UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

SECURITIES AND EXCHANGE COMMISSION **100 F Street, N.E.** **Washington, D.C. 20549,** **Plaintiff,** **v.** **CONAGRA FOODS, INC.,** **Defendant.**	:	**______ CV**

COMPLAINT

Plaintiff, the United States Securities and Exchange Commission ("Commission"), alleges for its Complaint, as follows:

SUMMARY

1. Defendant ConAgra Foods, Inc. ("ConAgra" or "Company") engaged in improper, and in certain instances fraudulent, accounting practices during its fiscal years ("FY") 1999, 2000 and 2001, thereby materially misstating its financial performance in its public statements and periodic filings with the Commission. ConAgra's fraudulent accounting practices included: a) its use of reserves at ConAgra's Corporate headquarters to, among other things, manipulate the Company's reported earnings in FY 1999; and b) its improper recognition of revenue on deferred delivery sales and failure to record adequate bad debt expense at ConAgra's former United Agri-Products ("UAP") subsidiary, to overstate ConAgra's financial performance in FY 2000. ConAgra's improper accounting practices, which were the result of the conduct of certain former

ConAgra senior executives related to the Company's failure to record adequate income tax expense in FY 1999, and its improper reductions of various excess reserves in FY 1999, 2000 and FY 2001, all of which occurred at Corporate headquarters. In addition, between FY 2002 and FY 2005, ConAgra's corporate tax department made numerous income tax errors, causing the Company to improperly account for tax benefits, understate its income tax expense and materially overstate reported net income and earnings per share in its public statements and periodic filings with the Commission during this period.

2. As a result of accounting practices described herein, which were not in accordance with Generally Accepted Accounting Principles ("GAAP"), ConAgra misstated its reported income before income taxes by nearly $218.5 million, and also overstated its reported net income and earnings per share between the first quarter of FY 1999 and the third quarter of FY 2001. As a result of the income tax errors, ConAgra misstated its reported income tax expense by $105 million. During this time, the Company issued and/or filed certain earnings releases, and quarterly and annual reports, and filed a registration statement with the Commission, which were materially false and misleading.

3. In June 2001, as a result of the UAP accounting practices described herein, ConAgra restated its reported financial results. UAP's accounting errors resulted in an overstatement of ConAgra's reported income before income taxes in FY 1998, FY 1999 and FY 2000, and an understatement of its reported income before income taxes in FY 2001. Had ConAgra's accounting for its reserves been in accordance with GAAP, it would have reduced its excess reserves in earlier periods, which would have resulted in a corresponding increase in ConAgra's income before income taxes in those earlier periods. In April 2005, as a result of various income tax errors, including the two income tax errors described herein, ConAgra restated its reported

financial results for FY 2002, FY 2003, FY 2004 and the first two quarters of FY 2005. ConAgra's income tax errors resulted in an overstatement of its reported net income after income taxes during the aforementioned periods, and an understatement of its reported net income after income taxes in periods prior to FY 2002.

4. By engaging in this misconduct, ConAgra violated the anti-fraud, reporting, books and records, and internal controls provisions of the federal securities laws.

5. Through this action, the Commission requests that the Court, among other things: (1) permanently enjoin Defendant ConAgra from further violations of the federal securities laws; (2) order Defendant ConAgra to disgorge and divest gains from its conduct violating the federal securities laws, including prejudgment interest; and (3) order Defendant ConAgra to pay a civil money penalty.

JURISDICTION AND VENUE

6. The Commission brings this action pursuant to Section 21(d) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78u(d)].

7. This Court has jurisdiction over this action pursuant to Sections 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(e) and 78aa]. The Defendant, directly and indirectly, used the means or instrumentalities of interstate commerce, or of the mails, or the facilities of a national securities exchange in connection with the transactions, acts, practices and course of business alleged in this Complaint.

8. Certain of the acts, practices and courses of conduct constituting the violations of law alleged in this Complaint occurred within this judicial district and, therefore, venue is proper pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa].

9. ConAgra, directly and indirectly, has engaged in transactions, acts, practices and courses of business that violate Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 10b-5, 12b-20, 13a-1 and 13a-13 [17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13a-1 and 240.13a-13]. An injunction is necessary to ensure that ConAgra will not continue to violate the foregoing provisions of the federal securities laws.

DEFENDANT

10. ConAgra is a Delaware corporation with headquarters in Omaha, Nebraska. ConAgra's common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act, and trades on the New York Stock Exchange. ConAgra's fiscal year ends on the last Sunday in May of each year. At all times relevant to this Complaint, ConAgra was a diversified international food company. During the same period of time, ConAgra's businesses were classified into three reporting segments: Agricultural Products, Refrigerated Foods and Packaged Foods. ConAgra sold its Agricultural Products subsidiary, UAP, on November 23, 2003. UAP's results of operations were included in the Agricultural Products segment's financial information.

OTHER RELEVANT PERSONS AND ENTITY

11. Kenneth W. DiFonzo, age 55, resides in Newport Beach, California. DiFonzo was ConAgra's Corporate Controller from May 1994 through February 1999. From February 1999 until May 2004, DiFonzo held other senior positions with the Company. From May 2004 to September 2005, DiFonzo served in an advisory capacity at ConAgra regarding various operational/management issues. DiFonzo was a Certified Public Accountant ("CPA") licensed in Illinois, however his license has become inactive. From approximately June 1973 to April

1981, he worked as an auditor in public accounting, rising to the position of Senior Manager. Since September 1, 2005, DiFonzo has served as a consultant to the Company.

12. James P. O'Donnell, age 59, is a resident of Omaha, Nebraska. O'Donnell joined ConAgra in 1978. From 1995 until he retired on April 30, 2004, he served as ConAgra's Executive Vice President and CFO. Beginning in around February 2001, Dwight J. Goslee ("Goslee") assumed O'Donnell's responsibilities over ConAgra's Corporate Controller's group, Internal Audit and Tax departments. Since O'Donnell's retirement, he has acted as a consultant to the Company.

