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NORTHERN DISTRICT OF CALIFORNIA

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13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA  
15 SAN JOSE DIVISION

16 SECURITIES AND EXCHANGE COMMISSION,  
17 Plaintiff,  
18 vs.  
19 SAMIR I. ABED and ELIAS J. ANTOUN,  
20 Defendants.

C 08

45-9

COMPLAINT FOR PERMANENT  
INJUNCTION AND OTHER RELIEF

21 Plaintiff Securities and Exchange Commission (the "Commission") alleges:

22 SUMMARY OF THE ACTION

23 1. This case involves unlawful insider trading in the securities of Silicon Valley technology  
24 company Genesis Microchip, Inc. ("Genesis") by the company's Chief Executive Officer as well as a  
25 childhood friend of the CEO. While in the midst of confidential negotiations for the sale of the  
26 company at a significant premium, Genesis' President and CEO, defendant Elias J. Antoun,  
27 purchased Genesis stock in the brokerage accounts of a relative and a friend. At the same time,  
28 defendant Samir I. Abed – a close friend with whom Antoun had discussed the merger in confidence  
– misappropriated the information to make his own unlawful purchases of Genesis stock and options.

1 2. After the merger was announced to the public on December 11, 2007, Genesis' stock price  
2 skyrocketed 57%. Antoun sold the shares he had purchased for profits of nearly \$34,000, while Abed  
3 sold all of his Genesis stock and call option contracts for profits of over \$50,000.

#### 4 JURISDICTION AND VENUE

5 3. The Commission brings this action pursuant to Sections 21(d), 21(e), and 21A of the  
6 Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d), 78u(e), and 78u-1].

7 4. This Court has jurisdiction over this action pursuant to Sections 21(e), 21A, and 27 of the  
8 Exchange Act [15 U.S.C. §§ 78u(e), 78u-1, and 78aa]. Defendants Antoun and Abed, directly or  
9 indirectly, have made use of the means and instrumentalities of interstate commerce, of the mails, or  
10 of the facilities of a national securities exchange in connection with the acts, practices and courses of  
11 business alleged in this complaint.

12 5. Venue is proper in this District pursuant to Section 27 of the Exchange Act [15 U.S.C. §  
13 78aa] because the acts and transactions constituting the violations alleged in the Complaint occurred  
14 within the Northern District of California.

#### 15 INTRADISTRICT ASSIGNMENT

16 6. Intra-district assignment to the San Jose Division is appropriate pursuant to Civil Local  
17 Rule 3-2(c) and (e) because a substantial part of the acts and transactions giving rise to the  
18 Commission's claims occurred in Santa Clara county, where Genesis was headquartered during the  
19 relevant time period.

#### 20 DEFENDANTS

21 7. Elias J. Antoun, age 51, resides in San Jose, California. From November 30, 2004 until  
22 Genesis' acquisition by STMicroelectronics ("STM") in January 2008, Antoun was the President and  
23 CEO of Genesis and a member of Genesis' Board of Directors.

24 8. Samir I. Abed, age 53, resides in Thousand Oaks, California.

1 **RELEVANT ENTITIES**

2 9. Genesis Microchip, Inc. was, prior to being acquired by STM in 2008, a Delaware  
3 corporation headquartered in Santa Clara, California. Genesis was a supplier of display image  
4 processors in both the flat-panel TV and LCD monitor markets. Prior to January 25, 2008, Genesis'  
5 securities were registered with the Commission pursuant to Section 12(g) of the Exchange Act [15  
6 U.S.C. § 78l(g)] and were traded on the NASDAQ Global Select Market under the symbol "GNSS."

7 10. STMicroelectronics, headquartered in Geneva, Switzerland, is one of the world's largest  
8 semiconductor companies. STM's securities are registered with the Commission pursuant to Section  
9 12(g) of the Exchange Act [15 U.S.C. § 78l(g)] and are traded on the New York Stock Exchange  
10 under the symbol "STM."

11 **FACTUAL ALLEGATIONS**

12 **A. Antoun Purchased Genesis Stock While Aware Of Confidential Merger Discussions.**

13 11. In early 2007, Genesis' Board began to consider potential business partnerships or  
14 mergers. Genesis first approached STM in late June 2007, and on June 28 STM indicated its initial  
15 willingness to consider a potential collaboration.

