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

SECURITIES AND)	
EXCHANGE COMMISSION,)	
)	
)	
Plaintiff,)	ECF CASE
)	
v.)	Civil No.
)	
)	COMPLAINT
)	
ARMUND EK,)	
)	
)	
Defendant.)	

Plaintiff, the United States Securities and Exchange Commission, alleges as follows:

NATURE OF ACTION

1. This action arises from the defendant's violations of the federal insider trading laws. Specifically, defendant Armund Ek ("Ek") traded Gerber Scientific, Inc. ("Gerber") stock between July 1998 and March 2000 on the basis of material, nonpublic

information. At all relevant times, Ek was a close friend of Gerber's director of corporate communications, Robert Goehring, who received material, nonpublic information about earnings results and other significant corporate developments at Gerber. Ek both bought and sold Gerber stock based on tips provided by Goehring of material, nonpublic information about Gerber that Goehring had obtained in his position at Gerber.

2. Ek had profits and avoided losses totaling \$11,453 as a result of his trading.
3. By engaging in insider trading as described in this Complaint, Ek violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. 240.10b-5].
4. Accordingly, the Commission seeks a judgment: (1) permanently enjoining defendant Ek under Sections 21(d)(1) and 21(e) of the Exchange Act [15 U.S.C. §§ 77t(b), 78u(d)(1) and 78u(e)] from further violations of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5; (2) requiring Ek to disgorge the amount of his ill-gotten gains and losses avoided, with prejudgment interest; and (3) imposing monetary penalties against Ek under Section 21A of the Exchange Act [15 U.S.C. § 78u-1].

JURISDICTION and VENUE

5. This Court has jurisdiction over this action under Sections 21(d)(1), 21(e), 21A, and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(1), 78u(e), 78u-1 and 78aa]. Venue is proper under Section 27 of the Exchange Act and 28 U.S.C. § 1391(d) because the trading described in this Complaint occurred through the New York Stock Exchange.

DEFENDANT

6. Defendant Armund Ek, age 71, resides in Somers, Connecticut.

RELEVANT ENTITY

7. Gerber, a Connecticut corporation with its headquarters in South Windsor, Connecticut, is a provider of sign-making, specialty graphics, apparel and flexible materials, and optical lens processing goods and services. At all relevant times, Gerber's stock was registered with the Commission under Section 12(b) of the Exchange Act [15 U.S.C. § 78l(b)] and traded on the New York Stock Exchange.

STATEMENT OF FACTS

8. At all relevant times, Ek and Goehring were close. From 1996 to 1998, Ek and Goehring also had a professional relationship. During this time, Goehring was unemployed, and Ek retained Goehring as a paid consultant to Ek's company. In 1998, Goehring was hired by Gerber as Gerber's director of corporate communications.

9. Ek knew that Gerber hired Goehring as its director of corporate communications and further knew that, in that capacity, Goehring received material, nonpublic information about earnings results and other significant corporate developments at Gerber.

Ek is tipped and trades in advance of the announcement of Gerber's earnings for the first quarter of fiscal year 1999.

10. Goehring learned prior to July 1, 1998, that Gerber was anticipating a sharp increase in earnings for the quarter ending July 31, 1998. This information about Gerber's anticipated earnings was material and nonpublic. After learning this information and prior to July 22, 1998, Goehring communicated information about Gerber's anticipated first quarter earnings to Ek.

11. On July 22, 1998, Ek purchased 1,000 shares of Gerber stock at \$27.875 per share for his personal benefit on the basis of the material, nonpublic information about Gerber's first quarter anticipated earnings.

12. Gerber did not publicly announce its first quarter earnings results until August 20, 1998. The price of Gerber stock closed that day at \$28.50, up \$0.8125 from the previous day's closing price. Ek had profits of \$640 from his trade in advance of Gerber's earnings announcement.

13. Goehring communicated the material, nonpublic information described in paragraphs 10 through 12 above to Ek in breach of the duty of trust and confidence that he owed to Gerber and its shareholders. Ek knew or should have known that he was trading on the basis of material, nonpublic information that Goehring communicated to him in breach of that duty of trust and confidence.

