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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

vs.

MICHAEL RESNICK, MARK P. KAISER,
TIMOTHY J. LEE, AND WILLIAM CARTER,

Defendants.

Civil Action No.

COMPLAINT

Plaintiff Securities and Exchange Commission (“Commission”) alleges:

NATURE OF THE ACTION

1. This is an accounting fraud case. Defendants engaged in or substantially participated in a scheme to overstate Royal Ahold’s (Koninklijke Ahold N.V.) (or “Ahold”) income by \$700 million or more in Commission filings and other public announcements for at least fiscal years 2001 and 2002. Ahold is a publicly-held company organized in The Netherlands with securities registered with the Commission pursuant to Section 12(b) of the

Securities Exchange Act of 1934 (“Exchange Act”). Ahold’s securities trade on the New York Stock Exchange and are evidenced by American Depositary Receipts. U.S. Foodservice (“USF”), a foodservice and distribution company with headquarters in Columbia, Maryland, is a wholly-owned subsidiary of Ahold. USF was a publicly held company with securities registered with the Commission pursuant to Section 12(b) of the Exchange Act prior to being acquired by Ahold in April 2000. This action also involves insider trading in USF stock prior to the March 7, 2000 public announcement of Ahold’s intention to acquire USF.

2. From the time it acquired USF in April 2000, Ahold and USF budgeted annual earnings goals for USF. Compensation for USF executives, including the Defendants, was based, among other things, on USF’s meeting or exceeding budgeted earnings targets. Defendants each received a substantial bonus in early 2002 because USF purportedly satisfied earnings goals for fiscal year 2001. Defendants were each eligible for a substantial bonus if USF met earnings targets for fiscal year 2002. As described below, Defendants engaged in or substantially participated in a scheme whereby USF reported earnings equal to or greater than the targets, regardless of the company’s true performance.

3. A significant portion of USF’s operating income was based on payments by its vendors, referred to in various ways such as promotional allowances, rebates, discounts, and program money (referred to below as “promotional allowances”). Defendants engaged in or substantially participated in a scheme to materially inflate the amount of promotional allowances recorded by USF and reflected in operating income on its financial statements, which were included in Ahold’s Commission filings and other public statements. Defendants also provided, or assisted in providing, Ahold’s independent auditors with false and misleading information. Defendants Kaiser, Lee, and Carter persuaded personnel at many of USF’s major vendors to

falsely confirm overstated promotional allowances to the auditors in connection with the year-end audits.

4. The overstated promotional allowances aggregated at least \$700 million for fiscal years 2001 and 2002. When the fraud was disclosed to the public, Ahold's stock price plummeted from approximately \$10.69 per share to \$4.16 per share.

JURISDICTION AND VENUE

5. The Commission brings this action pursuant to Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(3)].

6. This Court has jurisdiction over this action pursuant to Sections 21(e), 21A(a)(1), and 27 of the Exchange Act [15 U.S.C. §§ 78u(e), 78u-1(a)(1) and 78aa]. Defendants directly or indirectly have made use of 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 courses of business alleged herein. Certain of Defendants' transactions, acts, practices and courses of business occurred within this District, and venue is proper pursuant to Section 27 of the Exchange Act.

DEFENDANTS

7. Each defendant resides in Maryland.

8. Michael Resnick, CPA, age 42, was Chief Financial Officer at USF. Resnick is a certified public accountant.

9. Mark P. Kaiser, age 47, was Executive Vice President of Purchasing, Marketing and Procurement until in or about February 2001, when he became Chief Marketing Officer at USF.

10. Timothy J. Lee, age 40, was Vice President of Purchasing until in or about February 2001, when he became Executive Vice President of Purchasing at USF.

11. William Carter, age 43, was a Vice President in USF's Purchasing Department.

STATEMENT OF FACTS: FINANCIAL FRAUD

12. During at least fiscal years 2001 and 2002, USF made no significant profit on most of its end-sales to its customers. Instead, the majority of USF's operating income was derived from promotional allowances.

13. In a typical promotional allowance agreement, USF committed to purchase a minimum volume from a vendor. The vendor in turn paid USF a per unit rebate of a portion of the original price it charged USF, according to an agreed-upon payment schedule. Most major promotional allowance agreements were reduced to writing, as defendants knew, or were reckless in not knowing.