13. Jay D. Bolding, age 47, is a resident of Omaha, Nebraska. From January 1997 to the beginning of ConAgra's fourth quarter of fiscal year 1999 (March 1999), he was the head of ConAgra's Internal Audit department. From March 1999 until approximately April 2004, he served as ConAgra's Corporate Controller. Until his resignation on June 1, 2006, he held the position of Senior Vice President for Capital and Marketing Investment Effectiveness. He was licensed as a CPA in Kansas and Tennessee; however, both licenses have lapsed. He worked for approximately 14 years in public accounting as an auditor, rising to the level of Senior Manager.

14. Debra L. Keith ("Keith"), age 49, is a resident of Bellevue, Nebraska. Keith was ConAgra's Vice President - Taxes from 1998 through 2004, when she left the Company. Keith is an attorney and was licensed as a CPA in Nebraska. Her CPA license is inactive. From 1983 to 1993, she held various positions, including director of tax, at a public accounting firm.

15. Dwight J. Goslee, age 56, is a resident of Elkhorn, Nebraska. From 1992 to 1994, he was ConAgra's Corporate Controller. From 1994 to 2001, he was a Vice President at ConAgra and held other senior management positions, including serving as the head of mergers and acquisitions. In around February 2001, Goslee was promoted to Executive Vice President of

Operations and Control. From May 2004 to May 2005, Goslee was ConAgra's Executive Vice President for Strategic Development. He was licensed as a CPA in Minnesota; however, the license has lapsed. He worked for 11 years as an auditor in public accounting, rising to the level of Manager. Since resigning his former position on October 1, 2005, Goslee has served as a consultant to the Company.

16. UAP, at all times relevant to this Complaint, was headquartered in Greeley, Colorado and was a wholly-owned subsidiary of ConAgra engaged in the sale of agricultural, chemical and related products throughout the United States, Mexico and Canada. UAP was composed of 13 Independent Operating Companies ("IOCs"). Its fiscal year ended on the last Sunday in February of each year.

ACCOUNTING AT CONAGRA'S CORPORATE HEADQUARTERS DURING FY 1999 THROUGH THE THIRD QUARTER OF FY 2001

17. At various times in FY 1999, FY 2000 and FY 2001, ConAgra misstated its income before income taxes, net income, earnings per share and trend of earnings in its periodic and other filings with the Commission and in Company-issued press releases as a result of certain accounting practices. In FY 1999, the fraudulent accounting practices engaged in by ConAgra involved the use of excess tax, interest, and purchase accounting reserves arising from ConAgra's acquisition of Beatrice Company ("Beatrice"), and the use of ConAgra's Estimated Liabilities account as a "cookie jar" reserve. In FY 1999, FY 2000 and FY 2001, the improper accounting practices engaged in by ConAgra involved the failure to record sufficient income tax expense and/or the accounting for certain excess reserves. Without these practices, ConAgra would have missed the Wall Street analysts' consensus estimates of the Company's earnings per share for at least six of these eleven fiscal quarters.

A. FY 1999

1. ConAgra's Use Of Excess Beatrice Acquisition-Related Tax and Interest Reserves

18. ConAgra acquired Beatrice in FY 1991. Prior to the acquisition, Beatrice estimated that it had hundreds of millions of dollars of liabilities arising from tax disputes with federal and state authorities. Beatrice recorded these tax liabilities as tax reserves on its books and ConAgra inherited these reserves as part of the acquisition. After the Beatrice acquisition, ConAgra increased these tax reserves it had inherited from Beatrice by adding tens of millions of dollars of post-acquisition interest.

19. Although ConAgra reduced the Beatrice reserves various times prior to 1998, by no later than the end of FY 1998, ConAgra no longer had any probable and reasonably estimable tax liabilities that justified maintaining the remaining Beatrice acquisition-related tax and interest reserves on the Company's books. At that time, these reserves exceeded $181 million. Corporate documents prepared after the end of FY 1998, but prior to ConAgra's release of its earnings for that fiscal year, referred to these tax and interest reserves as "free" and "surplus," respectively. Moreover, at or around the end of FY 1998, ConAgra's outside auditors performed a written analysis of the manner in which the excess Beatrice acquisition-related tax and interest reserves should be removed from ConAgra's books and provided it to ConAgra. GAAP required that these excess tax and interest reserves be removed from ConAgra's books.

20. During the first and second quarters of FY 1999, ConAgra improperly used tens of millions of dollars of excess Beatrice-related post-acquisition interest reserves to offset, dollar-for-dollar, unrelated, unplanned-for and unreserved-for losses. A journal entry making one of the reductions was posted after the end of the fiscal quarter.

21. Separately, but at the same time as the excess Beatrice acquisition-related interest reserves were reduced to cover certain second quarter loss, ConAgra improperly transferred over $93 million of the remaining, approximately $148 million of excess Beatrice acquisition-related tax and interest reserves, into two, newly-created, "general" reserve accounts. About $60 million of these transferred reserves were reallocated to cover unrelated, unplanned-for and unreserved-for exposures related to legal and environmental matters. Without the reallocation of these reserves, ConAgra would have taken a $60 million charge to income for legal and environmental expense in that quarter without an offset to that charge. The other, approximately $33 million of transferred acquisition-related tax and interest reserves, was unsupported by any probable and reasonably estimable liabilities. Nonetheless, ConAgra failed to remove the $33 million of excess reserves from its books even though this was required by GAAP. As a result, these reserves were available to improperly offset reductions to the Company's future earnings.

22. The reduction in the Company's excess reserves and the transfer of $60 million of excess reserves to cover unreserved-for legal and environmental exposures, improperly increased ConAgra's reported income before income taxes for the first and second quarters of FY 1999 by 12% and by over 20%, respectively. The earnings estimates from the analysts covering ConAgra ranged from $0.21 to $0.25 earnings per share for the first quarter of FY 1999 and from $0.42 to $0.48 earnings per share for the second quarter of FY 1999. ConAgra's earnings of $0.23 per share in the first quarter of FY 1999 exceeded the Wall Street analysts' $0.22 consensus earnings per share estimate by $0.01. Similarly, ConAgra's earnings of $0.46 per share in the second quarter of FY 1999 exceeded the Wall Street analysts' consensus estimate of $0.45 earnings per share by $0.01. Absent the reductions and the transfer of the excess Beatrice acquisition-related tax and interest reserves, ConAgra would have missed the consensus estimate by $0.02 in the

first quarter of FY 1999 and by at least $0.08 in the second quarter of FY 1999. Members of ConAgra's senior management paid close attention to the consensus estimate, and were aware that missing it could put downward pressure on the Company's stock price.

