer Bros. common  
24 stock in furtherance of a scheme to minimize estate taxes for the Farmer family.  
25 Said defendants approved the loans to the ESOP in violation of the ICA.

26  
27  
28

## AVERMENTS COMMON TO ALL CLAIMS

### **A. Background: Entrenchment and Estate Tax Minimization**

23. Farmer Bros. was founded as a coffee company in 1912 by Roy E. Farmer. Farmer Bros. was incorporated in 1923, and went public in 1951, when the Farmer family sold approximately 44% of Farmer Bros. to the public, on information and belief, to obtain funds to pay estate taxes of Roy E. Farmer at his death.

24. The desire to avoid the experience of 1951, when estate taxes forced Farmer Bros. to go public while retaining only a small margin of voting control, has continued to drive the policies of the Farmer family management control group. On information and belief, all Farmer Bros.' policies are therefore subordinated to the twin goals of: (i) maintaining Farmer Family control of Farmer Bros.; and (ii) reducing the amount of estate taxes that will be owed upon the death of Roy F. Farmer, who is now 87 years old and in ill-health, so as to insure that this family control will not be threatened.

### **B. Voting Control Structure**

25. Currently the Farmer family, aided by a group of closely associated Directors and executive officers and their spouses and family members, controls approximately 52.99% of Farmer Bros.' stock through a variety of mechanisms: (a) 33.1 % of the outstanding shares of Farmer Bros. stock owned outright or in trust by members of the Farmer Family; (b) 12.5% of Farmer Bros.' outstanding shares through trusts held for the benefit of the family of Catherine Crowe, Roy F. Farmer's sister (the "Crowe Trusts") but for which Roy F. Farmer is the sole trustee; and (c) 7.4% of the outstanding shares of Farmer Brothers beneficially owned by Farmer Bros.' ESOP, voting of which is directed by a committee composed of Farmer Bros. Officers.

26. The ability of Roy F. Farmer to control the Crowe Trusts has been, for more than fourteen years, the subject of a series of disputes between the

1 Crowe and Farmer families. In the most recent chapter in this ongoing extended  
2 family dispute, a petition to remove and surcharge him as Trustee of one of the  
3 Crowe Trusts pursuant to California Probate Code Sections 17200 and 15642 is  
4 currently being litigated in California Superior Court (No. BP079060).

5           27. In light of the long-running threat to his control of Farmer Bros.  
6 represented by the possible loss of ability to vote the Crowe Trust shares, Roy F.  
7 Farmer has repeatedly sought to purchase the 10.6 % of the outstanding shares of  
8 Farmer Bros. stock currently held outright by his sister, Catherine Crowe, but has  
9 been rebuffed.

### 10 **C. The ESOP**

11           28. Having been rebuffed in this attempt to lock in control of Farmer  
12 Bros. by purchase of the Crowe shares, on January 1, 2000, the Board of Farmer  
13 Bros. established the ESOP. Initially, the Board authorized a loan to it of up to \$50  
14 million to purchase up to 300,000 of the outstanding shares of Farmer Bros. from  
15 the public market, and potentially, from Catherine Crowe's estate. The loan is to be  
16 repaid by the ESOP over a fifteen-year term at a variable rate of interest.

17           29. Based on this original authorization, the ESOP has rapidly  
18 accumulated shares of Farmer Bros.' common stock with Farmer Bros.' funds, with  
19 the pace of purchases increasing dramatically during the past year. For the year  
20 ended June 30, 2000, Farmer Bros. loaned the ESOP \$14,136,000 which the ESOP  
21 used to purchase 86,575 shares of Farmer Bros.' common stock. For the year ended  
22 June 30, 2001, Farmer Bros. loaned the ESOP an additional \$389,880, which the  
23 ESOP used to purchase 2,200 shares of Farmer Bros.' common stock. For the year  
24 ended June 30, 2002, Farmer Bros. loaned the ESOP \$815,040, which the ESOP  
25 used to purchase 3,800 shares of Farmer Bros.' common stock.

26           30. For the year ended June 30, 2003, Farmer Bros. loaned the  
27 ESOP \$19,896,080, which the ESOP used to purchase 79,850 shares of Farmer  
28 Bros.' common stock.



1           31. As of June 30, 2003, the ESOP loan balance owed to Farmer  
2 Bros. was \$35,337,000.

3           32. As of July 21, 2003, The ESOP held 170,425 of Farmer Bros.'  
4 common stock. On July 23, 2003, the Directors authorized an additional loan to the  
5 ESOP for the purchase of an additional 129,575 shares, which would allow the  
6 ESOP to achieve the previously stated intention of purchasing up to 300,000 shares.  
7 Based on the closing price of Farmer Bros.' stock on September 22, 2003, this loan  
8 could require an additional Farmer Bros. expenditure of approximately \$43 million.