14. Sometimes the volume-based promotional allowances were paid as they were earned, but it was a common practice for the vendor to "pre-pay" on multi-year contracts at least some portion of the amounts that would be due if USF met all of the projected purchase volume targets in the contract. Promotional allowances were critical to USF's financial results—without them, USF's operating income for fiscal years 2001 and 2002 would have been materially reduced.

15. Defendants engaged in or substantially participated in a scheme whereby USF reported earnings equal to or greater than its earnings targets, regardless of the company's true performance. The primary method used to carry out this fraudulent scheme to "book to budget" was to improperly inflate USF's promotional allowance income. Defendants "booked to budget" by, among other things, causing USF to record completely fictitious promotional allowances

sufficient to cover any shortfall to budgeted earnings. Defendants covered-up the false earnings by making it appear that the inflated promotional allowance income had been earned by, among other things, (a) inducing vendors to confirm false promotional allowance income, payments, and receivable balances; (b) manipulating the promotional allowance accounts receivable from vendors and manipulating and misapplying cash receipts; and (c) making false and misleading statements, and material omissions, to the company's independent auditors, other company personnel, and/or Ahold personnel.

16. During the relevant time period, the Purchasing and Marketing Departments, headed by Lee and Kaiser, respectively, shared responsibility for the negotiation and collection of the promotional allowances. The Purchasing Department under Lee was primarily responsible for negotiating the promotional allowance programs with USF's vendors. The Purchasing and Marketing Departments were responsible for collection efforts. Kaiser was the primary contact with USF's independent auditors for the year-end audits of the promotional allowance numbers.

17. USF had no comprehensive, automated system for tracking the amounts owed by the vendors pursuant to the promotional allowance agreements. Instead, USF, for purposes of interim reporting, purported to estimate an overall "promotional allowance rate" as a percentage of sales and recorded periodic accruals based on that rate. Information provided by the Defendants and others in the Finance, Purchasing and Marketing Departments caused the estimated rate to be inflated. The intended and actual result of inflating USF's promotional allowance income was that USF, and Ahold, materially overstated their operating incomes.

18. Defendants falsely represented to USF personnel, Ahold personnel, and/or the company's independent auditors that there were no written promotional allowance contracts for the vast majority of promotional allowance agreements when, in fact, they knew, or were

reckless in not knowing, that such written contracts existed. They falsely represented that USF had only hand-shake deals with its vendors that Kaiser would re-negotiate at the end of each year to arrive at a mutually agreed-upon final amount due from each vendor for the year. Defendants knew, or were reckless in not knowing, that these representations were false when they were made.

19. Defendants Kaiser, Lee and Resnick falsely represented to USF personnel, Ahold personnel, and/or the company's independent auditors that they made good faith estimates of promotional allowance income earned by USF. They falsely represented that the estimates were based on historical trends and current business conditions. Defendants Kaiser, Lee and Resnick knew, or were reckless in not knowing, that these representations were false when they were made.

20. For example, in the second quarter of 2002, Defendants Kaiser, Resnick, and Lee caused a series of "topside" entries to be made that increased USF's promotional allowance income. Topside entries are manual entries in USF's books and records that were made after the results generated by USF's accounting systems had been aggregated. By the end of the second quarter, such topside promotional allowance entries totaled more than \$120 million and resulted in year-to-date promotional allowance income of approximately 7.10% of net sales. These incremental increases to USF's promotional allowance income were made only after it was apparent that USF would fail to achieve operating earnings goals for the relevant periods, and such increases, among other topside entries, enabled USF to meet the earnings targets almost precisely. The second quarter topside entries were more than half of USF's total operating income for the quarter.

21. Defendants Kaiser, Resnick, and Lee represented to auditors that they had increased USF's annual promotional allowance rate to 7.00% of net sales as a good faith estimate of actual promotional allowance income. They also represented to auditors that a key element in determining the promotional allowance rate was the percentage of sales made to "street customers" – an industry term for independent restaurants. Kaiser, Resnick, and Lee represented further that the increase was based on the fact that: (a) USF's actual street sales mix was higher than the budgeted mix; and (b) USF had negotiated new promotional allowance programs with specified vendors during the second quarter of 2002 that resulted in promotional allowance income higher than first budgeted.

