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

SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
	:	
Plaintiff,:	:	06 Civ. 4823 (PKC)
	:	
-against-	:	COMPLAINT
	:	
SCIENTIFIC-ATLANTA, INC.,	:	
	:	
	:	
Defendant.	:	

Plaintiff Securities and Exchange Commission (“Commission”), for its Complaint against defendant Scientific-Atlanta, Inc. (“Scientific-Atlanta” or the “Company”), alleges as follows:

SUMMARY

1. In the fall of 2000, Adelphia Communications Corporation (“Adelphia”), a cable television system owner and operator, asked Scientific-Atlanta, a vendor that provided digital cable set-top boxes used by Adelphia, to enter into a marketing support transaction. Following negotiations between Adelphia and Scientific-Atlanta, the parties agreed that Scientific-Atlanta would make marketing support payments for the stated purpose of helping Adelphia increase demand for digital set-top boxes provided by Scientific-Atlanta and, in return, Scientific-Atlanta would receive a corresponding increase in the price of digital set-top boxes it had supplied Adelphia

in the past and was contractually obligated to supply in the future pursuant to a long-term purchase contract that had been entered into in May 2000. Adelphia did not use the marketing support payments to help increase demand for digital set-top boxes. Adelphia recorded the price increases it paid Scientific-Atlanta as capital expenditures, and recognized the marketing support payments paid by Scientific-Atlanta as a contra marketing expense, thereby artificially reducing its marketing expense and increasing Earnings Before Interest, Taxes, Depreciation, and Amortization (“EBITDA”). In this manner, Adelphia was able to use the transaction to reduce improperly its operating costs and increase its earnings by approximately \$16.8 million in 2000 and \$26.2 million in 2001.

2. Scientific-Atlanta agreed to enter into the marketing support transaction as an accommodation to one of its largest clients, and a primary concern was to ensure that its profit margins under the long-term purchase contract would not be eroded by the transaction. Scientific-Atlanta was not concerned with the type or amount of marketing to be done by Adelphia with the marketing support payments at the time the marketing support transaction was entered into.

3. Against this backdrop, various officers and employees of Scientific-Atlanta were confronted with numerous facts that together demonstrated that the marketing support agreement was being misused by Adelphia. These facts included, among others: (i) a retroactive price increase on set-top boxes previously delivered to Adelphia; (ii) Adelphia’s request for a commercially unreasonable high dollar amount in marketing support payments; (iii) repeated requests for higher levels of marketing support in later periods even though the major marketing push was to have occurred in earlier periods; (iv) knowledge that Adelphia’s request for the marketing support agreement was driven by its desire to obtain an accounting benefit; and (v) the

inclusion of a false reason for the price increase in one of the contracts documenting the marketing support agreement.

VIOLATIONS

4. By engaging in the conduct described in this Complaint, Scientific-Atlanta directly or indirectly, singly or in concert, has engaged in acts, practices, and courses of business that aided and abetted Adelphia's violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §§ 78m(a), 78m(b)(2)(A), and 78m(b)(2)(B), and Rules 12b-20, 13a-1, and 13a-13 promulgated thereunder, 17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13.

JURISDICTION AND VENUE

5. The Commission brings this action pursuant to the authority conferred upon it by Section 21(d)(1) of the Exchange Act, 15 U.S.C. § 78u(d)(1), seeking to restrain and enjoin permanently Scientific-Atlanta from engaging in the acts, practices and courses of business alleged herein. The Commission also seeks an order requiring Scientific-Atlanta to disgorge ill-gotten gains it received as a result of the conduct alleged herein.

5. This Court has jurisdiction over this action pursuant to Sections 21(d) and 27 of the Exchange Act, 15 U.S.C. §§ 78u(d) and 78aa.

6. Scientific-Atlanta, directly or indirectly, used the means and 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. At the time of the wrongful conduct described herein, the common stock of Scientific-Atlanta and Adelphia was traded on the New York Stock Exchange located in New York, New York.

DEFENDANT

7. **Scientific-Atlanta** is a Georgia corporation, with corporate headquarters in Lawrenceville, Georgia. Scientific-Atlanta sells end-to-end networks used by programmers and cable operators and provides customer service and support for the cable television industry. At all relevant times, Scientific-Atlanta's common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was publicly traded on the New York Stock Exchange.