9           33. As of November 15, 2003, the ESOP held 171,480 shares of  
10 Farmer Bros.' common stock, constituting approximately 8.9% of the total  
11 outstanding shares of Farmer Bros. These shares are classified as either  
12 "unallocated" (purchased and held for future beneficial ownership by employees) or  
13 "allocated" (currently beneficially held by employees). The ESOP plan committee,  
14 composed of Farmer Bros.' officers, directs the voting of 145,888 "unallocated"  
15 shares (7.4% of the total outstanding shares of Farmer Bros.) and also directs, as a  
16 practical matter, the voting of the 25,593 "allocated" shares (1.5% of the total  
17 outstanding shares of Farmer Bros.).

18           34. On information and belief, the ESOP was created as a vehicle to  
19 provide the Farmer family with enough extra votes to maintain its majority control  
20 of Farmer Bros., thereby interfering with the voting rights of the Minority  
21 Shareholders by locking them into permanent minority status.

22 **D. The Reincorporation Scheme**

23           35. The Farmer family/management group has recently undertaken a  
24 new and even more massive entrenchment scheme in which it plans to utilize this  
25 manufactured majority. On October 24, 2003, management submitted a preliminary  
26 proxy statement (the "Proposal") with the SEC, in which it seeks a shareholder  
27 meeting on January 5, 2004, for the purpose of voting on a proposed  
28 reincorporation of Farmer Bros. Under the proposed reincorporation, Farmer Bros.

1 (now incorporated in California) would be merged into Farmer Bros. Delaware.  
2 The proposed new Delaware Charter and Bylaws, which would then govern the  
3 Corporation, contain an array of new entrenching arrangements which will  
4 structurally insulate the Board, and dramatically shrink shareholder ability to  
5 influence corporate decisions.

6 36. Among the proposed new provisions specified in the Proposal  
7 are such restrictive devices as: (a) elimination of shareholders' ability to act by  
8 written consent; (b) establishment of a classified board of directors; (c) elimination  
9 of the ability of shareholders controlling at least 10% of the voting shares to call a  
10 special meeting of shareholders; (d) requiring a "supermajority" vote of at least  
11 80% of the outstanding shares to amend the bylaws, rather than simply a majority;  
12 and (e) elimination of cumulative voting.

13 37. The reincorporation scheme is thus evidence that the  
14 entrenchment of the Farmer family is an ongoing, continuing saga, with the biggest  
15 episode – the scheduled January 5, 2004 shareholder vote – coming up for a  
16 decisive vote in the near future. On information and belief, should reincorporation  
17 be approved, Plaintiff and other Minority Shareholders will be permanently locked  
18 into their minority status.

19 **E. Effects of The ESOP Loans**

20 38. Besides entrenching the Farmer family, the process of  
21 establishing and funding the ESOP, combined with the ESOP's continuing  
22 purchases of Farmer Bros.' stock, has also had the effect of depressing the price of  
23 Farmer Bros.' stock. The ESOP loans have made the shares generally less  
24 marketable, since, with fewer shares available to the public, there is a dramatically  
25 reduced incentive for any securities dealer to initiate research coverage which  
26 would disseminate to the marketplace information concerning Farmer Bros. and  
27 thereby create investor interest in Farmer Bros. Similarly, the lack of trading means  
28 there is markedly less incentive for a securities dealer to act as a market-maker for

1 Farmer Bros. stock. The shares are also less attractive to investors who perceive  
2 management's entrenchment strategy as a commitment to lower earnings.

3 39. These effects were forthrightly acknowledged in Farmer Bros.'  
4 Form 10-k, filed with the SEC for the fiscal year ended June 30, 2002, in the  
5 following comment:

6 . . . [T]he board of directors has approved loaning up to  
7 \$50,000,000 to acquire shares. As additional shares come  
8 available, we expect that a substantial additional amount  
9 will be approved to finance that acquisition of shares [to  
10 the ESOP]. *This will deplete our working capital and*  
11 *increase costs associated with the ESOP, especially our*  
12 *future funding (i.e, requirement to provide the ESOP*  
13 *with liquidity for shares tendered back to the ESOP by*  
14 *departing employees). We expect that as the ESOP*  
15 *acquires additional shares, Farmer Bros. will take on a*  
16 *growing fixed cost which may have a material effect on*  
17 *future earnings.*

18 (Emphasis added).

19 40. On information and belief, the depletion of working capital,  
20 increase in ESOP related expenses, and increase in fixed costs materially affecting  
21 future earnings, all noted in the above comment, are actively sought by the Farmer  
22 family/company management group, knowing that the consequence will be  
23 depression of the share price, in order maintain voting control of Farmer Bros. by  
24 the Farmer family and to reduce the amount of estate taxes that will be owed upon  
25 the death of Roy F. Farmer, who is now 87 years old and in ill-health.