2. ConAgra's Use of Its Estimated Liabilities Account

23. From at least as early as the first quarter of FY 1999, ConAgra fraudulently used an Estimated Liabilities account as a general, or "cookie jar," reserve prohibited by GAAP. During this time period, ConAgra increased this reserve by tens of millions of dollars by transferring into it miscellaneous excess reserves and accruals, which were unsupported by any probable or reasonably estimable liabilities, and gains from the sale of certain ConAgra assets. In addition, at the same time, ConAgra improperly used this reserve to offset millions in current period operating expenses. Certain corporate documents referred to this account as "a general reserve" and as the "sludge fund."

3. ConAgra's Use Of Beatrice Acquisition-Related Purchase Accounting Reserves

24. At the end of FY 1998, ConAgra still maintained on its books more than $50 million in purchase accounting reserves related to its acquisition of Beatrice in FY 1991. The probable and reasonably estimable liabilities related to these reserves were identified by no later than the end of FY 1995. Almost four years later, in the first quarter of FY 1999, ConAgra improperly reduced these reserves by over $3.1 million to offset the unrelated, unplanned-for and unreserved-for payoff of certain bonds Beatrice originally guaranteed.

25. This reduction of the purchase accounting reserves to offset the unrelated, unplanned-for and unreserved-for reduction to ConAgra's earnings from the bond payoff was not in accordance with GAAP and caused ConAgra to fraudulently overstate its reported income

before income taxes by over $3.1 million for the first quarter of FY 1999, and to increase its quarterly net income and earnings per share.

4. ConAgra Failed To Record Sufficient Income Tax Expense

26. At the end of FY 1999, ConAgra's income tax expense, or provision, as booked by the Corporate Controller's group, was $4,658,064 lower than it should have been, causing the Company's net income (after income taxes) to be overstated by $4,658,064. As a result, ConAgra overstated its reported net income for the fourth quarter and full fiscal year of FY 1999. ConAgra's accounting for its income tax expense was not in accordance with GAAP.

27. Documentation supporting ConAgra's FY 1999 income tax provision included a spreadsheet prepared by a Manager in ConAgra's Corporate tax department. The amount of $4,658,064 was listed in this spreadsheet on a line item entitled "Tax Reserves." ConAgra provided this spreadsheet to its outside auditors in connection with their FY 1999 audit of ConAgra's financial statements. The outside auditors' FY 1999 workpapers contain a copy of this spreadsheet and note that, according to the ConAgra Tax Manager, the $4,658,064 "cushion was recorded to reduce [ConAgra's] tax expense so that the effective tax rate before restructuring would be 38%." The workpapers also note that there was "no economic substance" underlying this reduction.

28. Keith directed the unsupported $4,658,064 reduction in ConAgra's FY 1999 income tax provision. The outside auditors reviewed their "Schedule of Differences Identified" for FY 1999, which included this reduction, with O'Donnell and Bolding. This reduction was included as a line item in the portion of the schedule identified as subjective differences. ConAgra did not correct the reduction.

29. The $4,658,064 reduction lowered ConAgra's FY 1999 effective tax rate, absent the effect of the restructuring charge, from 38.4% to 38.0%. The earnings estimates from the analysts covering ConAgra ranged from $0.38 to $0.44 earnings per share during the fourth quarter of FY 1999. Without the reduction, ConAgra would have missed the Wall Street analysts' consensus estimate of $0.41 earnings per share by $0.01. The improper reduction was material to ConAgra's financial statements for that quarter, which were included in the Company's FY 1999 Annual Report filed with the Commission on Form 10-K.

30. ConAgra also made materially inaccurate statements about the reduction of its income tax expense in its Form 10-K for FY 1999. In note 14 to the financial statements contained in the Form 10-K and entitled "Pretax Income and Income Taxes." ConAgra included the reduction as a component of the $12.2 million line item amount entitled "Export and jobs tax credits." This line item was contained within a tabular presentation of the Company's income tax expense. This disclosure was inaccurate because the arbitrary reduction of ConAgra's income tax provision had nothing to do with export and jobs tax credits.

5. ConAgra Issued Public Earnings Releases and Filed Reports With the Commission that Were False and Misleading

31. ConAgra's uses of its excess reserves in FY 1999, and its accounting for its income tax expense in that fiscal year, were not in accordance with GAAP. ConAgra never disclosed to the public, in a filing with the Commission, a ConAgra earnings release or otherwise, any of these reserves reductions or the failure to record adequate income tax expense.

32. In addition to enabling ConAgra to meet Wall Street analysts' consensus earnings per share estimates for the first and second quarters of FY 1999, the reductions of the excess reserves caused ConAgra to overstate its reported income before income taxes during FY 1999 by 19% for the first quarter, by 20% for the second quarter, by 13% for the nine months ending

at the end of the third quarter of FY 1999, and by 15% for the full fiscal year of FY 1999. Also, as a result of the accounting for its income tax expense, ConAgra met the analysts' consensus earnings per share estimate for the fourth quarter of FY 1999, overstated its reported net income for the fourth quarter and full fiscal year of FY 1999 by over $4.6 million, and overstated its reported earnings per share for the same period.

33. As a result of its uses of excess reserves in FY 1999, ConAgra's earnings releases for the first, second and third quarters of FY 1999, its earnings release for the fourth quarter and full fiscal year of FY 1999, its Quarterly Reports filed with the Commission on Form 10-Q for the first, second and third quarters of FY 1999, and its Annual Report filed on Form 10-K for FY 1999 were fraudulent and, otherwise, materially false and misleading.

34. DiFonzo reviewed and signed ConAgra's Form 10-Q for the first and second quarters of FY 1999. O'Donnell and Bolding, among others, reviewed ConAgra's Form 10-K for FY 1999 including note 14 to the Financial Statements and both signed the filing.

B. FY 2000

1. ConAgra Improperly Kept Prior Period Excess Reserves on Its Books

35. As outlined in Statement of Financial Accounting Standards ("SFAS") No. 5, Accounting for Contingencies, at paragraph 8, GAAP requires a reserve to be created, and a charge to income to be taken, if it is both probable that a liability has been incurred and the amount of the liability can be reasonably estimated. Conversely, when a liability is no longer probable and reasonably estimable, a reserve should be removed from the books and income should be increased. In addition, paragraph 14 of SFAS No. 5 specifically prohibits the accrual of "reserves for general contingencies" or for "[g]eneral or unspecified business risks."

