Russell D. Duncan (Lead Counsel) (DC Bar #366888)
James A. Howell (CA Bar #92721)
Lawrence C. Renbaum (DC Bar #450015)
Paul G. Lane (DC Bar #428821)
Securities and Exchange Commission
450 Fifth Street, NW
Washington, D.C. 20549-0911
Telephone: (202) 942-7303 (Lead Counsel)
Facsimile: (202) 942-9581

Attorneys for Plaintiff
Securities and Exchange Commission

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

SECURITIES AND EXCHANGE COMMISSION, Plaintiff, v. PRABHAT K. GOYAL, Defendant.	**Case No.** **COMPLAINT** **DEMAND FOR JURY TRIAL**

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

SUMMARY

1. This case concerns a multimillion-dollar financial fraud at Network Associates, Inc. (also known and doing business as Networks Associates, Inc.), a publicly traded manufacturer and supplier of computer programs and hardware based in Santa Clara, California. Defendant Prabhat K. Goyal, who held various senior finance positions at Network Associates, including Chief Financial Officer, engaged in a fraudulent scheme that, among other things, overstated Network Associates's revenues and earnings in violation of the federal securities laws. As a result of the conduct of Goyal, Network Associates filed false and misleading annual

and quarterly reports and financial statements, and securities registration statements, with the Commission from the second quarter of 1998 through the first quarter of 2001. On October 31, 2003, Network Associates restated its financial results for the third time in five years. The 2003 restatement affected seven years of reported financial results – beginning in 1997 through the second quarter of 2003. For 1998 alone, the restatement decreased originally reported revenues by approximately $562 million, or 57 percent. As result of the restatement, the total revenues for the period decreased by $291 million. The bulk of the revenue adjustments involved periods during which Goyal served as Network Associates's Chief Financial Officer.

2. The core of the fraud was Network Associates's recording of hundreds of millions of dollars of revenue on sales transactions with distributors that violated Generally Accepted Accounting Principles ("GAAP"). Goyal used a variety of undisclosed methods to oversell Network Associates products to its distributors in order to record the inflated revenue. In particular, Goyal and others at his direction:

A. used a wholly-owned Network Associates subsidiary, Net Tools, Inc., to repurchase products previously sold to distributors in order to reduce distributor inventory levels and limit product returns,

B. made secret payments to distributors to induce them to hold excess inventory and buy more products,

C. offered distributors deep discounts and rebates on amounts that distributors already owed to Network Associates for prior product purchases and from which Network Associates already had recorded revenues, and

D. sold products to distributors on consignment in violation of Network Associates's written sales contracts and stated revenue recognition practices.

3. Goyal took action to conceal the fraud. For example, Goyal improperly inflated inadequate sales reserves to cover the cost of the undisclosed distributor payments and

concessions by raiding unrelated tax reserve accounts. Additionally, Goyal participated in sham transactions that lacked economic substance between Network Associates and certain third parties in order to bolster revenue in particular quarters. In further effort to cover up the fraud, Goyal directed sales of Network Associates's accounts receivables when he knew that distributors were not paying in full for the receivables and within contract terms, thereby creating and perpetuating the false appearance that Network Associates had robust, non-discounted product sales.

4. Goyal's accounting scheme unraveled in the fourth quarter of 2000 when, after eleven quarters of stuffing products into the distribution channel, Network Associates's distributors held huge inventories of Network Associates's products and were unwilling to make additional product purchases. Consequently, on December 26, 2000, Network Associates announced that its sales for that quarter would be only $55 million, dramatically less than Goyal's public projection on October 14, 2000 of $245 million. On the same day, Network Associates announced Goyal's departure without explanation.

5. Nearly three years later, on October 31, 2003, Network Associates filed a restatement that materially affected twenty quarters of previously reported financial results - from 1997 through 2002. Among other things, the company acknowledged that material amounts of revenue for that period had been recorded in violation of GAAP. As a result, Network Associates recalculated all revenue previously recognized at the time of sale to a distributor from 1998 through 2000 to reflect a postponement of the revenue recognition until the time a distributor actually sold the products.

6. While Goyal was aware that Network Associates's reported revenues and earnings had been artificially inflated through this undisclosed fraudulent scheme, he sold Network Associates stock, along with shares of the company's subsidiary, McAfee.com, for proceeds of nearly $11 million.

7. By engaging in the acts alleged in this complaint, Goyal violated, and aided and abetted Network Associates's violations of, the antifraud provisions of the federal securities laws. Goyal also aided and abetted Network Associates's violations of the books and records,

internal accounting controls, and reporting provisions of the federal securities laws. Goyal further violated federal securities law provisions prohibiting lying to Network Associates's independent auditors. Unless enjoined by this Court, Goyal may violate these laws in the future. The Commission requests that the Court permanently enjoin Goyal from engaging in further violations, order an accounting, order disgorgement plus prejudgment interest, impose civil penalties based upon his conduct described above, and bar Goyal from acting as an officer or director of any public company.

JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT

8. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)] and Sections 21(d) and (e), 21A, and 27 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d) and (e), 78u-1, and 78aa].

9. Venue properly lies in this Court pursuant to Section 22 of the Securities Act [15 U.S.C. § 77v] and Section 27 of the Exchange Act [15 U.S.C. § 78aa] because Goyal transacted business in this judicial district, because offers and sales of the securities at issue in this case took place in this judicial district, and because certain of the acts and transactions constituting the violations in this case occurred within this judicial district.

10. Goyal made use of the means and instrumentalities of interstate commerce in connection with the acts alleged in this complaint.

11. A substantial part of the events that gave rise to the claims occurred in Santa Clara County, California. However, related criminal and civil cases against Terry W. Davis, concerning the same or substantially similar conduct as alleged herein, have been filed in this Division. *United States of America v. Terry W. Davis, CR-03-0172-MJJ; Securities and Exchange Commission v. Terry W. Davis, C-03-2729-MJJ.*

THE DEFENDANT

12. Goyal joined McAfee Associates, Inc. in March 1996 and was named its Vice President of Finance, Corporate Controller, and Treasurer in April 1996. Goyal became McAfee Associate's Chief Financial Officer, Vice President of Finance and Administration, and

Secretary in October 1996. In December 1997, Network General and McAfee Associates combined to form Network Associates. Goyal served as CFO and Vice President of Finance and Administration after the formation of Network Associates. On January 2, 2001, Goyal resigned from his management positions, but remained employed by Network Associates for an additional year as a "Special Advisor" pursuant to an agreement granting him a full salary of $300,000, a bonus of $200,000, and vesting of all available options through January 2, 2002. Goyal is a Chartered Accountant and a member of the Institute of Chartered Accountants in England and Wales.

THE ISSUER

13. Network Associates, Inc., a Delaware corporation with principal offices in Santa Clara, California, manufacturers and sells computer software and hardware relating to network security, anti-virus, and network management. Its common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act [15 U.S.C. § 78l(b)]. During the relevant period, Network Associates traded on the Nasdaq National Market under the symbol "NETA." On February 12, 2002, Network Associates moved its listing from the Nasdaq National Market to the New York Stock Exchange and its common stock began trading under the symbol "NET." Between 1998 and 2002, Network Associates filed registration statements with the Commission for several debt and equity securities offerings.

APPLICABLE ACCOUNTING PRINCIPLES

14. As a public company, Network Associates was required to comply with, among other things, the Securities Act, the Exchange Act, and the regulations of the Commission. These laws and regulations are intended to protect the investing public by ensuring that public companies like Network Associates fairly, accurately, and timely report their financial results and condition. To ensure fair and accurate reports to the investing public, the federal securities laws and the Commission's regulations promulgated thereunder require public companies such as Network Associates to prepare and present its reports and financial statements in conformity with GAAP. Financial statements filed with the Commission that are not prepared in accordance with GAAP are presumed to be misleading and inaccurate. Regulation S-X § 210.4-01 [17 CFR

§ 210.4-01].

15. The American Institute of Certified Public Accountants' Statement of Position 97-2, *Software Revenue Recognition* ("SOP 97-2"), and related interpretations are the principal GAAP provisions that apply to the recording or "recognizing" of revenue from transactions involving software and software licenses. These accounting principles provide that revenue may not be recognized at the time of sale unless an arrangement satisfies all four of the following criteria: (a) persuasive evidence of an arrangement exists, (b) delivery of the product has occurred, (c) the fee is fixed or determinable, and (d) collectibility of the purchase price is probable. In the financial reports filed with the Commission and signed by Goyal, Network Associates claimed that it had recognized revenue in accordance with GAAP.

THE REVENUE INFLATION SCHEME

16. In the second quarter of 1998, Network Associates changed the manner in which it sold its software and related products. Instead of selling directly to end-user customers through its own sales force, Network Associates contracted with distributors who purchased product from Network Associates and then sold the product to resellers, who in turn, sold the product to end-users. Contemporaneously, the company adopted a new revenue recognition practice pursuant to which the company recorded revenue at the time of the sale to the distributor, less a reserve for returns. This methodology is commonly referred to as the "sell-in" method of accounting.

17. Beginning in 1998 and continuing through 2000, Goyal and other senior Network Associates officers formulated quarterly revenue goals for the company. These goals were set in contemplation of Wall Street analysts' estimates and projections. Network Associates's success or failure in achieving these revenue targets was taken into account in awarding quarterly bonuses for Network Associates's executives, including Goyal. Goyal announced these revenue and earnings goals in publicly disseminated press releases and quarterly conference calls with Wall Street analysts.

