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10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**

13 SECURITIES AND EXCHANGE
 14 COMMISSION,

15 Plaintiff,

16 vs.

17 FARZIN BAZSHUSHTARI,

18 Defendant.
 19

Case No.

CV12-00354 GHK (JEMK)
COMPLAINT

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

21 **JURISDICTION AND VENUE**

22 1. This Court has jurisdiction over this action pursuant to Sections
 23 21(d)(1), 21(e), 21A(a)(1)(A) and 27(a) of the Securities Exchange Act of 1934
 24 ("Exchange Act"), 15 U.S.C. §§ 78u(d)(1), 78u(e), 78u-1(a)(1)(A) & 78aa(a).
 25 Defendant has, directly or indirectly, made use of the means or instrumentalities of
 26 interstate commerce, of the mails, or of the facilities of a national securities
 27 exchange in connection with the transactions, acts, practices and courses of
 28 business alleged in this Complaint.

1 California.

2 **RELATED ENTITY**

3 6. **STEC, Inc. (“STEC”)** is a California corporation with its principal
4 place of business in Santa Ana, California. STEC designs, manufactures, and
5 markets electronic data storage products used in enterprise applications by original
6 equipment manufacturers. Since September 2000, the securities of STEC have
7 been publicly traded on the NASDAQ Global Select Market. STEC securities are
8 registered with the Commission pursuant to Section 12(b) of the Exchange Act, 15
9 U.S.C. § 78l(b).

10 **BAZSHUSHTARI’S INSIDER TRADING**

11 **A. STEC Instituted An Ethics Code And Insider Trading Policy Which**
12 **Prohibited Trading By Insiders During “Black-Out” Periods, Trading**
13 **In STEC Options And Buying STEC Securities On Margin**

14 7. STEC adopted a Code of Business Conduct and Ethics (“Ethics
15 Code”) on or about February 26, 2004. In order to ensure that its officers, directors
16 and employees (“Insiders”) did not engage in insider trading, STEC included in its
17 Ethics Code a section entitled “Protecting the Company’s Confidential
18 Information,” which sets forth in detail the types of company information that
19 STEC considers “proprietary or confidential,” explicitly including “financial
20 information.” The Ethics Code also included a section entitled “Obligations Under
21 Securities Laws – ‘Insider Trading,’” which refers to STEC’s separate written
22 Insider Trading Policy as “outlin[ing] in greater detail the prohibitions against
23 insider trading and the blackout periods for trading in the Company’s securities.”
24 As STEC’s Ethics Code explained:

25 All officers, directors and employees of the Company are
26 subject to periodic trading blackout periods as well as to special
27 blackout periods that the Company may impose from time to time.

28 *All officers, directors and employees of the Company may not trade in*

1 *Company securities during these blackout periods.*

2 [Emphasis supplied.] Bazshushtari signed an “Acknowledgement of Receipt of
3 Code of Business Conduct and Ethics” on or about May 21, 2004, as required of all
4 STEC Insiders.

5 8. At all relevant times, STEC’s written “Insider Trading Policy,” which
6 was amended and restated on October 27, 2006, set forth specific “Black-Out”
7 periods when trading by Insiders of STEC stock was prohibited. For most
8 employees, such as Bazshushtari, “Black-Out Periods” included the period
9 “between the sixteenth (16th) day of the third calendar month of each fiscal quarter
10 (e.g., March 16, June 16, September 16 and December 16) and the close of
11 business on the second full Nasdaq trading day after the final financial results of
12 STEC’s operations for such quarter are publicly announced.” [Emphasis original.]
13 STEC’s Insider Trading Policy further provides that additional Black-Out periods
14 may be imposed.

15 9. At all relevant times, STEC’s written “Insider Trading Policy”
16 included a section entitled “Definition of Material Nonpublic Information,” which
17 stated in relevant part that:

18 It is not possible to define all categories of Material Nonpublic
19 Information. In general, information should be regarded as material if
20 there is a reasonable likelihood that it would be considered important
21 by an investor in making a decision regarding the purchase or sale of
22 STEC Stock. Although it may be difficult under this standard to
23 determine whether certain information is material, there are various
24 categories of information that are particularly sensitive and, as a
25 general rule, should always be regarded as material. Either positive or
26 negative information may be material. Examples of such information
27 are:

28 1. Financial results

1 2. Known but unannounced future earnings or losses . . .

2 16. Any other factors which would cause STEC's financial
3 results to be substantially different from analyst estimates.

4 [Emphasis original.]