36. ConAgra's outside auditors informed O'Donnell and Bolding that they had identified a potential overstatement for legal and environmental reserves in the range of $16.5 million to $39.5 million. The outside auditors included this overstatement in their "Schedule of Differences Identified" for FY 1999, as a line item in the portion of the schedule identified as subjective differences. In making this determination, the outside auditors included, among the reserves they reviewed, ConAgra's Estimated Liabilities account and the "general" reserves that ConAgra had created through the improper transfer of the excess Beatrice acquisition-related tax and interest reserves in FY 1999. ConAgra's attorneys and other Company personnel provided the outside auditors with the exposure estimates and reserve account balances used in making the calculation. ConAgra declined to reduce any of these excess reserves at the end of FY 1999 which was contrary to the requirements of SFAS No. 5.

2. ConAgra Improperly Accounted For the Reduction of the Estimated Liabilities Account

37. Among the excess reserves in ConAgra's Estimated Liabilities account was a $5.4 million gain on the sale of the Beatrice plane which had been previously booked to the Estimated Liabilities account at the end of FY 1999. This accounting for the gain on the sale of the plane was not in accordance with paragraph 83 of FASB Concepts No. 5, Recognition and Measurement in Financial Statements of Business Enterprises, which requires gains to be recognized when realized or realizable. ConAgra did not reverse that the gain, or any of the other excess amounts in the Estimated Liabilities account, during the first or second quarters of FY 2000.

38. ConAgra offset $6 million of unplanned-for and unreserved-for losses arising from a joint venture in South Africa in that quarter with a dollar-for-dollar reduction of the Estimated Liabilities account.

39. Paragraph 13 of Accounting Principles Board ("APB") Opinion No. 20, Accounting Changes, states that errors in financial statements result from "mathematical mistakes, mistakes in the application of accounting principles, or oversight or misuse of facts that existed at the time the financial statements were prepared." Paragraphs 36 through 38 of APB Opinion No. 20 require the correction of an error to be reported as a prior period adjustment where the correction has a material effect on current period income before the effect of the change or on the trend of earnings. In addition, paragraph 18 of APB Opinion No. 9, Reporting the Results of Operations, requires a prior period adjustment to be reflected by adjusting the opening balance of retained earnings in the current period and accordingly, to be excluded from current period income.

40. The $6 million reduction of the Estimated Liabilities account was not in accordance with SFAS No. 5 and improperly increased ConAgra's reported income before income taxes by $6 million for the third quarter of FY 2000. The earnings estimates from the Wall Street analysts covering ConAgra ranged from $0.38 to $0.43 earnings per share during that period. Wall Street's consensus estimate of ConAgra's earnings per share for the third quarter of FY 2000 was $0.41. Excluding restructuring charges, ConAgra reported net income of $195.9 million for the quarter, or $0.41 per share. Without the $6 million offset made after the end of the quarter, ConAgra's reported net income would have been about $192.2 million, or $0.40 per share. Absent the improper excess reserve reduction, ConAgra would have missed the Wall Street analysts' consensus estimate for the third quarter of FY 2000.

41. ConAgra should have treated the removal of the $6 million of prior period excess reserves from its books as a correction of an error and reported the correction as a prior period adjustment because the $6 million excess should have been reduced by no later than the end of FY 1999. The $6 million reduction was material to the Company's income before income taxes,

net income, earnings per share and trend of earnings at least by the third quarter of FY 2000, if not earlier. As a result, the $6 million prior period excess reserves reduction should have been excluded from ConAgra's reported income before income taxes, net income and earnings per share for the third quarter of FY 2000.

42. The improper accounting for this reserve reduction caused ConAgra's financial statements for the third quarter of FY 2000, which were included in the Company's Quarterly Report filed with the Commission on Form 10-Q for the third quarter of FY 2000, to be materially inaccurate.

3. ConAgra Improperly Accounted for the Reduction of Excess Beatrice Acquisition-Related Tax and Interest Reserves

43. Near the end of the fourth quarter of FY 2000, ConAgra reduced part of the prior period excess in ConAgra's legal and environmental reserves in order to offset, dollar-for-dollar, more than $5.4 million in unrelated, unplanned-for and unreserved-for losses resulting from a ConAgra Frequent Flyer Miles promotion.

44. The account ConAgra reduced was labeled "General Rsv [Reserve] – Timing." This was one of the two "general reserve" accounts that had been created during the second quarter of FY 1999 in connection with the improper reduction and reallocation of the excess Beatrice acquisition-related tax and interest reserves. From that time until the Frequent Flyer expense arose, there had been no entries made to this account.

45. No reserve had previously been established to cover the Frequent Flyer losses and a portion of the Beatrice acquisition related tax and interest reserves would be used to offset the Frequent Flyer losses. The Beatrice acquisition related tax and interest reserves were likely in excess and should have been removed from ConAgra's books by no later than FY 1999. ConAgra did not reduce the rest of the balance in this "general" reserve account, or any of the

remaining excess in its legal and environmental reserves that its outside auditors had previously identified on their "Schedule of Differences Identified" for FY 1999 during the remainder of FY 2000.

46. The over $5.4 million reduction of the "general" reserve was not in accordance with SFAS No. 5 and improperly increased ConAgra's income before income taxes by over $5.4 million for the fourth quarter of FY 2000. The earnings estimates from the Wall Street analysts covering ConAgra ranged from $0.43 to $0.47 earnings per share during that period. As a result, Wall Street's consensus estimate of ConAgra's earnings per share for the fourth quarter of FY 2000 was $0.46. Excluding restructuring charges, ConAgra reported net income of $219 million for the quarter, or $0.46 per share. Without the more than $5.4 million reduction of the "general" reserve, ConAgra's reported net income would have been under $215.7 million, or $0.45 per share. Absent that improper reduction, ConAgra would have missed Wall Street analysts' consensus estimate for the fourth quarter.