OTHER RELEVANT ENTITY

8. **Adelphia** is a Delaware corporation, headquartered in Greenwood Village, Colorado. During the relevant period, Adelphia was headquartered in Coudersport, Pennsylvania. Adelphia owns, operates, and manages cable television systems and other related telecommunications businesses. On March 27, 2002, Adelphia announced that it was liable for approximately \$2.3 billion in debt that it had previously failed to disclose. In May 2002, certain members of the Rigas family, who controlled and held officer and director positions with Adelphia, resigned and Adelphia disclosed that it expected to restate its financial statements for the fiscal years 2000 and 2001. On July 18, 2002, the Commission filed *SEC v. Adelphia Communications Corporation, et al.*, 02 Civ. 5776 (PKC) (S.D.N.Y.), alleging that widespread, multifaceted financial fraud occurred at Adelphia. On May 31, 2005, the U.S. District Court for the Southern District of New York entered a consent order enjoining Adelphia from violating Section 17(a) of the Securities Act of 1933, Sections 10(b), 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 10b-5, 12b-20, 13a-1, and 13a-13 under the Exchange Act.

STATEMENT OF FACTS

Background

9. In May 2000, Adelphia entered into a purchase contract for digital set-top boxes with Scientific-Atlanta. The long-term purchase contract, which was to extend through December 31, 2001, required Adelphia to purchase digital set-top boxes at a price of approximately \$350 per set-top box, as well as other equipment at prices fixed by the terms of the agreement. The Adelphia agreement contained no provision regarding marketing.

10. In June 2000, Adelphia realized that its second quarter reported EBITDA would fall below analysts' expectations. Two senior Adelphia executives devised a plan to increase EBITDA by reducing operating costs through a marketing support agreement with Scientific-Atlanta.

11. Adelphia's purported business rationale for the marketing support was to assist Adelphia in the roll-out of its digital cable service, which was in direct competition with satellite television. Adelphia proposed structuring the transaction so that Scientific-Atlanta's payment obligation would be funded entirely by a price increase applied to digital set-top boxes it had supplied Adelphia in the past and was contractually obligated to supply in the future pursuant to the long-term purchase contract. The transaction would thus have no economic impact on Scientific-Atlanta's net revenue or income from the sale of set-top boxes to Adelphia because, before Scientific-Atlanta would be required to make the marketing support payments, Adelphia would pay to Scientific-Atlanta an amount equal to the marketing support payments in the form of a price increase applied to each set-top box delivered to Adelphia.

The 2000 Transaction

12. In August 2000, Adelphia asked Scientific-Atlanta to consider entering into the marketing support agreement. Adelphia requested marketing support retroactive to the beginning of 2000, and continuing throughout the life of its long-term purchase contract with Scientific-Atlanta. In August 2000, Scientific-Atlanta's CFO (chief financial officer) and its CAO (chief accounting officer) approved the concept of entering into a marketing support agreement with Adelphia, although not on the terms as initially proposed by Adelphia.

13. In October 2000, Adelphia and Scientific-Atlanta began negotiating the terms of the marketing support agreement. Adelphia initially insisted that Scientific-Atlanta pay marketing support of \$50 per set-top box, which equaled approximately 15% of the price of a set-top box. Scientific-Atlanta rejected that percentage as commercially unreasonable, and the parties eventually agreed that Scientific-Atlanta would pay an average of approximately \$20 per set-top box over the life of the contract, with Adelphia paying the same amount to Scientific-Atlanta in the form of price increases applied to Adelphia's orders.

14. At Adelphia's request, Scientific-Atlanta agreed to invoice Adelphia a price increase of \$31 per set-top box for deliveries from April through December 2000 and to invoice a price increase of \$16 per set-top box ordered in 2001, resulting in an average price increase of approximately \$20 per set-top box. Adelphia's purported rationale for structuring the price increase in this way was that it would incur greater marketing costs in the early stages of the digital rollout.

15. The contract documents consisted of two separate agreements. The "Spot Telecast Agreement" set forth Scientific-Atlanta's payment obligations for advertising but did not specify the type or quantity of advertising to be provided by Adelphia. The "Price Increase Letter" set

forth the price increases owed by Adelphia for set-top boxes. Although the parties understood that the sole reason for the price increase was to offset Scientific-Atlanta's payment obligations under the Spot Telecast Agreement, the Price Increase Letter stated falsely that the price increase was due to "increased costs on certain electronic components."

16. Pursuant to the contracts, on May 10, 2001, Adelphia paid Scientific-Atlanta \$16.8 million in price increases and Scientific-Atlanta immediately returned to Adelphia \$16.8 million in marketing support payments.