26  
27  
28

1 **F. Farmer Bros. Is An Unregistered Investment Company**

2 41. On information and belief, the structure of Farmer Bros.' assets  
3 make it an unregistered investment company under Sections 3(a)(1) and 7(a) of the  
4 ICA.

5 42. While an unregistered investment company, Farmer Bros. has  
6 continued to transact business, but has failed to register as an investment company  
7 as required pursuant to Section 8 of the ICA.

8 43. Farmer Bros.' failure to register does not exempt it from the  
9 requirements of the Act. Therefore, under Section 17(a)(4) of the ICA, the loans  
10 made by Farmer Bros. to the ESOP are prohibited affiliated transactions.

11 44. Farmer Bros. essentially admits that the loans to the ESOP are  
12 prohibited transactions under the ICA. In response to a June 26, 2002 shareholder  
13 proposal which sought to require Farmer Bros. to "conduct its business as an  
14 investment company subject to the Investment Company Act of 1940," counsel to  
15 Farmer Bros. stated, in an August 26, 2002 letter to the SEC that:

16 [I]f Farmer Bros. were required to register under the  
17 ICA, given its current capital structure and assets, it would  
18 be in violation of Sections 18, 17, and 23 of the ICA upon  
19 registering as an investment company.

20 . . . . In addition, Farmer Bros. sponsors an  
21 employee stock option plan (an "ESOP") to which it  
22 makes loans and engages in other business which would  
23 be in violation of the affiliated transaction prohibitions of  
24 Section 17 of the ICA.

25 (Emphasis Added).

26  
27  
28

**First Claim**

**For Injunctive Relief Against The**

**Individual Defendants For Breach of Fiduciary Duty**

1  
2  
3  
4 45. Plaintiff repeats and reavers each and every averment contained  
5 above as if fully set forth herein.

6 46. Defendants, acting on behalf of the Majority Shareholders of  
7 Farmer Bros., owe a fiduciary duty to the Plaintiff and the other members of the  
8 Class -- the Minority Shareholders. Majority Shareholders may not use their power  
9 to control corporate activities to benefit only themselves; to do otherwise is a  
10 breach of the fiduciary duty owed by Majority Shareholders to the Minority  
11 Shareholders.

12 47. By virtue of their power as Majority Shareholders and acting  
13 solely in their own self interest, the Individual Defendants carried out a  
14 manipulative scheme, plan and course of conduct with no valid business purpose,  
15 through the creation and funding of the ESOP.

16 48. The creation and utilization of the ESOP by the Individual  
17 Defendants is a continuing breach of the fiduciary duty owed by the Individual  
18 Defendants, acting on behalf of the Majority Shareholders in Farmer Bros., to  
19 Plaintiff and other members of the Class, as Minority Shareholders, because the  
20 utilization of the ESOP has permanently locked Plaintiff and the other members of  
21 the Class into Minority Shareholder status. The utilization of the ESOP has no  
22 valid business purpose and is solely designed for the purpose of oppressing Plaintiff  
23 and the other members of the class and entrenching the Majority Shareholders.

24 49. The Individual Defendants were motivated to create and  
25 continue to operate the ESOP so they can maintain Majority Shareholder status and  
26 further their own interests and as a result continue to breach the fiduciary duty owed  
27 to Plaintiff and the other members of the Class.

28



1 Plaintiff and other members of the Class, as Minority Shareholders, because the  
2 utilization of the ESOP has permanently locked Plaintiff and the other members of  
3 the Class into Minority Shareholder status. The utilization of the ESOP has no  
4 valid business purpose and is solely designed for the purpose of oppressing Plaintiff  
5 and the other members of the class and entrenching the Majority Shareholders.

6 57. The Individual Defendants were motivated to create and  
7 continue to operate the ESOP so they can maintain Majority Shareholder status and  
8 further their own interests and as a result continue to breach the fiduciary duty owed  
9 to Plaintiff and the other members of the Class.

10 58. As a direct and proximate result of the Individual Defendants  
11 continued breach of fiduciary duty, Plaintiff and other members of the Class have  
12 suffered damages in an amount to proven at trial.

### 13 **Third Claim**

#### 14 **For Injunctive Relief Against The** 15 **Individual Defendants and Farmer Bros.**

#### 16 **With Respect To Voting Rights Pursuant To The ICA**

17 59. Plaintiff repeats and reavers each and every averment contained  
18 above as if fully set forth herein.

19 60. The Individual Defendants were and continue to be high-level  
20 executives and/or directors at Farmer Bros. and members of Farmer Bros.'  
21 management team and had and continue to have control thereof, and each of these  
22 defendants, by virtue of his responsibilities and activities as a senior officer and/or  
23 director of Farmer Bros. had and continues to have the power and authority to cause  
24 Farmer Bros. to engage in the wrongful conduct complained of herein.