18. To meet the quarterly revenue goals, Network Associates's sales managers and other senior employees sold products to distributors in specified dollar amounts. In these sales

transactions, referred to as “buy-ins” and memorialized in “buy-in letters,” distributors purportedly agreed to purchase Network Associates’s products each quarter in large dollar amounts. Goyal set targets for the dollar amount of the buy-ins for Network Associates’s major distributors for each quarter and these negotiations occurred during the last weeks of a quarter. Goyal then reviewed and approved the terms of all deals negotiated with distributors to ensure that Network Associates met its revenue goals. Typically, these agreements were negotiated with distributors during the last weeks of a quarter, and Network Associates immediately recognized a portion of the revenues from these purported sales. However, Goyal and other senior managers at Network Associates adopted a variety of undisclosed ploys to use the buy-ins to oversell Network Associates’s products to its distributors in order to improperly record hundreds of millions of dollars of revenue in violation of GAAP.

GOYAL PARTICIPATED IN THE REVENUE INFLATION SCHEME

A. Goyal Established Net Tools, Inc. to Repurchase Inventory from Distributors

19. In the second quarter of 1998, at Goyal’s direction, Network Associates created a wholly owned subsidiary, Net Tools, Inc. (“Net Tools”). Goyal was the president and sole director of Net Tools. Goyal used Net Tools for one primary purpose – to repurchase inventory that Network Associates had oversold to its distributors. Network Associates induced distributors to enter into large buy-ins with the understanding that the distributors could sell their excess inventory to Net Tools, rather than return the product to Network Associates.

20. Goyal controlled the use of Net Tools. Network Associates’s distributors would demand – often in the last few days before the end of a quarter, as they were negotiating another buy-in deal – that Network Associates repurchase all or a portion of the distributor’s unsold inventory. Goyal approved the distributor demands that Net Tools purchase unsold inventories of Network Associates’s products.

21. At Goyal’s direction, Network Associates used Net Tools to repurchase products that Network Associates had sold to its distributors, thereby avoiding subsequent returns of inventory by the distributors. By reducing the amount of recorded returns, Network Associates

was able to maintain lower returns reserves and, thus, report higher revenues.

22. From June 1998 through 2000, Goyal used Net Tools to repurchase a total of approximately $80 million worth of Network Associates’s products from distributors. In public statements, and Commission filings that Goyal signed, Network Associates never disclosed that it used a subsidiary to repurchase product from Network Associates’s distributors, or the impact of such repurchases on Network Associates’s recognition of revenue from the initial sale of the repurchased product.

23. Network Associates’s recognition of revenue upon sale to its distributors, while employing Net Tools to repurchase product for eventual resale, failed to conform with GAAP. Statement of Financial Accounting Standards No. 48, *Revenue Recognition When Right of Return Exists*, prohibits the immediate recognition of revenue if, among other things, the seller (i.e., Network Associates) has “significant obligations for future performance to directly bring about resale of the product” for the distributor. Through Net Tools, Network Associates directly assisted distributors in the resale of Network Associates’s products. Consequently, Network Associates should not have recorded revenue from the initial sales, and, as a result, Network Associates reported revenues during the relevant period were materially misstated.

B. Goyal Directed Disguised Payments and Discounts to Distributors

24. In order to reduce distributor returns, encourage new buy-in agreements, and induce distributors to accept greater quantities of Network Associates’s products, Goyal also authorized secret payments to distributors, including Ingram Micro, Inc. (“Ingram Micro”) and Merisel, Inc. (“Merisel”), as well as undisclosed deep discounts on amounts that distributors purportedly owed Network Associates for products purchased under previous buy-in agreements. Network Associates never adequately reserved for these undisclosed discounts, payments, and other concessions allowed to its distributors, and, as a result, such revenues were not recorded in conformity with GAAP. Consequently, Network Associates’s publicly reported revenues were materially overstated.

25. Goyal also approved substantial rebates to distributors in the form of “price protection,” to reimburse distributors for the discounts that the distributors gave to their

customers to meet or beat the prices of Network Associates's competitors. Consequently, the payments that distributors purportedly had agreed to make under the terms of the buy-in agreements were reduced by the amounts of the price protection reimbursements. From 1998 through 2000, Goyal granted Network Associates's largest distributor, Ingram Micro, approximately $185 million in price protection discounts on invoices by Network Associates totaling $1.1 billion, reducing Ingram Micro's payment obligations to Network Associates by nearly seventeen percent.