47. ConAgra should have treated the removal of the approximately $5.4 million of prior period excess reserves from its books as a correction of an error and reported the correction as a prior period adjustment because the over $5.4 million excess should have been reduced by no later than the end of FY 1999. The approximately $5.4 million reduction was material to the Company's income before income taxes, net income, earnings per share and trend of earnings at least by the fourth quarter of FY 2000, if not earlier. As a result, the over $5.4 million prior period excess reserves reduction should have been excluded from ConAgra's reported income before income taxes, net income and earnings per share for the third quarter of FY 2000.

48. The improper accounting for this reserve reduction rendered ConAgra's financial statements for the fourth quarter of FY 2000, which were included in the Company's Annual Report filed with the Commission on Form 10-K for FY 2000, materially inaccurate.

4. ConAgra Improperly Accounted for the Reduction of Excess FY 1996 Restructuring Reserves

49. ConAgra recorded certain reserves in connection with a restructuring charge in FY 1996. In FY 1999, ConAgra transferred more than $24.4 million of unused FY 1996 restructuring reserves from the books of certain of its subsidiaries to the ConAgra Corporate ledger. ConAgra, however, failed to remove these excess reserves from its books by the end of FY 1999 as required by SFAS No. 5.

50. The more than $24.4 million of FY 1996 restructuring reserves were no longer needed at the end of FY 1999, and should have been reduced at that time. In the fourth quarter of FY 2000, ConAgra reduced the remainder of the FY 1996 restructuring reserves. Over $24.4 million of the excess FY 1996 restructuring reserves were improperly reduced by lowering the Company's FY 2000 restructuring charge by an identical amount, and thus increased income by that amount.

51. The accounting for the $24.4 million reduction of the FY 1996 restructuring reserves was not in accordance with SFAS No. 5 and improperly increased ConAgra's reported income before income taxes, net income and earnings per share for the fourth quarter and full fiscal year of FY 2000, and its quarterly net income and earnings per share. When considered together with the improper reductions of the Estimated Liabilities and "general" reserve accounts in the third and fourth quarters of FY 2000 discussed above, the reductions result in a $35.8 million, or more than 5%, overstatement of the Company's income before income taxes for FY 2000.

52. ConAgra should have treated the removal of the more than $24.4 million of prior period excess FY 1996 restructuring reserves from its books as a correction of an error and reported the correction as a prior period adjustment because the excess FY 1996 restructuring reserves should have been reduced by no later than the end of FY 1999. In addition, when considered together with the improper reductions of the Estimated Liabilities and "general" reserve accounts in the third and fourth quarters of FY 2000 discussed above, the removal of the excess restructuring reserves was material to the Company's income before income taxes for FY 2000. As a result, the more than $24.4 million prior period excess reserves reduction should have been excluded from ConAgra's reported income before income taxes, net income and earnings per share for FY 2000.

53. The improper accounting for this reserve reduction caused ConAgra's financial statements for FY 2000, which were included in the Company's Form 10-K for FY 2000, to be materially inaccurate.

5. ConAgra Filed False and Misleading Reports with the Commission

54. Each of the instances of accounting for the reduction of excess reserves in FY 2000 discussed above was not in accordance with GAAP. None of them were disclosed in a filing with the Commission. The $6 million reduction of the Estimated Liabilities account in the third quarter of FY 2000, and the approximately $5.4 million reduction of the "general" reserve in the fourth quarter allowed ConAgra to meet the consensus earnings per share estimate in those respective quarters of FY 2000. In addition, when the Estimated Liabilities and "general" reserve reductions are considered with the over $24.4 million, improper reduction of the ConAgra's FY 1996 restructuring reserves, they result in a nearly $36 million, or over 5%, overstatement of the Company's reported income before income taxes for FY 2000. As a result,

ConAgra's Form 10-Q for the third quarter of FY 2000, and its Form 10-K for FY 2000, was materially false and misleading.

55. Bolding reviewed and signed ConAgra's Form 10-Q for the third quarter of FY 2000 and its Form 10-K for FY 2000.

C. FY 2001

1. ConAgra Continued to Improperly Keep Prior Period Excess Reserves on the Company's Books

56. In their year-end "Summary of Uncorrected Financial Statement Misstatements" for FY 2000, ConAgra's outside auditors identified a potential overstatement of legal and environmental reserves in the range of about $23.8 million to $51.5 million and provided them with the summary. ConAgra's attorneys and other Company personnel provided the outside auditors with the exposure estimates and reserve account balances they used in making this calculation. The outside auditors informed O'Donnell and Bolding about this potential overstatement at the end of FY 2000 and provided them with the summary. Contrary to the requirements of SFAS No. 5, ConAgra declined to reduce any of the excess legal and environmental reserves at the end of FY 2000. These prior period excess reserves remained on ConAgra's books in the first and second quarters of FY 2001.

2. ConAgra Improperly Accounted for the Reduction of At Least $23.8 Million of Prior Period Excess Reserves

57. On February 13, 2001, as ConAgra was approaching the end of its third quarter of FY 2001, the Company issued a press release, which it filed with the Commission on Form 8-K, in which it lowered its near-term earnings outlook due to "sharply higher energy costs and a slowing economy." In this press release, ConAgra disclosed that it expected its earnings per

share for the third quarter of FY 2001 to be in the range of $0.18 to $0.20. ConAgra's stock price dropped almost 20% on the day after it issued this press release.

58. In the third quarter of FY 2001, after he assumed responsibility for accounting at ConAgra, Goslee learned that ConAgra's outside auditors had identified legal and environmental reserves that were potentially overstated in the range of $23.8 million to $51.5 million at least as early as the end of FY 2000 and in the first two quarters of FY 2001. Goslee made the decision to reverse $35 million of ConAgra's excess legal and environmental reserves to income for the third quarter of FY 2001.

59. O'Donnell and Bolding were informed of the decision to reduce the excess legal and environmental reserves by $35 million. Thereafter, Bolding was asked to identify the reserves that were to be reduced to effect the $35 million reserve reduction.

60. Approximately $21.3 million of the reversed excess reserves were taken from one of the "general" reserve accounts into which the Company had improperly transferred the excess Beatrice acquisition-related tax and interest reserves in FY 1999. This was also the same account that the Company had improperly reduced to offset the Frequent Flyer Miles promotion expense in FY 2000. There were no other uses of this account in the first three quarters of FY 2001. In addition, over $10.7 million of the reversals came from excess reserves contained in ConAgra's Estimated Liabilities account which, as discussed above, had been improperly used previously as a general reserve.