5 10. In addition to prohibiting trading by company personnel during
6 certain Black-Out periods, at all relevant times, both the Ethics Code and the
7 Insider Trading Policy prohibited trading by Insiders of a "speculative nature," and
8 defined such trades as including transactions in STEC options. Additionally, at all
9 relevant times, STEC's Insider Trading Policy prohibited purchase by Insiders of
10 STEC securities either on margin or in margin accounts.

11 **B. Bazshushtari Traded STEC Securities While Possessing Material**
12 **Nonpublic Information, And In Violation Of STEC's Written Policies**

13 **1. Bazshushtari Purchased 7,000 Shares Of STEC Stock During A**
14 **Black-Out Period, While In Possession Of Material Nonpublic**
15 **Information Regarding STEC's First Quarter 2009 Results**

16 11. Pursuant to STEC's written Insider Trading Policy, the Black-Out
17 period for STEC's first quarter of 2009, ending March 31, 2009, commenced on
18 March 16, 2009, for most STEC employees, including Bazshushtari. Also in
19 accordance with STEC's written Insider Trading Policy, STEC's office of Human
20 Resources transmitted an email to STEC personnel on March 19, 2009, reminding
21 them that "STEC's stock trading window remains closed," and that "this is a
22 reminder that you are prohibited from trading in STEC stock until the window is
23 re-opened." The email further reminded STEC personnel that trading while the
24 window is closed not only violated STEC policy and was grounds for discipline,
25 including termination, but could also constitute "possible violations of securities
26 laws." Finally, the email informed STEC personnel that the window "is expected
27 to reopen sometime in May 2009." Bazshushtari received this email.

28 12. During the relevant period, the STEC Vice President of Sales to

1 whom Bazshushtari reported attended weekly senior management meetings jointly
2 led by STEC's CEO and President. In or about April 2009, the Vice President of
3 Sales learned of STEC's positive first quarter financial results in one of these
4 meetings. He then relayed that information to Bazshushtari. This information
5 constituted "financial results," and "known but unannounced future earnings or
6 losses," specifically defined as material nonpublic information by STEC's written
7 Insider Trading Policy.

8 13. After learning the material nonpublic information that STEC's first
9 quarter financial results were positive, on April 27, 2009, Bazshushtari purchased
10 7,000 shares of STEC common stock for \$66,123.49, through a margin account
11 held at TD Ameritrade in his and his wife's names as joint tenants, knowing that he
12 was making this purchase during a "Black-Out" period. This purchase equaled
13 55% of Bazshushtari's base annual salary for 2009 of \$120,000.

14 14. At the close of the market on May 11, 2009, STEC announced first
15 quarter results and that those results surpassed its previous revenue and earnings
16 per share guidance. STEC additionally announced its guidance for its second
17 quarter that its revenue would range from \$68 million to \$70 million. STEC's
18 stock price closed at \$13.60 per share on May 12, a 30.89% increase from the May
19 11 close of \$10.39. Bazshushtari accordingly profited by \$29,086.50 from his
20 purchase of 7,000 shares of STEC stock during the announced quarterly Black-Out
21 period while in possession of material nonpublic information.

22 2. **Bazshushtari Purchased An Additional 5,500 STEC Shares And**
23 **Purchased 200 Call Options On Margin In Violation Of STEC**
24 **Policies, All While Possessing Material Nonpublic Information**
25 **Regarding STEC's Second Quarter 2009 Results**

26 15. During the relevant period, Bazshushtari received Weekly Product
27 and Market Update Reports by email before STEC's weekly product and market
28 update meetings, which he attended. The weekly reports contained material

1 nonpublic financial information, including total “bookings,” or sales, of the
2 company from the previous week. Tallying total sales figures for every week
3 based on these reports yielded the revenue to date for the quarter, showing how
4 close STEC was to its quarterly revenue guidance figure.

5 16. On May 18, 2009, Bazshushtari received a weekly sales report that
6 showed \$4,945,264 in total sales for the previous week. The sales figures for each
7 week from the April 6 to the May 18 reports totaled \$47.1 million, or almost 70%
8 of STEC’s May 11 guidance of \$68 million to \$70 million. This information was
9 positive and material because there were only six weeks left until quarter end, and
10 because, by comparison, at the same point in the first quarter, STEC’s revenues
11 had reached only 50% of its revenue guidance figure. Hence, quarter over quarter,
12 by May 18, STEC was outperforming guidance.