26. Goyal also granted distributors large discounts on amounts owed to Network Associates through a "stock rotation" program. The program allowed distributors to exchange less-marketable Network Associates inventory that had been previously purchased by the distributors, for a new order in the same dollar amount. The practical effect was that distributors were allowed to discount payments they were obligated to make pursuant to their buy-in agreements by the dollar amounts of the inventory exchanged. In 1999 and 2000, Goyal approved nearly $165.9 million in stock rotation discounts to Ingram Micro on a total of $744.6 million invoiced by Network Associates, a discount of twenty-two percent.

27. Throughout 1999 and 2000, Goyal approved cash payments to distributors for the deep discounts and concessions granted the distributors, rather than allowing a deduction in amounts owed. Goyal approved payments to Ingram Micro from 1999 through 2000 totaling approximately $121.3 million. In one instance in November 1999, Goyal paid Ingram Micro over $21 million in eight separate wire transfers. The purpose of the payments was to compensate Ingram Micro for the discounts, fees, and other concessions that Ingram Micro had demanded from Network Associates. To disguise the purpose of the payments, Goyal directed that the wire transfers be accompanied by eight misleading letters purporting to characterize the payments as reimbursement for expenses such as "marketing fund rebates and other promotional programs." A similar set of letters also accompanied $11.9 million in payments made on June 12, 2000 to the same distributor. From August through October 2000, Goyal approved additional payments to the same distributor totaling $27 million.

28. One purpose of the disguised payments was to induce the distributors not to return

unsold inventory to Network Associates. Goyal knew that product returns, if properly accounted for on Network Associates's financial statements, would reduce revenues by corresponding amounts, thereby making it difficult or impossible for Network Associates to meet its quarterly revenue targets. In one instance, near the end of the first quarter of 2000, Ingram Micro demanded a fee for holding "excess inventory" of Network Associates products because this distributor already held over $54 million in excess Network Associates inventory. Rather than accept a return and properly reduce recorded revenue, Goyal instead agreed to discount the amount that Ingram Micro owed by two percent of the value of the excess inventory – or approximately $1.1 million. This discount was memorialized in a side letter dated March 8, 2000. Subsequently, Ingram Micro held the excess Network Associates inventory and, on March 24, 2000, entered into a new agreement to purportedly purchase approximately $31.4 million in additional Network Associates products.

29. The discounts, rebates, and payments that Goyal approved had a significant effect on Network Associates's actual cash collections from distributors. For example, Ingram Micro paid Network Associates only 1.7 cents for every dollar invoiced in 2000. On average, from 1998 through 2000, the same distributor paid only 32 cents for every dollar it was invoiced by Network Associates.

30. Under SOP 97-2, in order to recognize revenue upon sale to a distributor, the fees – or product purchase price – must be "fixed or determinable at the date of sale". SOP 97-2 further provides that a "fixed fee" is a "fee required to be paid at a set amount that is not subject to refund or adjustment." As a result of the payments, discounts, rebates, and other concessions granted to distributors that were authorized and directed by Goyal, Network Associates's fees during the relevant period were not "fixed or determinable" at the time it sold its products to distributors. Network Associates admitted in its October 2003 restatement that "accounting for sales to distribution partners in 1998, 1999 and 2000" violated GAAP due to the "concessions, including return rights and stock rotation rights, that were being offered to distributors outside the contractual terms."

31. Accordingly, Network Associates's premature recognition of revenue during 1998

through 2000 failed to conform with GAAP and rendered the financial statements in periodic reports that Network Associates filed with the Commission during that period false and materially misleading.

C. Goyal Fraudulently Manipulated Tax Reserve Accounts in Order to Increase Inadequate Sales Reserves and Disguise Payments to Distributors

32. Goyal knew or was reckless in not knowing that his practice of granting discounts, payments, and rebates to distributors negated Network Associates ability to immediately recognize revenue under GAAP, including SOP 97-2, on its sales to distributors. Goyal also knew or was reckless in not knowing that accounting for these distributor concessions in accordance with GAAP would have required Network Associates to increase its returns reserves and, correspondingly, reduce revenues. In order to avoid reducing Network Associates's revenues, and possibly missing quarterly revenue targets, Goyal improperly directed that Network Associates's returns reserves be increased, not by reducing revenues, but, instead, by transferring amounts from tax reserve accounts.

33. Goyal directed these improper transfers from the tax reserves to the returns reserves by instructing Network Associates's former Corporate Controller Terry W. Davis to make a series of entries in Network Associates's general ledger that decreased the tax reserve accounts and increased unrelated returns reserve accounts. In one example, to prevent Network Associates from missing its revenue target for the fourth quarter of 1999, Goyal directed Davis to transfer $15 million from a tax-related reserve to a returns reserve. Goyal knew that if the $15 million had been properly accounted for, Network Associates revenues for the quarter would have been reduced by $15 million.