The 2001 Transaction

17. The long-term purchase contract required that Adelphia purchase 350,000 set-top boxes per quarter in 2001. Scientific-Atlanta became aware in June 2001 that Adelphia was going to be ordering fewer set-top boxes than required under the contract due to decreased demand, and it appeared that Adelphia would not order sufficient set-top boxes to cover the \$22.4 million in marketing support payments Scientific-Atlanta was obligated to make for calendar year 2001.

18. Scientific-Atlanta agreed to expand coverage of the marketing support arrangement to cover all of Adelphia's purchases of transmission equipment (ancillary equipment used to transmit signal that is located outside of the home and is not visible to the end-user), in addition to set-top boxes, retroactive to 2000. By expanding the range of products covered by the marketing support agreement, Scientific-Atlanta was able to ensure that the overall price increase would maintain its margin on the sales due to the marketing support it was obligated to pay without exceeding what it viewed as a commercially reasonable ratio between marketing support and product price.

19. In June 2001, when Adelphia advised Scientific-Atlanta that it would be ordering fewer set-top boxes, Scientific-Atlanta requested that Adelphia order 240,000 set-top boxes pursuant to the long-term purchase contract by the end of the fiscal quarter. Scientific-Atlanta offered Adelphia a price reduction on the June order. Adelphia agreed to purchase the 240,000 set-top boxes.

20. In December 2001, Adelphia demanded an increase in the amount of marketing support to be paid by Scientific-Atlanta for 2001 from \$22.4 million to between \$28 to \$29 million. At or about the same time, Scientific-Atlanta also requested that Adelphia purchase 200,000 set-top boxes before the end of the quarter pursuant to the long-term purchase contract. Adelphia agreed to purchase the set-top boxes, and the parties ultimately agreed on \$26.2 million in marketing support, which covered set-top boxes purchased in 2001 and transmission equipment purchased between July 2000 and December 31, 2001.

Accounting Treatment For The Transaction

21. At the time the transactions were entered into, GAAP (Generally Accepted Accounting Principles) required that the accounting for a transaction must reflect its substance.

22. In internal journal entries, Scientific-Atlanta recorded the price increases as an increase in revenue and the marketing support payments to Adelphia as contra-revenue. The net result was no change in the revenue line item reported in Scientific-Atlanta's publicly filed income statements.

23. Adelphia, however, recorded the marketing support payments as a "contra-expense" to marketing costs even though it did not use the marketing support payments to market any products. This accounting treatment lowered the amount of recorded marketing expenses and, in turn, artificially inflated Adelphia's EBITDA. Adelphia recorded the price increases paid to

Scientific-Atlanta as capital expenditures, which are depreciated over time and, as such, have no impact on EBITDA and a minimal impact on earnings. In total, over seven quarters from April 2000 through December 2001, Adelphia recorded improperly approximately \$43 million in marketing support payments as reductions in current operating expenses, with the intended effect of inflating improperly its reported EBITDA by \$43 million over the course of those quarters. Adelphia's accounting treatment violated GAAP because it improperly reflected the transactions as decreasing its reported expenses and increasing its reported income when it did not have that effect.

Events In 2002

24. On March 27, 2002, approximately one month after Scientific-Atlanta paid Adelphia a \$26.2 million marketing support payment, Adelphia announced that the company was liable for \$2.3 billion in off-balance sheet liabilities. -

25. On June 10, 2002, Adelphia filed a Form 8-K with the Commission, making downward revisions of its 2000 and 2001 reported EBITDA, citing marketing support agreements with two unnamed vendors (one of which was Scientific-Atlanta). Adelphia stated that properly accounting for the marketing support agreements would reduce EBITDA by approximately \$54 million in 2001 and \$37 million in 2000, of which \$26.2 million and \$16.8 million, respectively, is attributable to the transactions with Scientific-Atlanta.

SCIENTIFIC-ATLANTA ENTERED INTO THE MARKETING SUPPORT AGREEMENT TO SATISFY A LARGE CLIENT

26. Despite the fact that Scientific-Atlanta was paying Adelphia over \$4 million dollars in marketing support per quarter in 2000 and over \$6 million per quarter in 2001, no one in the Company ever confirmed how Adelphia was spending the money. Scientific-Atlanta's

marketing department had no role or input into the transaction. Although the marketing support transaction was supposed to be used to market Scientific-Atlanta set-top boxes, the Spot Telecast Agreement did not specify the type or quantity of marketing to be done. The final documentation also did not condition Scientific Atlanta's obligation to make multi-million dollar marketing support payments on receipt of documentation of marketing done by Adelphia.