22. Defendants Kaiser, Resnick, and Lee knew that these representations were false when they made them because they knew, but failed to disclose to auditors, that: (a) USF's actual street sales mix was lower than budgeted; (b) USF had not negotiated new agreements with the specified vendors in the second quarter of 2002; and (c) USF's promotional allowance rate was increased purely to make earnings targets, was not based on any good faith estimate, and was increased only after it was known that USF would fail to meet operating earnings goals without the increases.

23. At each year-end, Defendant Kaiser was the primary company contact for USF's independent auditors regarding confirming that the estimated promotional allowance accruals recorded during the year had in fact been earned by USF and paid by the vendors or remained outstanding as accounts receivable. Defendants Kaiser, Lee, and Carter, in order to keep the fraud from being discovered, participated in a systematic effort to corrupt the audit process. Ahold's auditors attempted at the end of each fiscal year to confirm with the vendors that they actually paid, or still owed, the promotional allowances recorded by USF. The vendors were

convinced by Kaiser, Lee, and Carter to sign audit confirmation letters even though they knew that the letters were false.

24. For each vendor, Defendant Kaiser prepared a schedule purportedly reflecting the promotional allowances earned by USF for the year, the amount paid by the vendor, and the balance due. Defendant Kaiser grossly inflated the figures contained in these schedules.

25. The schedules Defendant Kaiser prepared were used both by USF to support the related amounts recorded in its financial statements and by its auditors to perform the year-end audit.

26. Defendant Kaiser, or others at his direction, provided information used to prepare confirmation request letters, which he signed, that were sent to major vendors reflecting, among other things, the inflated aggregate promotional allowances purportedly paid or owed to USF during the year.

27. Defendants knew, or were reckless in not knowing, that the promotional monies earned, paid and receivable specified in the confirmations were grossly inflated and in many cases were simply fictitious, having no relationship to the actual promotional allowances earned, paid or receivable.

28. As a further part of the fraud, Defendants Kaiser and Lee contacted, or directed subordinates, including Defendant Carter, to contact vendors to alert them that they would receive confirmation letters and to ask them to sign and return the letters without objection.

29. If a vendor balked at signing the fraudulent confirmation, Defendants Kaiser, Lee, and/or Carter, would press the vendor by, for example, falsely representing that the confirmation was just “an internal number” and that USF did not consider the receivable reflected in the confirmation to be an actual debt that it would seek to collect.

30. Defendants Kaiser and Lee also sent, or directed subordinates, including Defendant Carter, to send, side letters to vendors who continued to object to the fraudulent confirmations. The side letters assured the vendors that they did not, in fact, owe USF amounts reflected as outstanding in the confirmation letters.

31. In one instance, in connection with the 2001 year-end audit, a confirmation letter signed by Defendant Kaiser stated that the vendor had an outstanding balance due as of year-end of \$3,184,275. The vendor resisted signing this confirmation letter, because the amounts and terms the letter sought to confirm were false, but eventually Defendants Kaiser, Carter and Lee were able to convince the vendor to sign the false confirmation. They sent a letter, signed by Carter, which detailed the false information as set forth in the confirmation in one column, and then provided the actual information in a second column to allow a side-by-side comparison. Thus, the side-letter states that, contrary to the confirmation, the vendor owed only \$68,075.97 at year-end, not more than \$3 million.

32. Defendant Kaiser personally signed another side letter to a vendor in connection with a confirmation for the 2002 year-end audit. The vendor was convinced to sign a false confirmation, after Kaiser sent the vendor a side letter. The confirmation stated that the vendor owed USF \$12,164,283 as of year-end 2002 for promotional allowances. Defendant Kaiser's side-letter states that the balances listed in the confirmation are merely estimates, and that no demands for payment will be made unless USF and the vendor mutually agree on the amount due, and that USF's records indicate that the vendor had paid in full.

33. Defendants Kaiser, Lee and Resnick, in order to prevent the discovery of the fraudulent scheme, took various additional steps to make it appear that USF's promotional allowance receivable balance was being paid by the vendors. Among other things, these

defendants made, or caused to be made, accounting entries that unilaterally deducted material amounts from the balances that USF owed to the vendors for the products USF had purchased, and simultaneously credited the promotional allowance receivable balance for the amount of such deductions. These “deductions” were made at year-end and had the net effect of making it appear that USF had made material progress in collecting promotional allowance payments allegedly due.