34. Goyal directed most of the improper tax reserve transfers to offset cash payments made to Ingram Micro. Specifically, over fifty percent of the $121.3 million paid to Ingram Micro for discounts, rebates, and other payments was improperly transferred out of Network Associates tax reserve accounts at Goyal's direction.

35. Goyal knew or was reckless in not knowing that these improper transfers violated

GAAP, including Accounting Principles Board Opinion No. 20, *Accounting Changes*, and Financial Accounting Standards Board Statement No. 5, *Accounting for Contingencies*. On June 28, 2002, Network Associates restated its financial statements for the period 1998 through 2000 to correct the improper tax account transfers. The restatement resulted in a reversal of approximately $43.5 million in revenue in 1999 and 2000.

D. Goyal Negotiated Improper "Round-trip" Investment Transactions to Bolster Revenue

36. During the relevant period, Goyal engineered sham transactions with third parties solely to inflate Network Associates's revenues. In these transactions, Network Associates made cash investments in entities that, simultaneously, purportedly purchased Network Associates products. These transactions essentially resulted in a circular flow of money from and back to Network Associates, of which Network Associates then improperly recognized a portion as revenue.

37. On or about December 31, 1998, Goyal signed an agreement for Network Associates to invest $8 million in NeoPlanet, Inc., a company offering a free web browser. The stock purchase agreement incorporated a separate contract in which NeoPlanet paid Network Associates $4 million, also on December 31, 1998, for non-refundable software licenses and support. However, prior to receiving the cash from Network Associates, NeoPlanet had a minimal or zero cash balance as of December 31, 1998, and could not have paid the $4 million to Network Associates.

38. Similarly, on March 10, 1999, Goyal approved a $10 million investment in Tesserae Information Systems, Inc., a manufacturer of technology used in Internet search engines. On the same day, Tesserae paid Network Associates $5 million to license Network Associates's software. Ultimately, Tesserae never licensed any Network Associates's software and could not have paid the $5 million to Network Associates's for the licenses without first receiving funds from Network Associates.

39. In its October 31, 2003 restatement, Network Associates reduced the reported revenue related to the Neoplanet and Tesserae deals based upon a determination that the revenue

from these transactions failed to conform with GAAP because, among other problems, the transactions "lacked economic substance."

E. Goyal Allowed Consignment Sales Agreements with Distributors That Conflicted with the Terms of the Buy-in Deals and Rendered Revenue Recognition Improper Under GAAP and Network Associates's Revenue Recognition Policies

40. Goyal allowed distributors to ignore their payment obligations under the terms of buy-in letters and distribution contracts, and defer payments to Network Associates until after the distributors had resold Network Associates's products to their customers. As Network Associates's Chief Financial Officer, Goyal was responsible for ensuring that the company's product sales to distributors were recorded accurately in the company's books and records, including the receipt of all distributor payments. Goyal approved the buy-in terms with the distributors and knew, or recklessly disregarded, that the post-contractual contingencies with distributors rendered Network Associates's immediate recognition of revenue from its product sales to distributors inappropriate under GAAP.

41. Certain Network Associates's customers, including Network Associates's second and third largest U.S. distributors, understood that they were not obligated to pay for Network Associates's products until after they had sold the products to customers.

42. In practice, Goyal allowed distributors to sell on consignment, in violation of Network Associates's stated revenue recognition policy, which, in turn, rendered the company's immediate recognition of revenue under these circumstances improper under GAAP. SOP 97-2 dictates that arrangements in which a distributor is obligated to pay only as, and if, sales are made, should be accounted for as consignments whereby the vendor can only recognize revenue after the distributor has sold the product. Goyal was aware that distributors routinely departed from their payment terms in a manner that rendered it inappropriate for Network Associates to immediately recognize revenues from the affected sales, but he failed to ensure that revenue from distributor sales was reflected accurately in the company's financial results.

43. In its October 31, 2003 restatement, Network Associates acknowledged that its

"accounting for sales to distribution partners in 1998, 1999 and 2000" violated GAAP due to "concessions, including … the company … not obligating distributors to pay for delivered inventory until they had sold the inventory."

F. Goyal Directed the Improper Sale of Accounts Receivable

44. As a result of the practice of allowing distributors to delay payment or not pay their invoices in full, Network Associates accumulated on its balance sheet millions of dollars of aging receivables. Consequently, "days sales outstanding" ("DSO") – a numerical calculation that reflects how many days it takes a company to collect its accounts receivable – was directly affected. Wall Street analysts regarded DSO as an important indicator of Network Associates's financial health; the larger the number, the more likely analysts would call into question the quality of the receivables and the related revenue. In fact, Goyal and other senior executives' quarterly bonuses were tied to lowering the DSO. To reduce DSO and get cash "in the door," Goyal sold approximately $261 million of Network Associates's receivables from 1998 through 2000 to banks for cash and removed the receivables from the balance sheet.