27. An important motivation for Scientific-Atlanta in the transaction was to satisfy one of its largest clients, and one of its primary concerns was that the marketing support agreement not alter its profit margins. To ensure that it put no money at risk, Scientific-Atlanta made marketing support payments only after it had received equivalent payments for the set-top box price increases from Adelphia.

28. The Adelphia marketing support transaction was a unique transaction for Scientific-Atlanta, and many aspects of the transaction were outside of Scientific-Atlanta's ordinary course of business. During the events leading up to and continuing throughout the life of the marketing support transaction, various officers and employees of Scientific-Atlanta were aware of significant facts that Scientific-Atlanta either ignored, or to which it gave limited attention. These facts, taken together, indicated that Adelphia was misusing the transaction in a manner that violated the reporting, books and records, and internal controls provisions of the federal securities laws.

***Scientific-Atlanta Knew That The Transaction
Provided No Direct Economic Benefit To Scientific-Atlanta***

29. Scientific-Atlanta knew that the marketing support transaction would have no economic impact on its net revenue or income from the sales of set-top boxes to Adelphia and that it was done as an accommodation to Adelphia, one of its largest customers.

30. All Scientific-Atlanta personnel involved in the marketing support transaction knew that it was structured so that the marketing support payments made by Scientific-Atlanta would be equal to Adelphia's payment of the price increases on the set-top boxes and that the sole purpose of the price increases was to offset the marketing support payments. To avoid any risk of loss, Scientific-Atlanta did not make its two marketing support payments until it had first received payment from Adelphia for the price increases.

***Scientific-Atlanta Believed That Adelphia Would Use The
Marketing Support Payments To Improve EBITDA***

31. Although Scientific-Atlanta did not have actual knowledge as to how Adelphia would account for the transaction, Scientific-Atlanta knew that Adelphia's request was driven by Adelphia's desire to obtain an accounting benefit.

32. In November 2000, a Scientific-Atlanta employee prepared a PowerPoint document for use by Scientific-Atlanta of "talking points" regarding the marketing support agreement. The document states that "\$10M benefit generates 1.5 points of Operating Margin." The following year, in correspondence to an Adelphia executive dated September 28, 2001, seeking prompt payment of past due receivables, Scientific-Atlanta reminded Adelphia that Scientific-Atlanta's "finance team led the structuring of the joint marketing agreement that clearly provides operating expense benefits to Adelphia."

***Adelphia Asked Scientific-Atlanta To Add Unique
Terms To A Previously-Documented Deal***

33. Adelphia did not approach Scientific-Atlanta with the idea of entering into the marketing support agreement until approximately three months after the parties had documented their May 23, 2000 long-term purchase contract. In the ordinary course of Scientific-Atlanta's

business, requests for marketing support were dealt with during the course of negotiating the overall contract.

34. It was also highly unusual for a customer to request, as Adelphia did, that marketing support be in the form of money payments as opposed to marketing credits that effectively reduced the price charged by Scientific-Atlanta for its products.

35. Shortly before Adelphia approached Scientific-Atlanta with the idea of entering into the marketing support transaction, another cable operator also asked Scientific-Atlanta to enter into a marketing support transaction similar to the Adelphia transaction. In September 2000, Scientific-Atlanta and the other cable operator consummated a marketing support transaction involving approximately \$6 million that covered the fourth quarter of 2000.

36. Prior to the transactions with the other cable operator and Adelphia, Scientific-Atlanta had never been asked to enter into a marketing support transaction involving a simultaneous price increase designed to fund its marketing support payment obligations. Prior to the transaction with the other cable operator, Scientific-Atlanta had never been asked to enter into a marketing support arrangement involving millions of dollars. The size of the transaction with the other cable operator was much smaller than the Adelphia transaction, which totaled approximately \$43 million in marketing support. The timing, the form, and the dollar amount of the Adelphia transaction were all outside of Scientific-Atlanta's ordinary course of business.

***Adelphia Demanded More Marketing
Support, Even When Its Orders Of Set-Top Boxes Were Declining***

37. When negotiations over the terms of the marketing support agreement began in October 2000, Adelphia demanded marketing support in the amount of \$50 per set-top box or approximately 15% of the set-top box price, an amount that Scientific-Atlanta deemed

commercially unreasonable. Scientific-Atlanta viewed 4%-7% of the set-top box price as a reasonable range of marketing support. The parties reached agreement on an average price increase and associated marketing support of approximately \$20 per set-top box. Because Adelphia was supposed to incur higher marketing costs at the beginning of the digital rollout, at Adelphia's request Scientific-Atlanta agreed to a price increase and associated marketing support of \$31 per set-top box for deliveries from April through December 2000, and of \$16 per set-top box for deliveries in 2001.