34. The large year-end deductions facilitated the fraudulent recording of promotional allowance income because it made it appear that the amounts recorded had been earned and paid. The Defendants concealed the fact that the deductions were not authorized, were not legitimate, and that a substantial percentage of the deductions were reversed in the early part of the following fiscal year.

35. Defendants also knew, or were reckless in not knowing, that the amounts paid by some vendors included prepayments on multi-year contracts. But they falsely represented to USF personnel, Ahold personnel, and/or the company’s independent auditors that none of the promotional allowance agreements included such prepayments. As a result, USF treated the prepayments by vendors as if they were payments for currently owed promotional allowances. This made it falsely appear that USF was making material progress in collecting the inflated promotional allowance income it had recorded.

36. As a result of the schemes described above, USF materially overstated its operating income during at least fiscal years 2001 and 2002. Consequently, for at least those fiscal years, Ahold made false and misleading statements in filings with the Commission and other public statements that incorporated USF’s materially overstated operating income,

including without limitation, year-end results included in Form 20-F and quarterly information included in Forms 6-K and earnings press releases.

37. Ahold announced, in February 2003, that it would issue restated financial statements for previous periods and would delay filing its consolidated 2002 financial statements as a result of an initial internal investigation based, in part, on the overstatement of income at USF. Ahold announced in May 2003 that USF's income had been overstated by more than \$800 million since April 2000.

38. Each of the defendants engaged in, or substantially participated in, a scheme to improperly overstate profits of USF during at least fiscal years 2001 and 2002, which resulted in Ahold making materially false and misleading Commission filings and other public statements.

39. Defendant Resnick knew, or was reckless in not knowing, that most of USF's major promotional allowance agreements were written and many contained pre-payment provisions. And he knew, or was reckless in not knowing, that the estimates used by USF to record promotional allowance income were inflated and inadequately supported. He knew, or was reckless in not knowing, that the promotional allowance income recorded by USF was materially false, and that, as a result, USF's and Ahold's earnings were materially inflated. Defendant Resnick further knew, or was reckless in not knowing, that the explanations given to independent auditors, company personnel, and/or Ahold personnel to justify the promotional allowance income were false and misleading.

40. Defendant Kaiser knew that most of USF's major promotional allowance agreements were written and contained pre-payment provisions, and he knew, or was reckless in not knowing, that this fact had not been disclosed to the company's independent auditors. And he knew, or was reckless in not knowing, that the promotional allowance income recorded by

USF was materially false and that, as a result, USF's and Ahold's earnings were materially inflated. He knew that the audit confirmations sent to, and returned by, USF's vendors contained inflated aggregate promotional allowances paid or owed to USF. Defendant Kaiser further knew, or was reckless in not knowing, that the explanations given to independent auditors, company personnel, and/or Ahold personnel to justify the promotional allowance income were false and misleading.

41. Defendant Lee knew that most of USF's major promotional allowance agreements were written and contained pre-payment provisions, and he knew, or was reckless in not knowing, that this fact had not been disclosed to the company's independent auditors. He also knew, or was reckless in not knowing, that the audit confirmations sent to, and returned by, USF's vendors contained inflated aggregate promotional allowances paid or owed to USF. He knew, or was reckless in not knowing, that the promotional allowance income recorded by USF was materially false and that, as a result, USF's and Ahold's earnings were materially inflated. Defendant Lee further knew, or was reckless in not knowing, that the explanations given to independent auditors, company personnel, and/or Ahold personnel to justify the promotional allowance income were false and misleading.

42. Defendant Carter knew, or was reckless in not knowing, that most of USF's major promotional allowance agreements were written and/or contained pre-payment provisions, and he knew, or was reckless in not knowing, that this fact had not been disclosed to the company's independent auditors. He also knew, or was reckless in not knowing, that the promotional allowance income recorded by USF was not adequately supported. And he knew, or was reckless in not knowing, that the confirmations sent to, and returned by, USF's vendors

contained inflated aggregate promotional allowances paid or owed to USF and that these false confirmations substantially assisted the fraudulent scheme.

