

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

KEVIN J. HERON,

Defendant.

C.A. No. ___ - ____ ()

COMPLAINT

The Securities and Exchange Commission (the “SEC” or “Commission”) alleges as follows:

NATURE OF THE ACTION

1. This case involves repeated insider trading by Kevin J. Heron (“Heron”), the former general counsel, corporate secretary, and chief insider trading compliance officer for Amkor Technology, Inc. (“Amkor”). From October 2003 through June 2004, Heron engaged in a pattern of insider trading by purchasing and/or selling Amkor securities prior to five Amkor public announcements relating to earnings results and company business transactions. During this period, Heron executed more than fifty illegal trades in Amkor common stock and option contracts on the basis of material, nonpublic information that Heron had learned in his position as general counsel of Amkor. Heron executed nearly all of these illegal trades while he and other company employees were subject to company blackout periods that prohibited trading in Amkor stock. Even though Heron was responsible for administering these blackout periods as

the company's chief insider trading compliance officer, Heron routinely violated Amkor's blackout periods so that he could benefit by trading Amkor securities on the basis of material, nonpublic information. As a result of his insider trading, Heron benefited by approximately \$290,000 in profits and losses avoided.

2. By engaging in insider trading as described in the complaint, defendant Heron violated the antifraud provisions of the federal securities laws, Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]. Accordingly, the SEC seeks: (i) a permanent injunction prohibiting Heron from violating Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5; (ii) disgorgement of Heron's profits and losses avoided from his insider trading, plus prejudgment interest; (iii) a civil monetary penalty; and (iv) an order prohibiting Heron from serving as an officer or director of any public company.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Sections 21(d), 21(e), 21A and 27 of the Exchange Act [15 U.S.C. §§ 78u(d) and (e), 78u-1 and 78aa].

4. Venue is proper in this district pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa] because certain acts and transactions constituting the violations occurred in this district.

5. Defendant, directly or indirectly, 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 in the complaint.

6. Unless restrained and enjoined by this Court, defendant will continue to engage in acts, practices, and transactions similar to those described in the complaint.

DEFENDANT

7. Defendant Kevin J. Heron, age 48, resides in Phoenixville, Pennsylvania. During the relevant period, Heron was the general counsel, chief insider trading compliance officer, and corporate secretary for Amkor. During the relevant period, Heron worked at Amkor's West Chester, Pennsylvania headquarters. In September 2005, Amkor terminated Heron's employment.

RELEVANT ENTITY

8. Amkor Technology, Inc. ("Amkor") is a technology company with its current headquarters in Chandler, Arizona. Amkor's stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act. Amkor's stock is listed on NASDAQ and trades under the symbol "AMKR." During the relevant period, Amkor's headquarters was located in West Chester, Pennsylvania.

FACTUAL ALLEGATIONS

Heron's Position and Responsibilities at Amkor

9. From 1994 to March 2005, Heron served as Amkor's general counsel. In or about 1998 through at least the end of 2004, Heron also acted as the company's chief insider trading compliance officer and was responsible for instituting trading blackout periods. Heron also was the Amkor official designated to review proposed trades in Amkor securities by officers and directors to ensure that they did not trade at times when

they possessed, or were likely to possess, material, nonpublic information. Heron also served as the company's corporate secretary.

10. As general counsel, Heron was regularly in possession of material, nonpublic information. For example, Heron was responsible for reviewing press releases prior to their public dissemination, including releases concerning quarterly earnings and significant transactions. Heron was also responsible for overseeing all company litigation, addressing regulatory compliance issues, instituting blackout periods, and communicating company information to the board of directors.

11. As Amkor's general counsel and corporate secretary, Heron was an insider of Amkor who owed a fiduciary duty to the company and its shareholders not to trade in Amkor's stock on the basis of material, nonpublic information about the company.

12. In breach of his duty to Amkor and its shareholders and in violation of Amkor's securities trading policy, Heron repeatedly traded in Amkor securities and option contracts on the basis of material, nonpublic information.

Amkor's Securities Trading Policy

13. During the relevant period, Amkor had a written securities trading policy that prohibited employees of Amkor from trading in the company's stock while in possession of material, nonpublic information about the company. The policy identified Heron as the company's insider trading compliance officer, responsible for implementing the policy. Heron also was responsible for addressing any questions that Amkor employees or directors had concerning the policy.