Ek is tipped and trades in advance of a March 7, 2000, announcement of a proposed on-line apparel venture

14. By the last week of February 2000, Goehring learned that Gerber was going to announce a proposed on-line apparel venture with another company. This information about the proposed on-line apparel venture was material, nonpublic information. Prior to March 2, 2000, Goehring communicated information about the announcement to Ek.

15. On March 2, 2000, Ek purchased 1,000 shares of Gerber stock at \$14.9375 per share for his personal benefit on the basis of the material, nonpublic information about the announcement.

16. On March 7, 2000, Gerber announced its plan to form the on-line apparel venture. Gerber's stock price increased. Gerber's stock price closed that day at \$17.4375 per

share, up \$0.9375 from the previous day's closing price. Ek had profits of \$2,500, from his trade in advance of the announcement of the proposed on-line apparel venture.

17. Goehring communicated the material, nonpublic information described in paragraphs 14 through 16 above to Ek in breach of the duty of trust and confidence that he owed to Gerber and its shareholders. Ek knew or should have known that he was trading on the basis of material, nonpublic information that Goehring communicated to him in breach of that duty of trust and confidence.

Ek is tipped and trades in advance of Gerber's April 26, 2000 announcement of lowered earnings

18. By March 23, 2000, Goehring was aware that Gerber was likely to miss earnings expectations for the fourth quarter of its 2000 fiscal year. This information about the likely earnings miss by Gerber was material, nonpublic information. After learning this information, and prior to March 24, 2000, Goehring communicated information about Gerber's likely fourth quarter earnings miss to Ek.

19. On March 24, 2000, Ek sold 1,000 shares of Gerber stock at \$19.8125 per share for his personal benefit on the basis of the material, nonpublic information about Gerber's likely earnings miss for the fourth quarter of its 2000 fiscal year.

20. On April 26, 2000, Gerber announced that its fourth quarter results would likely be lower than expected. Gerber's stock price closed that day at \$11.50 per share, down \$3.93 from the previous day's close. Ek avoided losses of \$8,313 by trading in advance of the April 26, 2000, earnings announcement.

21. Goehring communicated the material, nonpublic information described in paragraphs 18 through 20 above to Ek in breach of the duty of trust and confidence that

he owed to Gerber and its shareholders. Ek knew or should have known that he was trading on the basis of material, nonpublic information that Goehring communicated to him in breach of that duty of trust and confidence.

CLAIM FOR RELIEF — Ek’s Violations of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5

22. The Commission incorporates the allegations in paragraphs 1-21 as though fully set forth in this paragraph.

23. As Gerber’s director of corporate communications, Goehring knowingly or recklessly communicated the material, nonpublic information described in paragraphs 11 through 21 above to Ek in breach of the duty of trust and confidence that he owed to Gerber and its shareholders. Ek knew or should have known that he was trading on the basis of material, nonpublic information that Goehring communicated to him in breach of that duty of trust and confidence.

24. Ek, directly or indirectly, by the use of the means or instrumentalities of interstate commerce, or the facilities of a national securities exchange, and/or the mails: (a) employed devices, schemes, and/or artifices to defraud; (b) made untrue statements of material fact, or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or (c) engaged in acts, practices, or courses of business which operated or would have operated as a fraud or deceit on other persons in violation of Exchange Act Section 10(b) and Exchange Act Rule 10b-5.

25. As a consequence, Ek violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5.

26. Ek will, unless restrained and enjoined, continue to engage in the transactions, acts, practices, and courses of business alleged in this complaint, or in similar transactions, acts, practices and courses of business, in violation of the federal securities laws.

PRAYER FOR RELIEF

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

- a. permanently restraining and enjoining Ek, his agents, servants, employees, representatives, attorneys, affiliates and all persons in active concert or participation with them who receive actual notice of the Court's judgment, from future violations of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5;
- b. imposing civil monetary penalties against Ek, under Section 21A of the Exchange Act;
- c. requiring Ek to disgorge the amount of all profits and losses avoided from the unlawful trading alleged in this complaint, with prejudgment interest; and

d. granting the Commission such further relief as justice requires.

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Dated: February 28, 2005