43. Each defendant received compensation, including salary and bonuses, based on falsely inflated reported income.

STATEMENT OF FACTS: INSIDER TRADING

44. Defendant Lee had regular and frequent contact with employees and officers of USF's vendors. Over time, Lee developed personal friendships with several of these individuals, and, as alleged below, provided them with material nonpublic information about USF.

45. As a result of his position at USF, Defendant Lee owed fiduciary and other duties of trust and confidence to USF, which required him to keep confidential all material nonpublic information concerning USF, including material nonpublic information as defined in USF's Insider Trading Policy, which stated, as of November 1999, among other things, that:

No officer or other employee who has material, nonpublic information relating to the Company may (1) buy or sell securities of the Company, directly or indirectly, or (2) "tip" such information to others who may trade.

46. On September 7, 1999, the Chief Executive Officers of USF and Ahold met at a social outing and discussed potential business opportunities involving the two companies.

47. On December 14, 1999, following additional discussions between the two companies and their representatives, USF's management informed USF's Board of Directors of the possibility of a business combination involving USF. That same day, USF's Board of Directors authorized the company's management to engage financial and legal advisors to assist the company in pursuing a possible business combination.

48. On February 7, 2000, after various discussions among the parties, Ahold presented a preliminary proposal to USF whereby Ahold would acquire USF at a price of \$26 per share. On that date, the price of USF stock closed at \$12 3/8.

49. On March 6, 2000, following additional discussions and related activity, USF's Board of Directors unanimously approved the terms and conditions of a merger agreement with Ahold and on March 7, 2000, the two companies publicly announced Ahold's tender offer for the outstanding shares of USF at \$26 a share.

50. Throughout the discussions and negotiations concerning the contemplated acquisition, Ahold and USF took steps to ensure that the contemplated acquisition remained confidential.

51. Beginning in October or November of 1999, a member of USF's Board of Directors periodically informed Defendant Lee of: (a) the status of the potential sale of USF; (b) the substance of, and developments in, the negotiations between USF and Ahold relating to Ahold's intention to acquire USF; and (c) the terms of the acquisition, including the fact that the acquisition would price USF's common stock significantly above the price at which it was trading. Defendant Lee knew that any public announcement of the material nonpublic information he had acquired would cause the price of USF's common stock to increase significantly.

52. After he received the material nonpublic information described above, Defendant Lee misappropriated the information in violation of his fiduciary and other duties of trust and confidence he owed to USF, and in violation of USF's Insider Trading Policy. Defendant Lee passed the material nonpublic information to several of his vendor contacts and friends. Defendant Lee provided the material nonpublic information to his tippees (a) because of his

personal and business relationship with each tippee; (b) to obtain personal and business benefits; and (c) with the understanding that the tippees would use that information to buy and sell USF securities and thereby make substantial illegal profits.

53. After receiving material nonpublic information from Lee, and before the public announcement of the Ahold acquisition of USF, his tippees each purchased shares of USF common stock knowing that the information received from Defendant Lee was confidential, material and nonpublic. They further knew that Defendant Lee improperly disclosed that information to them. The tippees purchased their shares of USF stock prior to any public announcement by Ahold or USF that Ahold would acquire USF.

54. Ahold and USF publicly announced, on March 7, 2000, prior to the start of trading on the NYSE, that Ahold would acquire all of USF's outstanding shares of common stock in an all cash tender offer of \$26 per share. When trading in USF began on March 7, the opening price was \$25.50 per share, an increase of approximately \$7.25 per share from the previous closing price.

55. On or about March 7, 2000, the tippees each sold his shares of USF common stock, and thereby obtained substantial illegal profits.

FIRST CLAIM FOR RELIEF

Fraud and Insider Trading

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

56. Paragraphs 1 through 43 are re-alleged and incorporated by reference as to each Defendant; paragraphs 44 through 55 are realleged and incorporated by reference as to Defendant Lee.

57. By reason of the foregoing, each defendant directly or indirectly, acting intentionally, knowingly or recklessly, by use of the means or instrumentalities of interstate commerce or of the mails, in connection with the purchase of securities: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material fact or omitted to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices or courses of business which operated as a fraud or deceit upon other persons.