61. At a minimum, $23.8 million of the $35 million of ConAgra's legal and environmental reserves that were reduced had been in excess since at least the end of FY 2000. The accounting for this portion of the excess reserves reduction was not in accordance with SFAS No. 5 and improperly increased ConAgra's reported income before income taxes for the

third quarter of FY 2001 by nearly 15%. The earnings estimates from the analysts covering ConAgra ranged from $0.18 to $0.21 earnings per share during that period. ConAgra's reported earnings of $0.19 in earnings per share for the third quarter of FY 2001, met the consensus estimate of $0.19 per share. Without the $23.8 million reversal to income of the prior period excess reserves, ConAgra would have earned only $0.16 per share.

62. ConAgra should have treated the removal of the at least $23.8 million of prior period excess reserves from its books as a correction of an error and reported the correction as a prior period adjustment because the $23.8 million excess should have been reduced by no later than the end of FY 2000. Also, the $23.8 million reduction was material to the Company's reported income before income taxes, net income, earnings per share and trend of earnings at least by the third quarter of FY 2001, if not earlier. As a result, the $23.8 million prior period excess reserves reduction should have been excluded from ConAgra's reported income before income taxes, net income and earnings per share for the third quarter of FY 2001.

63. The Company's Form 10-Q for the third quarter of FY 2001 disclosed that its financial results were positively impacted by the $35 million reserve reduction and negatively impacted, in part, by a significantly higher bad debt expense at UAP. The disclosure regarding the reserve reduction was misleading because ConAgra failed to disclose that at least $23.8 million of these reserves were in excess in prior periods. As a result of ConAgra's inaccurate accounting for, and improper disclosure about, the excess legal and environmental reserves reduction, ConAgra's Form 10-Q for the third quarter of FY 2001 was materially inaccurate. O'Donnell and Bolding, among others, reviewed, and both signed, the Company's Form 10-Q for the third quarter of FY 2001.

ACCOUNTING AT CONAGRA'S UAP SUBSIDIARY

Accounting Practices at UAP

64. In FY 2000, former UAP senior executives participated in a fraudulent scheme to overstate UAP's operating results through the use of certain improper accounting practices at UAP including: (1) the improper recognition of revenue from deferred delivery sales and associated rebates from its suppliers ("associated vendor rebates"); (2) the failure to record bad debt expenses when realized; and (3) the premature recognition of revenue from advance vendor rebates. These actions were undertaken at UAP in order to meet unrealistic profit targets for FY 2000 and caused ConAgra to fraudulently and materially overstate its reported income before income taxes for FY 2000 by $48.5 million, or 7.85%. This misstatement also caused ConAgra's reported Agricultural Products segment's operating profit for FY 2000 to be overstated by nearly 34.97%. As a result, ConAgra's June 29, 2000 release of its earnings for the fourth quarter and full fiscal year of FY 2000; its registration statement related to its proposed merger with International Home Foods, Inc. ("IHF"), filed on Forms S-4 and S-4/A in June and July 2000, respectively; and its Annual Report on Form 10-K for FY 2000, filed in August 2000, contained materially false and misleading financial statements because each of these documents included the overstated UAP operating results.

1. UAP Improperly Recognized Revenue From Deferred Delivery Sales and Associated Vendor Rebates

65. Under GAAP, revenue is typically not recognized until a seller has substantially fulfilled the terms of its arrangement with a buyer, which usually occurs upon delivery of the good(s) or product(s), or upon performance of the service(s), that are the subject of the arrangement.

66. Deferred delivery sales, by which a sale is made but the goods are retained by the seller at the buyer's request, may be recognized as revenue by the seller before delivery of the goods to the buyer only if certain accounting requirements are met. If these conditions are not met, the seller may not recognize the sales as revenue until the goods are shipped to the customer. Accounting and Auditing Enforcement Release No. 108 sets forth the requirements for revenue recognition of deferred delivery sales. Among those requirements are that: (1) the risks of ownership have passed to the buyer at the time of the sale; (2) the buyer has made a fixed commitment to purchase the goods; (3) the buyer, not the seller, has requested that delivery be deferred, and the buyer has a substantial business purpose for ordering the goods on such basis; (4) there is a fixed schedule for delivery of the product; (5) the seller has not retained any specific performance obligations; (6) the ordered goods have been segregated from the seller's inventory and are not subject to being used to fill other orders; and (7) the goods are complete and ready for shipment.

67. In FY 2000, UAP improperly recognized millions of dollars in revenue from deferred delivery sales without assuring that the necessary accounting requirements were met. Additionally, UAP received associated vendor rebates at the time of each deferred delivery sale, and these amounts also were improperly recognized as revenue.

68. Former UAP senior executives fostered an environment for fraud at UAP. These UAP senior executives pressured UAP sales managers and staff in FY 2000 to increase revenues substantially to make unrealistic profit targets.

69. Former UAP senior executives were aware of the requirements for revenue recognition of deferred delivery sales at least as early as FY 1999. Also, near the end of UAP's FY 1999, UAP's former Senior Financial Officer had told the former President and Chief

Operating Officer of ConAgra Agri-Products Companies (the “Former UAP COO”), which included UAP, that deferred delivery sales were a “hot button issue” and could “spark an interest” with the Commission. However, in late FY 1999 and 2000, certain former UAP senior executives made statements to UAP managers and sales personnel that condoned practices related to deferred delivery sales that did not comply with GAAP, such as selling goods that UAP did not have in inventory, product substitution and soliciting deferred delivery sales in order to meet UAP’s profit targets.

70. At the end of FY 2000, the former UAP senior executives reported financial results to ConAgra which the former UAP senior executives knew, or were reckless in not knowing, overstated UAP’s results of operations because they contained improperly recognized revenue from deferred delivery sales and associated vendor rebates. The UAP misconduct with respect to deferred delivery sales and associated vendor rebates caused ConAgra to overstate its reported income before income taxes by $29.5 million, or 4.78%, in FY 2000. At the Agricultural Products’ segment level, the misconduct caused that segment’s reported operating profit to be overstated by nearly 21.27% in FY 2000. In connection with an inquiry conducted under the direction of ConAgra’s Audit Committee, forensic accountants retained by special counsel to the Audit Committee tested a sample valued at $247,898,360 of UAP’s deferred delivery sales originally recorded during the period from FY 1998 through the second quarter of FY 2001 and determined that approximately 40% of the transactions tested were fraudulent in nature.