14. Amkor's policy prescribed routine blackout periods during which certain Amkor employees and directors, including Heron, were prohibited from trading in Amkor securities. As explained in Amkor's policy, these blackout periods were in effect from the sixteenth day of the third month of each quarter until the second trading day after the public disclosure of financial results for the quarter, "due to the fact that, during this period, executive officers, directors and certain other employees often possess Material Nonpublic Information about the expected financial results for the quarter during the period."

15. At the commencement of each scheduled blackout period, at Heron's direction, relevant employees and directors were notified that a blackout period was in effect. At the end of the blackout period, at Heron's direction, the same employees and directors were notified that the blackout period had been lifted.

Option Trading

16. Heron bought and sold Amkor securities as well as option contracts while in possession of material, non-public information regarding Amkor.

17. An option contract is the right, but not the obligation, to buy or sell a specified asset (e.g., 100 shares of stock) at a specified price on or before a specified date. An option contract that provides the right to buy the underlying stock is a "call option." An option contract that provides the right to sell the underlying stock is a "put option."

18. Generally, if an investor believes the price of stock will increase he/she may buy a call option contract or sell a put option contract. If an investor believes the price of stock will decrease he/she may buy a put option contract or sell a call option contract.

**Heron Traded in Advance of Amkor's Positive
Third Quarter 2003 Earnings Release**

19. As of October 14, 2003, Heron held 32,000 shares of Amkor stock outside of his retirement account, and had only sporadically traded in the stock since July 2003.

20. On or before October 15, 2003, in his capacity as the general counsel of Amkor, Heron learned material, nonpublic information concerning Amkor's positive financial performance for the third quarter of 2003.

21. On October 15, 2003, two weeks after the close of Amkor's third quarter and less than two weeks prior to Amkor's third quarter earnings announcement, while a blackout period was in effect, Heron purchased 1,000 Amkor shares. On October 16 and 17, 2003, still during the blackout period, Heron bought another 3,000 Amkor shares, purchasing a total of 4,000 Amkor shares worth \$66,000 over the course of three days.

22. Heron knowingly or recklessly executed all of the foregoing trades on the basis of material, nonpublic information regarding Amkor's positive third quarter financial performance.

23. On October 27, 2003, Amkor released positive earnings for the third quarter, and in response, the price of the stock increased by 14 percent.

24. Shortly thereafter, on November 3, 2003, Heron sold 3,000 Amkor shares at a profit of approximately \$11,000.

**Heron Traded in Advance of Amkor's Negative
First Quarter 2004 Earnings Release**

25. On or before April 1, 2004, in his capacity as the general counsel of Amkor, Heron learned material, nonpublic information concerning Amkor's negative

earnings results for the first quarter 2004. On April 1, 2004, even though a blackout period was in effect, Heron sold 5,000 Amkor shares. Prior to this sale, Heron had not sold any Amkor stock since November 2003, when Heron sold the shares he purchased in October 2003, to profit from his October insider trading.

26. Between April 2 and April 8, 2004, Heron continued to sell Amkor shares and trade option contracts consistent with a negative outlook for the stock. On April 2 and 6, 2004, Heron sold a total of 40 call option contracts and on April 8, 2004, he sold another 5,000 shares of Amkor stock.

27. From April 13 through April 26, 2004, Heron continued to trade in anticipation of a decline in the price of Amkor stock, selling a total of 7,000 shares of Amkor stock and trading 140 option contracts.

28. Specifically, on April 13, 2004, Heron sold 40 call option contracts. On April 15 and 19, 2004, Heron sold 2,000 and 1,000 shares of Amkor stock respectively. On April 22, 2004, Heron sold another 1,000 shares of Amkor stock and bought 10 put option contracts. On April 23, 2004, Heron sold 1,000 shares of Amkor stock, bought 30 Amkor put option contracts, and sold 30 Amkor call option contracts. Finally, on April 26, 2004, Heron bought another 30 put option contracts and sold another 2,000 shares of Amkor stock.