58. By reason of the foregoing, each defendant violated, or aided and abetted the violation of, and unless restrained will violate, or continue to aid and abet the violation of, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

SECOND CLAIM FOR RELIEF

Reporting

Aiding and Abetting Violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Rules 12b-20 and 13a-1 [17 C.F.R. § 240.12b-20 and § 240.13a-1] Thereunder

59. Paragraphs 1 through 43 are re-alleged and incorporated by reference.

60. The Exchange Act and rules promulgated thereunder require every issuer of a registered security to file reports with the Commission that accurately reflect the issuer's financial performance and provide other true and accurate information to the public.

61. By reason of the foregoing, each defendant aided and abetted, and unless restrained will continue to aid and abet, violations of Section 13(a) of the Exchange Act and Rules 12b-20 and 13a-1 thereunder.

THIRD CLAIM FOR RELIEF

Record Keeping

Violations of Section 13(b)(2)(A), (b)(2)(B) and (b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A), (b)(2)(B), and (b)(5)] and Rule 13b2-1 [17 C.F.R. § 240.13b2-1] Thereunder

62. Paragraphs 1 through 43 are re-alleged and incorporated by reference.

63. The Exchange Act and rules promulgated thereunder require each issuer of registered securities to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the business of the issuer and to devise and maintain a system of internal controls sufficient to provide reasonable assurances that, among other things, transactions are recorded as necessary to permit preparation of financial statements and to maintain the accountability of accounts. The Exchange Act and rules promulgated thereunder further prohibit any person from directly, or indirectly, falsifying any such required book, record or account and prohibit any person from knowingly circumventing or failing to implement such a system of internal accounting controls.

64. By reason of the foregoing, each defendant aided and abetted, and unless restrained will continue to aid and abet, violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

65. By reason of the foregoing, each defendant violated, and unless restrained will violate, Section 13(b)(5) of the Exchange Act and Exchange Act Rule 13b2-1.

FOURTH CLAIM FOR RELIEF

Insider Trading in the Context of Tender Offers

Violations of Section 14(e) of the
Exchange Act [15 U.S.C. § 78n(e)]
and Rule 14e-3 [17 C.F.R. 240.14e-3]

66. Paragraphs 1 through 55 are realleged and incorporated by reference.

67. By December 1999 at the latest, Ahold had taken substantial steps towards commencing its tender offer for the securities of USF by, among other things, holding several confidential meetings and discussions with representatives of USF and by communicating to USF prices at which it was prepared to acquire USF.

68. Defendant Lee communicated material nonpublic information about the potential Ahold tender offer directly or indirectly to several individuals while knowing, reasonably expecting, or recklessly disregarding the likelihood that they would trade in USF securities. The tippees, while in possession of such information, and knowing or having reason to know that such information had been acquired directly or indirectly from USF, purchased USF securities.

69. By reason of the foregoing, Defendant Lee violated, and unless restrained will violate, Section 14(e) of the Exchange Act, and Exchange Act Rule 14e-3.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court enter a judgment:

- a) permanently enjoining defendants, and each of them, from violating and aiding and abetting any violations of Sections 10(b) and 13(b)(5) of the Exchange Act and Exchange Act Rules 10b-5 and 13b2-1;
- b) permanently enjoining defendants, and each of them, from aiding and abetting any violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Exchange Act Rules 12b-20 and 13a-1;
- c) permanently enjoining Defendant Lee from violating and aiding and abetting violations of Section 14(e) of the Exchange Act and Exchange Act Rule 14e-3;
- d) ordering defendants, and each of them, to provide a complete accounting for and to disgorge any and all economic benefit they realized from the violations alleged herein, plus prejudgment interest thereon;
- e) ordering Defendant Lee to disgorge jointly and severally the ill-gotten gains derived from the unlawful trading described herein, including without limitation the trading profits of his tippees, plus prejudgment interest thereon;
- f) ordering defendants, and each of them, to pay civil monetary penalties pursuant to Section 21(d)(3) of the Exchange Act in respect of their violations;
- g) prohibiting defendants, and each of them, from acting as an officer or director of a public company pursuant to Section 21(d)(2) of the Exchange Act; and
- h) granting such other relief as this Court may deem just and appropriate.

Dated: July _____, 2004

Respectfully submitted,

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