45. In practice, however, the sales of receivables operated as bank loans to Network Associates. Goyal signed financing agreements with banks in which Network Associates agreed to act as the banks' "collection agent" for the receivables. The financing agreements also guaranteed the receivables in the event the banks were unable to collect payment from the distributor, leaving Network Associates with the risk of loss in these sales. As a result, when Network Associates's distributors delayed payments or did not pay invoices in full, Network Associates paid the banks. For example, on December 31, 1998, Goyal approved the sale to a bank of approximately $16.7 million of Ingram Micro's accounts receivable invoices, but only received payment from Ingram Micro of approximately $156,000 relating to the same receivables. Network Associates then used its own cash to pay down the amounts owed to the bank.

46. In its October 2003 restatement, Network Associates admitted that the sales of its receivables during 1998 through 2000 were inconsistent with GAAP. Financial Accounting Standard No. 125, *Accounting for Transfers and Servicing of Financial Assets and*

Extinguishments of Liabilities ("FAS 125") provides that a company's receivables must be valid and payable within written contract terms in order to be properly removed from the balance sheet. However, because Network Associates's customers were not obligated to pay until sell-out, the invoices, which were based on a sell-in revenue recognition policy, did not constitute a right to receive cash from distributors to whom the invoices were issued, and, therefore, no receivables existed to be transferred.

47. Network Associates never adequately disclosed the financing arrangements in the footnotes of the company's annual and quarterly financial statements. Paragraph 17 of FAS 125, requires disclosure of all off-balance sheet financing in the Management's Discussion and Analysis of Financial Condition and Results of Operations (MD&A) portion of its periodic Commission filings. In its 1998 through 2000 filings, which were signed by Goyal, Network Associates failed to disclose that its accounts receivables often were uncollectible because Network Associates's customers were not obligated to pay for products until they had sold them, and that, as a result, the accounts receivables could not be sold and removed from the balance sheet. Rather, Network Associates merely stated: "To address [an] increase in accounts receivable and to improve cash flows, we may from time to time take actions to encourage earlier payment of receivables and sell receivables." In fact, Network Associates sold receivables in every quarter in 1998, the first quarter 1999, and the second quarter 2000, and in each instance improperly reduced the company's accounts receivable balances. Having allowed distributors to ignore payment terms and purchase products on consignment, Goyal knew, or was reckless in not knowing, that the receivables he sold to the banks were not valid receivables at the time of the transactions, and that, as a result, it was improper for Network Associates to remove these receivables from its balance sheet.

G. Goyal Signed False SEC Filings and False Management Representation Letters to Auditors

48. From 1998 through 2000, Goyal signed thirteen Forms 10-Q and 10-Q/A, six Forms 10-K and 10-K/A, and seventeen registration statements that Network Associates filed with the Commission. In each of these periodic reports and registration statements, Goyal falsely

represented that Network Associates's financial statements were prepared in conformity with GAAP.

49. Goyal never disclosed or caused Network Associates to disclose in the periodic reports to the Commission that Network Associates used Net Tools to repurchase oversold product from distributors, made secret payments and discounts to distributors, fraudulently manipulated its tax accounts to prop up reserves, improperly sold its accounts receivable, and entered into sham "round-trip" transactions to fraudulently boost revenues. When Goyal signed Network Associates's periodic reports, he knew or was reckless in not knowing, that the accompanying financial statements were materially false and misleading.

50. With knowledge of the fraudulent accounting scheme, Goyal signed other documents that Network Associates filed with the Commission, including securities registration statements. When Goyal signed these filings, he knew or was reckless in not knowing, that Network Associates financial statements, incorporated in the filings, were materially false and misleading.

51. Goyal also misled investors when he made other materially false or misleading public statements regarding Network Associates's financial health. For example, in a conference call with investors and analysts on October 14, 2000, Goyal, with knowledge of the fraudulent accounting scheme, projected fourth quarter revenue as high as $245 million and profit of $0.32 per share, without disclosing his knowledge of the company's improper revenue recognition practices and other fraudulent practices. Later, on December 26, 2000, after Goyal had been dismissed by Network Associates's board of directors, Network Associates announced that its fourth quarter revenues would be only $55 million, 78 percent lower than Goyal had projected only two months earlier.