29. Heron knowingly or recklessly executed all of the foregoing trades on the basis of material, nonpublic information regarding Amkor's negative first quarter financial performance. For example, on the morning of April 15, 2004, after receiving several versions of a draft pre-announcement regarding negative earnings results for the first quarter, Heron sent an email to Amkor's management team stating: "If we have not

already done so we should plan to circulate this [the draft pre-announcement] to the Board just for informational purposes.” Within hours of sending this email, Heron sold 2,000 Amkor shares. In another instance, on April 22, 2004, Heron received a copy of the draft press release announcing negative first quarter earnings results and, shortly thereafter as described above, sold several thousand Amkor shares and traded Amkor option contracts consistent with an expectation that the price of the stock would fall.

30. On April 27, 2004, Amkor released its earnings announcement for the first quarter, and in response, the stock price dropped by 31 percent.

31. As a result of his illegal trading in Amkor’s stock and options, Heron profited and avoided losses of approximately \$141,000.

Heron Traded in Advance of Amkor’s Announcement of a Positive Transaction with IBM

32. In February 2004, in his capacity as the general counsel of Amkor, Heron learned material, nonpublic information that Amkor was negotiating an outsourcing agreement with International Business Machines Corporation (“IBM”) that potentially could produce revenues for Amkor totaling \$1.5 billion by 2010, with annual revenue for 2005 projected to exceed \$150 million. The IBM deal originally was scheduled to be announced by Amkor near the end of March 2004, but the announcement was postponed until April 27, 2004. On April 26, 2004, IBM informed Amkor that the agreement could not be announced on April 27, due to unforeseen circumstances.

33. As discussed above, on the morning of April 27, 2004, Amkor issued a negative first quarter earnings release and the price of Amkor stock dropped by 31 percent. On the same day, after the earnings announcement, but while the blackout

period remained in effect, Heron abruptly abandoned his negative trading strategy and bought 2,000 shares of Amkor stock in order to take advantage of Amkor's impending announcement of the IBM transaction.

34. Also, in anticipation of the impending announcement of the IBM transaction, on April 27, 2004, Heron sold 80 Amkor put option contracts and purchased 20 Amkor call option contracts. Both of these transactions are consistent with an expectation that the price of Amkor stock would increase.

35. On April 28, 2004, in response to an inquiry from an Amkor board member's private counsel regarding whether the Amkor trading window was open, Heron sent an email stating that "[the board member] had material inside information regarding a transaction [the IBM deal] not yet announced."

36. On April 29, 2004, Amkor's board of directors met with members of senior management to discuss whether Amkor would proceed with the IBM transaction. According to the minutes from the board meeting, senior management "[was] uncertain that a deal with IBM [was] feasible but it [would] continue to assess the deal and report to the Board if necessary."

37. The following day, on April 30, 2004, Heron, while in possession of material, nonpublic information regarding the IBM transactions, bought another 2,000 Amkor shares and purchased 40 Amkor call option contracts.

38. Heron knowingly or recklessly executed all of the foregoing trades on the basis of material, nonpublic information regarding Amkor's transaction with IBM.

39. On May 17, 2004, after the close of the market, Amkor publicly announced the IBM transaction. In response to the announcement, on May 18, Amkor's stock price reached a high of \$9.99, a 10.3 percent increase from the previous day's closing price, and closed for the day at \$9.05, a two percent increase from the previous day's closing price. Heron's trading prior to the IBM announcement resulted in approximately \$8,000 in profits based upon the May 18, 2004 closing price.

**Heron Traded in Advance of Amkor's Negative
Second Quarter 2004 Earnings Announcement and Unitive Acquisition**

40. On or about May 20, 2004, in his capacity as the general counsel of Amkor, Heron learned material, nonpublic information concerning: 1) Amkor's negative financial performance during the second quarter 2004 and 2) Amkor's impending acquisition of Unitive Inc. (Unitive). In light of this information, on May 20, 2004, Heron sold 1,000 shares of Amkor stock. Prior to this trading, Heron had not traded any Amkor stock since April 27 and April 30, when he purchased 4,000 shares and traded Amkor option contracts in advance of Amkor's IBM announcement.

41. On May 24, 2004, Heron implemented an unscheduled Amkor blackout period. The blackout notice stated: "[D]ue to certain business information which has been internally disclosed within the Company and which may be considered material in nature, we have decided to reinstate the blackout period effective immediately." This blackout period was instituted because of impending business transactions, including the transaction to acquire Unitive. This blackout period stayed in effect until July 28, 2004, when Amkor released its second quarter earnings announcement and after the Unitive acquisition was announced on July 21, 2004.