38. By June 2001, Adelphia's orders of set-top boxes had declined and it became clear to Scientific-Atlanta that Adelphia would order less than the 350,000 set-top boxes per quarter it was required to purchase pursuant to the long-term purchase contract. Even though Adelphia had ordered far fewer set-top boxes than its minimum purchase obligations under the long-term purchase contract and Adelphia had stated that it would incur higher marketing costs at the beginning of the digital rollout, Adelphia asked to increase the amount of marketing support from \$22.4 million to \$26 million.

39. Although Scientific-Atlanta apparently did not agree to increase the amount of marketing support at that time, Adelphia again requested more marketing support at the end of 2001. Scientific-Atlanta then agreed to increase marketing support for 2001 from \$22.4 million to \$26.2 million.

***Adelphia Requested That The Marketing Support
Apply Retroactively To Set-Top Boxes Delivered In The Past***

40. When Adelphia approached Scientific-Atlanta with the idea of entering into a marketing support agreement, it asked that the agreement apply retroactively to the beginning of 2000, despite the fact that the long-term purchase contract had not been finalized until May 23,

2000. Although the marketing support agreement was not finalized until at least the end of calendar year 2000, Scientific-Atlanta agreed to make the marketing support agreement retroactive to April 1, 2000, the first day of the quarter in which the May 23, 2000 agreement took effect. During negotiations in June 2001, when Scientific-Atlanta agreed to expand the coverage of marketing support to include transmission equipment, it again agreed to apply the marketing support retroactively to all transmission equipment purchased by Adelphia from July 2000 through December 2001.

Scientific-Atlanta Employees Knew That The Price Increase Letter Was False

41. The overall price increase was calculated to equal the total marketing support payments so that Scientific-Atlanta's profit margin on the transactions would remain unaffected. The Price Increase Letter, which was one of the two agreements documenting the marketing support transaction, states falsely that the price increase was due to "increased costs on certain electronic components," rather than the true reason which was to fund the marketing support payments.

FIRST CLAIM FOR RELIEF

**Aiding and Abetting Violations of Section 13(a)
of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13**

42. The Commission realleges and incorporates by reference herein each and every allegation contained in Paragraphs 1 through 41.

43. Section 13(a) of the Exchange Act and Rules 13a-1 and 13a-13 thereunder require issuers of registered securities to file with the Commission factually accurate annual and quarterly reports. Exchange Act Rule 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.

44. By reason of the foregoing, Scientific-Atlanta knowingly provided substantial assistance to another who violated Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13 thereunder.

45. By reason of the foregoing, Scientific-Atlanta aided and abetted, and unless enjoined will continue to aid and abet, violations of Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1, and 13a-13.

SECOND CLAIM FOR RELIEF

Aiding and Abetting Violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act

46. The Commission realleges and incorporates by reference herein each and every allegation contained in Paragraphs 1 through 45.

47. Section 13(b)(2)(A) of the Exchange Act requires that issuers make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets of the issuer. Section 13(b)(2)(B) of the Exchange Act requires, among other things, that issuers maintain a system of internal accounting controls that permit the preparation of financial statements in conformity with GAAP.

48. By reason of the foregoing, Scientific-Atlanta knowingly provided substantial assistance to another who violated Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

49. By reason of the foregoing, Scientific-Atlanta aided and abetted, and unless enjoined will continue to aid and abet, violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests a Final Judgment:

I.

Permanently enjoining Scientific-Atlanta and its agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from violating and aiding and abetting any violations of Section 13(a) of the Exchange Act, 15 U.S.C. § 78m(a), and Rules 12b-20, 13a-1, and 13a-13 thereunder, 17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13.

II.

Permanently enjoining Scientific-Atlanta and its agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from violating and aiding and abetting any violations of 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).

III.

Ordering Scientific-Atlanta to disgorge the ill-gotten gains it received as a result of its violations of the federal securities laws, and to pay interest on all such gains.

IV.

Granting such other and further relief as the Court may deem just and proper.

Dated: New York, New York
June 22, 2006

/s/ Mark K. Schonfeld
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