2. UAP Recorded Insufficient Bad Debt Expense

71. GAAP requires that an accrual for an uncollectible account be recorded as a liability or reserve, and a related expense be charged against income, in the period in which the delinquent account is determined to be uncollectible. Under paragraph 8 of SFAS No. 5, if the

loss or impairment of an asset is probable, then an estimated loss shall be accrued by a charge to income in an amount that can be reasonably estimated. Generally, UAP's policy required that accounts which were past due between 90 days and one year should be reserved at 50%, and accounts over one year past due were to be reserved at 100%.

72. In FY 1999 and continuing through FY 2000, UAP had substantial bad debt problems. In FY 2000, certain former UAP senior executives were informed that UAP needed to record an additional $50 million of bad debt expense. Certain former UAP senior executives were aware that in FY 1999 the size of the bad debt at certain IOCs had been substantial enough that it could have negatively impacted those IOC's ability to achieve PBT targets. In addition, just prior to the end of UAP's FY 2000, the Former UAP COO, in the presence of other UAP employees, ordered that UAP's bad debt reserve be reduced by $7 million in order to assist the Company in meeting its PBT target for the fiscal year.

73. At the end of FY 2000, former UAP senior executives reported financial results to ConAgra which they knew, or were reckless in not knowing, overstated UAP's income before income taxes because UAP had failed to record sufficient bad debt expense. The misconduct with respect to bad debt expense caused ConAgra to overstate its reported income before income taxes by $7 million, or 1.13%, in FY 2000. At the Agricultural Products' segment level, the misconduct caused that segment's reported operating profit to be overstated by 5.05%.

3. UAP Prematurely Recorded Vendor Rebates To Overstate Income

74. In FY 1999 and FY 2000, certain former UAP senior executives negotiated for UAP to receive rebate payments in advance of its sale of the suppliers' products. In FY 1999, in contravention of GAAP, the Former UAP COO caused and/or directed UAP personnel to improperly record such vendor payments as income in the period they were received. Such

rebates had not yet been earned because UAP had not yet purchased or resold the suppliers' products and, therefore, it was improper to record the rebate payments as revenue. While this advance rebate program was ongoing in FY 2000, certain former UAP senior executives failed to assure that the revenue from advance vendor rebates was properly reported in UAP's operating results.

75. At the end of FY 2000, certain former UAP senior executives reported financial results to ConAgra which they knew, or were reckless in not knowing, overstated UAP's income before income taxes as advance vendor rebates were misstated. The misconduct with respect to advance vendor rebates caused ConAgra to overstate its reported FY 2000 income before income taxes by $12 million, or 1.94%. At the Agricultural Products' segment level, the misconduct caused that segment's reported operating profit to be overstated by 8.65% in FY 2000.

INCOME TAX ERRORS AT CONAGRA'S CORPORATE HEADQUARTERS BETWEEN FY 2002 AND FY 2005

1. ConAgra Improperly Calculated the Stock Basis From the Sale of Multiple Beef/Pork Subsidiaries

76. On September 19, 2002, during its second quarter of FY 2003, ConAgra sold several beef/pork subsidiaries (hereinafter referred to as the "U.S. beef/pork business"). Keith, who headed ConAgra's Tax Department, calculated the stock basis of the U.S. beef/pork business utilizing, among other things, the acquisition basis reflected in ConAgra's 1991 tax return. ConAgra worked on the basis calculations in FY 2003, but it did not complete the basis calculation until September 2003 (FY 2004), approximately one year after the sale occurred.

77. ConAgra improperly calculated the stock basis of the U.S. beef/pork business because, among other things, it did not take into consideration certain liabilities in the basis calculation. As a result, ConAgra incorrectly determined that the sale had resulted in a capital

loss for tax purposes of approximately $242.6 million and had created a tax benefit of $84.9 million. ConAgra, however, had not actually suffered a capital loss from the sale; instead, after discovering the error in FY 2005, ConAgra determined that the transaction had resulted in a net capital gain for tax purposes of approximately $44.6 million.

78. Statement of Financial Accounting Standard 109 (Accounting for Income Taxes) ("SFAS 109"), among other things, addresses accounting for tax assets, such as capital losses. As the Vice President-Taxes, Keith was responsible for ensuring ConAgra's compliance with SFAS 109. Contrary to SFAS 109, ConAgra at the time of the sale in September 2002 (FY 2003), did not complete the analysis to determine whether the expected $84.9 million tax benefit from the capital loss would be realized was not completed. Accordingly, the required journal entries to record the expected tax benefit, could not be made until ConAgra completed the analysis in FY 2004, approximately one year after the sale.

79. During FY 2004, ConAgra used the $84.9 million of improper tax benefits to offset taxes on capital gains the Company had generated or expected to generate in the future. ConAgra thus improperly understated its income tax expense for FY 2004 by a total of $84.9 million.

80. The $84.9 million tax benefit improperly reduced ConAgra's effective income tax rate for the first quarter of FY 2004 from approximately 30.2% to approximately 9.3%, increased the Company's earnings per share by $0.09, and overstated ConAgra's net income after income taxes for the full fiscal year by $84.9 million.

2. ConAgra Improperly Determined ConAgra's Overall Foreign Loss and Associated Foreign Tax Credits

81. Each year ConAgra, through its foreign business operations, generated either foreign income or losses. Under regulations promulgated by the Internal Revenue Service, ConAgra was required to apportion certain corporate U.S. expenses to its foreign business operations in order to determine its overall foreign loss and its ability to utilize foreign tax credits for the foreign income taxes it paid on its foreign operations.

82. As a result of the sale of the beef/pork business, in FY 2003, ConAgra, for the first time in many years, realized foreign source income sufficient to recapture the overall foreign loss and thus, was able to utilize foreign tax credits against its U.S. income tax. The utilization of foreign tax credits permitted ConAgra to take a dollar-for-dollar offset to its U.S. income tax expense.