16 12. Antoun, as Genesis's CEO, along with other Genesis employees, met with representatives  
17 of STM in Santa Clara, California in late July 2007 and again in Paris in late August 2007. Genesis  
18 and STM signed a confidentiality agreement at the August meeting.

19 13. In mid-September 2007, STM contacted Antoun to advise Genesis of STM's interest in  
20 pursuing further discussions about the potential acquisition of Genesis by STM. At the end of  
21 September 2007, STM again indicated its interest in moving forward. Antoun met with STM  
22 representatives in Geneva on October 15 to continue the confidential merger discussions.

23 14. Genesis received a letter of intent from STM on November 5, 2007. The letter proposed  
24 that STM would acquire Genesis through a cash tender offer at a price of \$9.50 per share, a  
25 significant premium over Genesis' then-trading price of around \$6.54 per share. The companies then  
26 began negotiating the terms of a merger agreement and STM commenced due diligence for purposes  
27 of the merger.

1 15. Throughout this period, the companies' negotiations remained confidential. As Genesis'  
2 CEO, Antoun was intimately familiar with each of these steps and the confidential nature of the  
3 negotiations.

4 16. During the course of these negotiations, Antoun purchased Genesis stock in two separate  
5 accounts in which he had trading authority, one opened by a relative and another opened by a friend.  
6 Antoun purchased 9,750 shares of Genesis stock in his relative's account in multiple transactions on  
7 November 12, 13 and 19, and December 3, 2007. Antoun also purchased 2,500 shares of Genesis  
8 stock in his friend's account on November 12, 2007.

9 17. On December 5, 2007, STM revised its per share proposal to \$8.25, which Genesis  
10 rejected. The companies continued their merger negotiations until they reached an agreement in  
11 principle on Sunday, December 9, at a price of \$8.65 per share. (On Friday, December 7, Genesis'  
12 stock price had closed at \$5.35 per share.) The next day, December 10, Genesis' Board approved the  
13 merger agreement and the parties executed the agreement.

14 18. On December 11, 2007, at 3:00 a.m. Eastern Time, Genesis and STM issued a joint press  
15 release announcing the merger. That day nearly 15 million shares of Genesis stock traded, compared  
16 to 342,208 shares on December 10, 2007, and Genesis' stock price increased 57% to close at \$8.49.

17 19. In January 2008, Antoun tendered all of the shares he had purchased in the two accounts  
18 from November 12 through December 3, for total profits of approximately \$33,975.

19 20. As CEO and President of Genesis, Antoun had a duty to Genesis' shareholders to maintain  
20 the confidentiality of material nonpublic information about the STM merger and not to trade based on  
21 that information. In purchasing Genesis shares in the accounts of his relative and friend, Antoun  
22 breached that duty.

23 **B. Antoun Had Previously Traded On Material Nonpublic Information.**

24 21. Antoun's 2007 pre-merger trades were not his first instance of insider trading in Genesis'  
25 stock. On July 21, 2006, Antoun purchased 900 shares of Genesis stock in his friend's account in  
26 advance of a Genesis earnings announcement. At the time of the purchase, Antoun was privy to  
27 material nonpublic information that the earnings announcement would reveal positive results.  
28

1           22. On July 27, 2006, after market close, Genesis announced the results of its fiscal quarter  
2 ended June 30, 2006. The next day, the stock opened at \$13.44, 19.85% higher than the previous  
3 day's close, and Antoun sold the 900 shares of Genesis at \$13.18 per share, for a profit of  
4 approximately \$2,235.

5           23. As CEO and President of Genesis, Antoun had a duty to Genesis' shareholders to maintain  
6 the confidentiality of material nonpublic information about the company's financial performance and  
7 not to trade based on that information. In purchasing Genesis shares in the account of his friend,  
8 Antoun breached that duty.

9           **C. Abed Misappropriated Material Nonpublic Information About The Genesis/STM**  
10           **Merger From Antoun And Traded Based On That Information.**

11           24. Abed and Antoun became friends while attending boarding school together in the 1960s.  
12 The two have had a long history of discussing confidential personal and work issues. Because of  
13 their close personal relationship and history of sharing confidences, Antoun often communicated with  
14 Abed about Genesis work issues. Antoun trusted and expected that Abed would maintain the  
15 confidentiality of the information shared and not trade on the information.