42. After Heron had implemented the blackout period on May 24, 2004, and in anticipation of the Unitive acquisition, he sold 3,000 Amkor shares later that day.

43. On May 26 and May 27, 2004, Heron sold 9,000 shares of Amkor stock. On May 27, 2004, Heron also sold 20 call option contracts. On May 26, 2004, Heron bought 30 put option contracts and sold 50 additional call option contracts.

44. On June 3, 2004, Heron received a copy of a confidential presentation regarding the Unitive acquisition that was prepared for Amkor's board of directors. On June 4, 2004, Heron bought 40 put option contracts. On June 7, 2004, Heron bought another 30 put option contracts. On June 10, 2004 Heron sold 4,000 shares of Amkor stock.

45. On June 10, 2004, Heron received an email reminding him of the upcoming board of directors meeting on June 11, 2004, and discussing Amkor's poor second quarter earnings. On June 11, 2004, Heron attended the board of directors meeting where the Unitive acquisition and the poor second quarter financial performance were discussed.

46. Between June 15 and June 23, 2004, before these announcements became public, Heron sold an additional 6,100 shares of Amkor stock.

47. On July 1, 2004, Amkor issued a negative announcement stating that second quarter earnings would fall below market expectations and lowered earnings guidance for the second quarter. In response to the announcement, Amkor's stock price declined by 29 percent. When the Unitive acquisition was announced on July 21, 2004, Amkor's stock price declined by approximately 10 percent.

48. Heron knowingly or recklessly executed all of the foregoing trades on the basis of material, nonpublic information regarding Amkor's second quarter financial performance and Amkor's impending acquisition of Unitive.

49. As a result of his illegal trading in Amkor's stock and option contracts, Heron profited and avoided losses totaling approximately \$129,000.

FIRST CLAIM FOR RELIEF

**Violations of Section 17(a) of
the Securities Act [15 U.S.C. § 77q(a)]**

50. Paragraphs 1 through 18, 25 through 36, and 38 through 49 are re-alleged and incorporated herein by reference.

51. Pursuant to Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), it is unlawful for any person in the offer or sale of any securities ... by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly to "(a) employ any device, scheme, or artifice to defraud; or (b) to obtain money or property by means of any untrue statement of a material fact or any omission 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) engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit. . . ."

52. By the conduct described above, defendant Heron knowingly or recklessly, directly or indirectly, by use of the means or instrumentalities of interstate commerce, the mails, or a facility of a national securities exchange, violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

SECOND CLAIM FOR RELIEF

**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]**

53. Paragraphs 1 through 52 are re-alleged and incorporated herein by reference.

54. Pursuant to Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), it is unlawful to directly or indirectly, by use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange to use or employ any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate. Pursuant to Rule 10b-5, 17 C.F.R. § 240.10b-5, it is unlawful to “(a) employ any device, scheme or artifice to defraud; or (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person in connection with the purchase or sale of any security.”

55. As set forth above, Heron was aware of material, nonpublic information about Amkor and then, bought and sold Amkor securities on the basis of that information. Heron knowingly or recklessly traded in Amkor securities in breach of his fiduciary duties owed to Amkor and its shareholders.

56. By the conduct described above, defendant Heron knowingly or recklessly, directly or indirectly, by use of the means or instrumentalities of interstate commerce, the mails, or a facility of a national securities exchange, violated Section

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

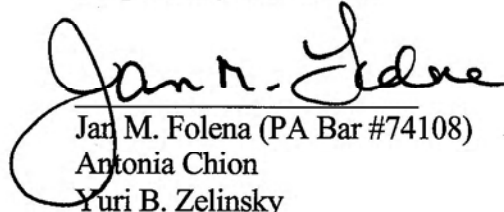
PRAYER FOR RELIEF

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

- (a) permanently enjoining defendant Heron from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)] and 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;
- (b) ordering defendant Heron to disgorge all profits and losses avoided from Heron's unlawful trading in Amkor securities, together with prejudgment interest;
- (c) ordering defendant Heron to pay a civil penalty pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1];
- (d) prohibiting defendant Heron from acting as an officer or director of any public company pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)]; and
- (e) providing such other relief as may be appropriate.

Dated: April 18, 2007

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jan M. Folena". The signature is written in a cursive style with a large, looping initial "J".

Jan M. Folena (PA Bar #74108)

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