25 61. Nominally acting on behalf of Farmer Bros., the Individual  
26 Defendants carried out a plan, scheme and course of conduct which was intended  
27 to, and did, improperly interfere with the voting rights of the Minority Shareholders  
28 by illegally funding an ESOP, which entity provided additional shareholder votes to

1 the Farmer family/company management group so as to allow it to retain voting  
2 control of Farmer Bros. In furtherance of this unlawful scheme, plan and course of  
3 conduct, Individual Defendants took the actions set forth herein.

4 62. Nominally acting on behalf of Farmer Bros., each of the  
5 Individual Defendants approved of one or both of Farmer Bros.' two loan  
6 authorizations to the ESOP, which were prohibited transactions under the ICA.

7 63. The Individual Defendants were motivated to fund the ESOP via  
8 these improper and prohibited loans in order to (i) retain control of Farmer Bros. for  
9 the interests of the Farmer family; and (ii) minimize the amount of estate taxes to be  
10 paid on a future testamentary transfer of shares by the Farmer family.

11 64. As a direct and proximate result of defendants' wrongful  
12 conduct, the Individual Defendants have effectively thwarted the exercise of the  
13 Minority Shareholders' voting rights.

14 65. In the absence of injunctive relief, the Individual Defendants,  
15 while nominally acting on behalf of Farmer Bros., will continue to interfere with the  
16 voting rights of the Minority Shareholders by directing the voting of the ESOP  
17 shares of Farmer Bros.' stock, which shares are the continuing result of improper  
18 conduct in approving the illegal loans to the ESOP.

19 66. Plaintiff has no adequate remedy at law for the relief sought by  
20 this Claim.

21 **Fourth Claim**

22 **For Damages Against the Individual**  
23 **Defendants For Violations of Sections 7(a) and 17(a)**  
24 **of the ICA**

25 67. Plaintiff repeats and reavers each and every averment contained  
26 above as if fully set forth herein.

27 68. The Individual Defendants are affiliated persons, as that term is  
28 defined in Section 2 of the ICA, for purposes of the ICA.



1           69. Individual Defendants' conduct, as described above, violated, or  
2 caused Farmer Bros. to violate Sections 7(a) and 17(a) of the ICA, in that, as  
3 detailed above:

4           a. The Individual Defendants allowed Farmer Bros.' assets to  
5 become structured so as to meet the definition of an investment company under  
6 Section 3(a)(1) of the ICA; and

7           b. The Individual Defendants failed to register Farmer Bros.  
8 as an investment company, despite the fact that Farmer Bros. had become an  
9 unregistered investment company and was obligated to so register pursuant to  
10 Section 8 of the ICA; and

11           c. The Individual Defendants allowed Farmer Bros. to  
12 continue to offer its securities for sale in interstate commerce, in violation of  
13 Section 7(a) of the ICA, which prohibits such transactions for investment  
14 companies which have failed to register pursuant to Section 8 of the ICA.

15           d. Each of the Individual Defendants was aware of and  
16 authorized one or both of the authorized loans to the Farmer Bros. ESOP, an entity  
17 controlled by Farmer Bros., which loans are prohibited affiliated transactions under  
18 Section 17(a)(4) of the ICA.

19           70. The Individual Defendants were motivated to fund the ESOP via  
20 these improper and prohibited loans in order to (i) retain control of Farmer Bros. for  
21 the interests of the Farmer family; and (ii) minimize the amount of estate taxes to be  
22 paid on a future testamentary transfer of shares by the Farmer family.

23           71. The Individual Defendants have therefore violated Sections 7(a)  
24 and 17(a) of the ICA.

25           72. As a direct and proximate result of Individual Defendants'  
26 wrongful conduct, Plaintiff and the other members of the Class have suffered  
27 damages in an amount to be proven at trial, but in any event not less than the  
28 amount of the improper loans to the ESOP.

GREENE, BROILLET, PANISH & WHEELER LLP  
P.O. BOX 2131  
SANTA MONICA, CA 90407-2131

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

a. Enjoining all Defendants from directing the voting the shares of Farmer Bros.' stock beneficially owned by the ESOP;

b. Awarding compensatory damages in favor of Plaintiff against the Individual Defendants, jointly and severally, for all damages sustained as a result of their wrongdoing, in an amount to be proven at trial, including pre-judgment and post-judgment interest thereon;

c. Awarding Plaintiff his reasonable costs and expenses incurred in this action, including counsel fees and expert fees; and

d. Such other and further relief as the Court may deem just and proper.

DATED: December 10, 2003

GREENE, BROILLET, PANISH & WHEELER LLP

BRIAN J. PANISH  
KEVIN R. BOYLE  
Attorneys for Plaintiff