52. Goyal signed management representation letters that Network Associates presented to its independent auditors, PricewaterhouseCoopers LLP, in connection with audits of Network Associates's consolidated financial statements, in addition to interim consolidated financial statements, as of March 31, 2000, June 30, 2000, and September 30, 2000 and a Form S-8 Registration Statement filed on July 21, 2000. The management representation letters

contained the following confirmations, among others: (a) that Network Associates's financial statements were prepared in accordance with GAAP, (b) that there were no material transactions that were not properly recorded in Network Associates's accounting records underlying its financial statements, (c) that he had disclosed to the independent auditors all sales terms, including all rights of return or price adjustments, and all warranty provisions, and (d) that there had been no (i) fraud involving management or employees who had significant roles in internal control, or (ii) fraud involving others that could have a material effect on the financial statements. When Goyal signed the management representation letters to Network Associates's independent auditors, he was aware of his role and the roles of others in the fraudulent accounting and related transactions at Network Associates, and, as a result, he knew or was reckless in not knowing that the letters contained false statements and material misrepresentations.

GOYAL SOLD STOCK WHILE IN POSSESSION OF MATERIAL, NONPUBLIC INFORMATION

53. From 1998 through December 2000, Network Associates paid Goyal a base annual salary of approximately $300,000. He was also paid quarterly performance bonuses totaling $134,107, $136,313, and $190,250 in 1998, 1999, and 2000, respectively, and was awarded incentive stock options. Throughout 1998, he exercised stock options and sold Network Associates stock for proceeds of approximately $3.2 million.

54. In the fourth quarter of 2000, the company announced Goyal's departure. However, he was retained by the company as a "Special Advisor" for an additional one-year term. In his new capacity, beginning January 1, 2001, Goyal continued to receive his base pay of $300,000, a $200,000 bonus for 2001, and the vesting of all available stock options. In 2001, while acting as Special Advisor to the company, he exercised stock options and sold Network Associates shares for proceeds of approximately $2.2 million.

55. On December 1, 1999, Network Associates sold, in an initial public offering, 6,250,000 shares, or a 25% stake, in McAfee Associates, creating McAfee.com Corporation. At the time, Goyal was issued options for 360,000 McAfee.com shares. Throughout 2001, while acting

as special advisor to Network Associates, Goyal exercised options and sold McAfee.com shares for proceeds of approximately $4.6 million.

56. From January 28, 2002 to March 8, 2002, long before the fraud that Goyal had participated in was publicly disclosed, Goyal exercised options and sold Network Associates shares for proceeds of $816,428. In total, Goyal realized approximately $6.3 million from his 1998, 2001, and 2002 sales of Network Associates stock while in possession of material nonpublic information regarding Network Associates inflated revenues.

FIRST CLAIM

Goyal Violated Securities Act Section 17(a), Exchange Act Section 10(b) and Exchange Act Rule 10b-5

[Financial Fraud]

57. Paragraphs 1 through 56 are realleged and incorporated herein by reference.

58. Goyal, in connection with the offer, purchase, or sale of securities, knowingly or recklessly made material misrepresentations and omissions of fact concerning Network Associates's financial condition and operating results for the period from 1997 through 2000 in financial statements, periodic reports, and securities registrations filed with the Commission.

59. By reason of the foregoing, Goyal violated Securities Act Section 17(a) [15 U.S.C. § 77q(a)] and Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

SECOND CLAIM

Goyal Aided and Abetted Network Associates's Violations of Securities Act Section 17(a), Exchange Act Section 10(b) and Exchange Act Rule 10b-5

[Financial Fraud]

60. Paragraphs 1 through 59 are realleged and incorporated herein by reference.

61. Goyal knowingly and substantially participated and assisted in Network Associates's scheme to make material misrepresentations and omissions of fact in connection with the offer, purchase, or sale of securities concerning Network Associates's financial condition and operating results for the period from 1997 through 2000 in financial statements, periodic reports, and securities registrations filed with the Commission.

62. By reason of the foregoing, Goyal aided and abetted violations of Securities Act Section 17(a) [15 U.S.C. § 77q(a)], Exchange Act Section 10(b) [15 U.S.C. § 78j(b)], and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

THIRD CLAIM

Goyal Violated Securities Act Section 17(a), Exchange Act Section 10(b) and Exchange Act Rule 10b-5

[Insider Trading]

63. Paragraphs 1 through 62 are realleged and incorporated herein by reference.

64. Goyal sold Network Associates stock while in possession of material nonpublic information concerning Network Associates's true financial condition, in breach of his fiduciary duties to Network Associates and its shareholders.

65. By reason of the foregoing, Goyal violated Securities Act Section 17(a) [15 U.S.C. § 77q(a)], Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

FOURTH CLAIM

Goyal Violated Exchange Act Section 13(b)(5) and Exchange Act Rules 13b2-1 and 13b2-2

[Falsifying Books and Records and Making False Statements to Auditors]

66. Paragraphs 1 through 65 are realleged and incorporated herein by reference.

67. Goyal deliberately circumvented internal accounting controls in order to falsify Network Associates's books and records.