13 17. On May 27, 2009, after receiving the May 18 weekly report, while in
14 possession of the material nonpublic information that STEC was outperforming
15 guidance, Bazshushtari purchased an additional 5,500 shares of STEC common
16 stock for \$96,259.99, through the same margin account held at TD Ameritrade in
17 his and his wife’s names as joint tenants. This purchase equaled 80% of his base
18 annual salary of \$120,000.

19 18. The June 8 weekly sales report, which Bazshushtari received on or
20 about June 7, 2009, showed an additional \$3,037,181 in total sales from the prior
21 week. Summing the weekly sales set forth in each weekly report up to that point in
22 the quarter revealed that STEC’s revenue for the second quarter was already at
23 almost \$56 million.

24 19. On June 10, 2009, Bazshushtari purchased on margin 200 STEC call
25 options with a strike price of \$22.50 set to expire on August 22, 2009, for
26 \$44,159.99, through the same margin account held at TD Ameritrade in his and his
27 wife’s names as joint tenants. In purchasing these options, Bazshushtari violated
28 both STEC’s written policy set forth in its Ethics Code and Insider Trading Policy

1 prohibiting trading in STEC options, and its written policy prohibiting purchase of
2 STEC securities on margin set forth in its Insider Trading Policy. This purchase
3 equaled 37% of Bazshushtari's annual salary.

4 20. Six days later, on June 16, STEC publicly announced that it
5 "expect[ed] to report revenue in the range of \$82 million to \$84 million, versus the
6 previous estimate of \$68 million to \$70 million." The stock price closed that day
7 at \$22.80, up 26.52% from the previous day's close of \$18.02. Bazshushtari
8 accordingly profited by \$29,590 from his purchase of 5,500 shares of STEC stock,
9 and by \$18,000 from his purchase on margin of 200 STEC call option contracts
10 while in possession of material nonpublic information, for a total of \$47,590.

11 **3. Bazshushtari Profited from his Insider Trading by \$76,676.50**

12 21. Defendant Bazshushtari purchased STEC securities on the basis of
13 material nonpublic information about the true financial condition of STEC
14 described in detail above, in breach of a duty of trust or confidence that he owed
15 directly, indirectly, or derivatively to STEC and its shareholders by reason of his
16 position as Director of Industrial Distribution in the sales department of STEC,
17 gaining and realizing profits as set forth above, totaling \$76,676.50.

18 **CLAIM FOR RELIEF**

19 **Fraud In Connection With The Purchase Or Sale Of Securities**

20 **Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**

21 22. The Commission realleges and incorporates by reference paragraphs 1
22 through 21 above.

23 23. The Defendant, by engaging in the conduct described above, directly
24 or indirectly, in connection with the purchase or sale of a security, by the use of
25 means or instrumentalities of interstate commerce, of the mails, or of the facilities
26 of a national securities exchange, with scienter:

- 27 a. employed devices, schemes, or artifices to defraud;
28 b. made untrue statements of a material fact or omitted to state a

1 material fact necessary in order to make the statements made, in
2 light of the circumstances under which they were made, not
3 misleading; or

4 c. engaged in acts, practices, or courses of business which operated
5 or would operate as a fraud or deceit upon other persons.

6 24. By engaging in the conduct described above, the Defendant violated,
7 and unless restrained and enjoined will continue to violate, Section 10(b) of the
8 Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. §
9 240.10b-5.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, the Commission respectfully requests that the Court:

12 **I.**

13 Issue findings of fact and conclusions of law that Defendant committed the
14 alleged violations.

15 **II.**

16 Issue a judgment, in a form consistent with Fed. R. Civ. P. 65(d),
17 permanently enjoining Defendant and his agents, servants, employees and
18 attorneys, and those persons in active concert or participation with any of them,
19 who receive actual notice of the judgment by personal service or otherwise, from
20 violating Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5
21 thereunder, 17 C.F.R. § 240.10b-5.

22 **III.**

23 Order Defendant to disgorge all ill-gotten gains from his illegal conduct,
24 together with prejudgment interest thereon.

25 **IV.**

26 Order Defendant to pay civil penalties for insider trading under Section
27 21A(a) of the Exchange Act, 15 U.S.C. § 78u-1(a).

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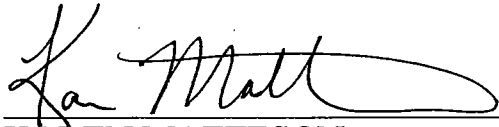
V.

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

VI.

Grant such other and further relief as this Court may determine to be just and necessary.

DATED: January 13, 2012



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