16           25. In late August 2007, Antoun mentioned the merger to Abed after returning from a meeting  
17 with STM in Paris. Antoun again discussed the merger with Abed on October 28, 2007, after  
18 Antoun's return from a meeting with STM in Geneva. During that discussion, Antoun told Abed that  
19 the deal with STM was looking more and more real. As with their prior discussions of personal and  
20 work-related issues, Antoun expected that the information would be kept confidential, and Abed  
21 understood this expectation.

22           26. On October 29 and November 2, 2007, Abed purchased 600 shares and 400 shares,  
23 respectively, of Genesis common stock. On November 14 and November 28, 2007, Abed purchased  
24 a total of 30 Genesis call option contracts. Each call option contract gave Abed the right to purchase  
25 100 shares of Genesis stock at a specified price before the contracts expired. By purchasing call  
26 option contracts, Abed was trading based on the expectation that Genesis' stock price would rise.

27           27. At about 7:30 p.m. on December 9, 2007, Antoun telephoned Abed and told him that the  
28 deal with STM had been finalized.

1 28. On December 10, 2007, before the merger was announced publicly, Abed purchased an  
2 additional 10,000 shares of Genesis common stock and 70 additional Genesis call option contracts.

3 29. After the merger announcement, Abed sold 40 of the Genesis call option contracts and  
4 exercised the remainder. Abed sold 3,344 shares of Genesis stock on December 21 and 26, 2007 and  
5 tendered the rest of his shares in January 2008. Abed's profits on his Genesis trades totaled  
6 approximately \$51,206.

7 30. Each of Abed's purchases of Genesis stock and call option contracts from October 28,  
8 2007 through December 9, 2007, was based on material nonpublic information Abed misappropriated  
9 from Antoun in violation of the duties of trust and confidence Abed owed Antoun based on their  
10 close personal relationship and history of sharing personal and work confidences. Abed knew, or was  
11 reckless in not knowing, that the information he received from Antoun regarding the Genesis/STM  
12 merger was material and nonpublic.

13 **FIRST CLAIM FOR RELIEF**

14 *(Violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)]*  
15 *and Rule 10b-5 [17 C.F.R. § 240.10b-5] Promulgated Thereunder by Antoun and Abed)*

16 31. Paragraphs 1 through 30 are re-alleged and incorporated herein by reference.

17 32. In relation to defendants' aforementioned trading in the securities of Genesis,  
18 defendants, with scienter, directly or indirectly:

- 19 a) employed devices, schemes, or artifices to defraud;  
20 b) made untrue statements of material fact or omitted to state a material fact  
21 necessary in order to make the statements made, in the light of the  
22 circumstances under which they were made, not misleading; and  
23 c) engaged in acts, practices, or courses of business which operated or would  
24 operate as a fraud or deceit upon other persons

25 in connection with the purchase or sale of securities, by the use of means or instrumentalities of  
26 interstate commerce, of the mails, or the facilities of a national securities exchange.

1 33. By reason of the foregoing, defendants violated, and unless restrained and enjoined will  
2 continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5  
3 thereunder [17 C.F.R. § 240.10b-5].

4 **PRAYER FOR RELIEF**

5 WHEREFORE, the Commission respectfully requests that this Court:

6 I.

7 Permanently enjoin Antoun and Abed from directly or indirectly violating Section 10(b) of  
8 the Exchange Act [15 U.S.C. §§ 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §§ 240.10b-5];

9 II.

10 Order Antoun and Abed to disgorge the ill-gotten gains derived from the unlawful trading  
11 alleged herein, plus prejudgment interest;

12 III.

13 Order Antoun and Abed to pay civil monetary penalties pursuant to Section 21A of the  
14 Exchange Act [15 U.S.C. § 78u-1];

15 IV.

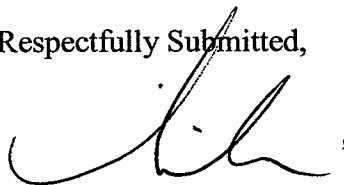
16 Retain jurisdiction of this action in accordance with the principles of equity and the Federal  
17 Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that  
18 may be entered, or to entertain any suitable application or motion for additional relief within the  
19 jurisdiction of this Court; and

20 V.

21 Grant such other relief as this Court may determine to be just and appropriate.

22  
23 DATED: September 30, 2008

Respectfully Submitted,

24  
25 

26 Monique C. Winkler  
27 Attorney for Plaintiff  
28 SECURITIES AND EXCHANGE COMMISSION