68. Goyal, directly or indirectly, falsified or caused to be falsified, books, records, or accounts subject to Exchange Act Section 13(b)(2)(A) [15 U.S.C. § 78m(b)(2)(A)].

69. Goyal knowingly and substantially participated and assisted in a scheme to cause false and misleading entries in Network Associates's books and records.

70. Goyal knowingly or recklessly made and caused to be made materially false statements and omissions of material fact to accountants in connection with their audits and reviews of Network Associates's financial statements.

71. By reason of the foregoing, Goyal violated Section 13(b)(5) [15 U.S.C. § 78m(b)(5)] and Exchange Act Rules 13b2-1 and 13b2-2 [17 C.F.R. §§ 240.13b2-1 and 240.13b2-2].

<u>FIFTH CLAIM</u>

Goyal Aided and Abetted Network Associates's Violations of Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B) [Books and Records and Internal Controls Violations]

72. Paragraphs 1 through 71 are realleged and incorporated herein by reference.

73. Goyal knowingly and substantially participated and assisted in Network Associates's failure to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflected its transactions and disposition of assets.

74. Goyal knowingly and substantially participated and assisted in Network Associates's failure to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that transactions were recorded as necessary to permit preparation of financial statements in conformity with GAAP.

75. By reason of the foregoing, Goyal aided and abetted violations of Exchange Act Sections 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78m(b)(2)(A) and 78m(b)(2)(B)].

<u>SIXTH CLAIM</u>

Goyal Aided and Abetted Network Associates's Violations of Exchange Act Section 13(a) and Exchange Rules 12b-20, 13a-1, and 13a-13 [Reporting Violations]

76. Paragraphs 1 through 75 are realleged and incorporated herein by reference.

77. Goyal knowingly and substantially participated and assisted in Network Associates's preparation and filing of financial statements that were not presented in conformity with GAAP in its annual, quarterly, and other reports filed with the Securities and Exchange Commission from the second quarter of fiscal year 1998 (the period ended June 30, 1998) through the fourth quarter of fiscal year 2000 (the period ended December 31, 2000).

78. By reason of the foregoing, Goyal aided and abetted violations of Securities Act Section 17(a) and Exchange Act Sections 13(a) [15 U.S.C. § 78j(b), 15 U.S.C. § 78(a), 15 U.S.C. § 78m(a)] and Exchange Act Rules 12b-20, 13a-1, and 13a-13 [C.F.R. § 240.10b-5, 17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13].

RELIEF REQUESTED

WHEREFORE, Plaintiff Securities and Exchange Commission respectfully requests that this Court:

I.

Issue an order of permanent injunction restraining and enjoining Goyal, and his agents, servants, employees, attorneys, and assigns, and those persons in active concert or participation with him, and each of them, from violating Securities Act Section 17(a) [15 U.S.C. § 77q(a)], Exchange Act Sections 10(b) and 13(b)(5) [15 U.S.C. §§ 78j(b) and 78m(b)(5)], and Exchange Act Rules 10b-5, 13b2-1, and 13b2-2 [17 C.F.R. §§ 240.10b-5, 240.13b2-1, and 240.13b2-2], and from aiding and abetting violations of Securities Act Section 17(a) and Exchange Act Sections 10(b),13(a), and 13(b) [15 U.S.C. § 78j(b), 15 U.S.C. § 78m(a), 15 U.S.C. § 78m(b)], and Exchange Act Rules 10b-5, 12b-20, 13a-1, and 13a-13 [C.F.R. § 240.10b-5, 17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13].

II.

Order an accounting by Goyal of all money, property, and other assets directly or indirectly derived from the conduct alleged herein.

III.

Issue an order directing Goyal to disgorge, with prejudgment interest, all ill-gotten gains resulting from his conduct alleged herein.

IV.

Issue an order directing Goyal to pay civil monetary penalties under Securities Act Section 20(d) [15 U.S.C. § 77t(d)] and Exchange Act Sections 21(d)(3) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d)(3) and 78u-1].

V.

Enter an order under 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)] prohibiting Goyal from acting as an officer or a director of any issuer that has a class of securities registered pursuant to Section

12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

VI.

Grant such other and further relief as this Court may deem just and proper.

Dated: June 16, 2004

Russell D. Duncan (Lead Counsel)
Lawrence C. Renbaum
James A. Howell
Paul G. Lane
Attorneys for Plaintiff
Securities and Exchange Commission
450 Fifth Street, N.W.
Washington, DC 20549-0911
Telephone: (202) 942-7303 (Lead Counsel)
Facsimile: (202) 942-9581

JURY DEMAND

Plaintiff demands trial by jury as to all claims.

Russell D. Duncan
James A. Howell
Lawrence C. Renbaum
Paul G. Lane
Attorneys for Plaintiff