83. In calculating the apportionment of corporate expenses to its foreign business operations, ConAgra's tax department improperly used a combination of tax basis and book value for its calculation of the overall foreign loss. As a result, in FY 2003 and FY 2004, the Company miscalculated the overall foreign loss, utilized incorrect amounts of foreign tax credit benefits, and miscalculated its income tax expense.

84. ConAgra's tax department had historically used, and in FY 2003 was still using, an incorrect methodology to calculate the overall foreign loss and, as a result, ConAgra's tax liability had been calculated incorrectly. ConAgra set up a tax reserve in FY 2003 to cover the potential liability arising from the historical practice. However, ConAgra's continued use of an

incorrect methodology for the determination of its overall foreign loss extended ConAgra's liability beyond FY 2003, but Keith did not increase ConAgra's tax reserves to reflect this future increased liability.

85. SFAS 109 required consideration of appropriate tax strategies in calculating the Company's overall foreign loss. ConAgra's tax department did not consider those tax strategies in FY 2003 when ConAgra was able to utilize foreign tax credits. Additionally, ConAgra's accounting department, which was responsible for reviewing and recording the journal entries to reflect these tax transactions on the Company's books and records, failed in FY 2003 to determine whether ConAgra had complied with the requirements of SFAS 109.

86. If ConAgra had considered the appropriate tax strategies in FY 2003, as required by SFAS 109, ConAgra would have realized increased tax benefits because ConAgra's overall foreign loss would have been reduced and the Company would have been able to utilize more foreign tax credits. As a result, ConAgra failed to record sufficient tax benefits related to its foreign tax credits and, therefore, understated its net income after income taxes by $63.95 million in FY 2003 and by $23.35 million in FY 2004, and overstated its net income after income taxes by $2.42 million in FY 2005.

3. ConAgra Filed False and Misleading Reports with the Commission in FY 2003, 2004 and FY 2005

87. ConAgra reported the incorrect amount of income tax expense because the Company improperly calculated the stock basis from the sale of multiple beef/pork subsidiaries and improperly determined its overall foreign loss and associated foreign tax credits. This caused ConAgra's financial statements reported in ConAgra's Form 10-K for FY 2003 and FY

2004, for certain quarterly periods related thereto, and for the second quarter of FY 2005, reported in ConAgra's Forms 10-Q, to be materially inaccurate.

CLAIMS FOR RELIEF

FIRST CLAIM

ConAgra Violated Section 10(b) of the Exchange Act and Rule 10b-5

88. Paragraphs 1 through 25, 31 through 34, and 64 through 75 above are re-alleged and incorporated herein by reference.

89. As a result of the fraudulent conduct in FY 1999 and FY 2000 described above, ConAgra, directly or indirectly, by use of the means or instruments of interstate commerce, or of the mails, or of a facility of a national securities exchange, knowingly or recklessly (a) employed devices, schemes and artifices to defraud; (b) made untrue statements of a material fact or omitted to state a material fact, necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in acts, transactions, practices, and courses of business which operated or would operate as a fraud or deceit upon the purchasers of securities and upon other persons, in connection with the purchase or sale of a security.

90. ConAgra knowingly or recklessly engaged in fraudulent conduct, described above, which overstated ConAgra's reported income before income taxes, net income, earnings per share and trend of earnings for FY 1999 and FY 2000. ConAgra knew, or was reckless in not knowing, that as a result of this conduct, its earnings releases for the first, second, and third quarters of FY 1999, its earnings release for the fourth quarter and full fiscal year of FY 1999, its Forms 10-Q for the first, second and third quarters of FY 1999, its Forms 10-K for FY 1999 and

FY 2000, and its Forms S-4 and S-4/A related to its proposed merger with IHF, including the financial statements contained therein, as filed with the Commission, were materially false and misleading.

91. By reason of the foregoing, ConAgra violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

SECOND CLAIM

ConAgra Violated Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1 and 13a-13

92. Paragraphs 1 through 87 above are re-alleged and incorporated herein by reference.

93. Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 13a-1 and 13a-13 [17 C.F.R. §§ 240.13a-1 and 240.13a-13] require issuers of registered securities to file with the Commission factually accurate annual and quarterly reports. Exchange Act Rule 12b-20 [17 C.F.R. § 240.12b-20] provides that in addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

94. As a result of ConAgra's conduct described above, ConAgra filed with the Commission annual and quarterly reports during FY 1999 to FY 2001, and during FY 2003 to FY 2005 that were materially false and misleading or failed to include material information necessary to make the required statements in those reports, in light of the circumstances under which they were made, not misleading. These reports were ConAgra's Forms 10-Q for the first, second and third quarters of FY 1999, its Form 10-K for FY 1999, its Form 10-Q for the third quarter of FY 2000, its Form 10-K for FY 2000, its Form 10-Q for the third quarter of FY 2001, its Forms 10-Q for the second and third quarters of FY 2003, its Form 10-K for FY 2003, its

Forms 10-Q for the first and third quarters of FY 2004, its Form 10-K for FY 2004 and its Forms 10-Q for the second quarter of FY 2005.

95. By reason of the foregoing, ConAgra violated Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1 and 240.13a-13].

THIRD CLAIM

ConAgra Violated Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act

96. Paragraphs 1 through 87 above are re-alleged and incorporated herein by reference.

97. Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] requires public companies to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect the Company's transactions and dispositions of its assets. Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)] requires public companies, among other things, to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that the Company's transactions were recorded as necessary to permit preparation of financial statements conforming with GAAP.

98. As a result of ConAgra's conduct described above, ConAgra violated Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)].

PRAYER FOR RELIEF

WHEREFORE, The Commission respectfully requests that this Court:

I.

Issue a Final Judgment of Permanent Injunction and Other Relief restraining and enjoining: (1) ConAgra from directly or indirectly violating Sections 10(b), 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 10b-5, 12b-20, 13a-1 and 13a-13 [17 C.F.R. §§ 240.10b-5, 240.12b-20, 240.13a-1 and 240.13a-13];

II.

Order ConAgra to disgorge certain gains, together with prejudgment interest thereon;

III.

Order ConAgra to pay civil money penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)];

IV.

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

V.

Grant such other and further relief as this Court may deem necessary and appropriate under the circumstances.

Dated:

Respectfully submitted,

s/Polly A. Atkinson______________________
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