

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

SECURITIES AND EXCHANGE )  
COMMISSION, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
DAVID W. KNALL, )  
 )  
Defendant. )

Case No: 1:07-CV-1562-RLY-WTL

**COMPLAINT**

Plaintiff, Securities and Exchange Commission (“Commission”), alleges the following:

**SUMMARY**

1. This case involves personal trading by defendant David W. Knall (“Knall”), a registered representative and investment adviser, in advance of a tender offer. On June 12, 2004, Knall acquired material, nonpublic information relating to Dick’s Sporting Goods, Inc.’s (“Dicks”) proposed acquisition of Galyan’s Trading Company, Inc. (“Galyans”). At the time, Dicks had taken substantial steps to commence a tender offer for Galyans stock.

2. Knall did not try to determine whether there had been any public announcement about an acquisition or any material increase in Galyans’ stock price, even though he had reason to know that the information about the proposed acquisition came indirectly from a Dicks representative. Knall purchased 10,000 shares of Galyans stock on June 16, 2004, to cover a previously established short position in his personal brokerage account.

3. On June 21, 2004, Dicks publicly announced its intention to acquire Galyans for \$16.75 per share in cash via a tender offer. The day after the announcement, Galyans stock

closed at \$16.68, a 50.3% increase from the previous day's closing price of \$11.10. By covering his short position prior to the public announcement, Knall avoided \$55,281 in losses.

4. Knall, directly and indirectly, engaged in and, unless enjoined, will continue to engage in transactions, acts, practices, and courses of business which violate Section 14(e) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3] thereunder.

5. The Commission brings this action pursuant to Sections 21(d), 21(e) and 21A(a) of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78u-1(a)] seeking a permanent injunction, disgorgement of losses avoided, plus prejudgment interest, and a civil penalty.

#### **JURISDICTION**

6. This Court has jurisdiction pursuant to Sections 21 and 27 of the Exchange Act [15 U.S.C. §§ 78u and 78aa].

#### **THE DEFENDANT**

7. David W. Knall, age 63, resides in Indianapolis, Indiana. He is licensed by the Financial Industry Regulatory Authority (formerly known as the National Association of Securities Dealers) as a General Securities Representative and a General Securities Principal, and by the Indiana Secretary of State as an Agent and an Investment Adviser. He is a Managing Director and Financial Adviser at Stifel, Nicolaus & Company, Inc. ("Stifel"). For 37 years, from July 1969 through March 2005, he was employed, primarily as a Managing Director, at McDonald Investments Inc. ("McDonald"). Stifel and McDonald are broker-dealers and investment advisors registered with the Commission.

## **RELEVANT ENTITIES**

8. Galyan's Trading Company, Inc., was an Indiana corporation based in Plainfield, Indiana. It was a sporting goods retailer. Its common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act until approximately July 30, 2004, and was traded on the NASDAQ National Market System.

9. Dick's Sporting Goods, Inc., is a Delaware corporation based in Pittsburgh, Pennsylvania. It is a sporting goods retailer. Its common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and is traded on the New York Stock Exchange.

## **BACKGROUND REGARDING DICKS' TENDER OFFER FOR GALYANS STOCK**

10. On April 1, 2004, Dicks' representatives contacted Galyans' majority shareholder about potentially acquiring Galyans. By April 26, 2004, Dicks had sent Galyans drafts of a merger agreement, a shareholder tender agreement, a confidentiality agreement and a written request seeking additional information.

11. By May 14, 2004, Galyans and Dicks had discussed the proposed merger agreement and shareholder tender agreement, and Galyans' board authorized an investment banker to discuss with Dicks, among other things, the price per share Dicks would pay in the proposed acquisition.

12. From May 27 through June 21, 2004, Galyans and Dicks representatives negotiated the merger and shareholder tender agreements and a purchase price. During that period, from June 11 through June 15, 2004, Galyans, Dicks and their respective counsel discussed occupancy costs and restrictions on the use of Galyans stores. Dicks also formally engaged an investment banker.

13. On June 21, 2004, Galyans' board agreed to accept Dicks' proposal to purchase Galyans for \$16.75 per share in cash.

14. On June 21, 2004, after the close of trading, Dicks announced that it had entered into a definitive agreement and plan of merger to acquire all of the issued and outstanding stock of Galyans for \$16.75 per share in cash. Dicks also announced that the acquisition was structured as a cash tender offer and that it expected to commence the tender offer for Galyans shares on June 28, 2004. Galyans issued a similar press release.

15. On June 22, 2004, the day after the announcement, Galyans stock closed at \$16.68, a 50.3% increase from the previous day's closing price of \$11.10. During the three weeks prior to the announcement, Galyans stock closed at prices ranging from \$10.81 to \$11.16 per share.

**KNALL ACQUIRED MATERIAL, NONPUBLIC  
INFORMATION RELATING TO THE TENDER OFFER**

16. Knall obtained material, nonpublic information relating to the tender offer prior to the June 21, 2004, public announcement. Just after midnight on June 12, 2004, an individual informed Knall that Galyans had been sold.

17. The individual's source of information was an employee of a real estate company that had a business relationship with Dicks.

18. The real estate company helped Dicks locate sites for its stores and represented the company in negotiations with property owners. Recently, it had helped Dicks locate sites for stores in the Indianapolis area to compete directly with Galyans.

19. The real estate company employee learned about the proposed acquisition from a colleague while at work on Friday, June 11, 2004. The colleague learned earlier that day from a

Dicks vice president that the proposed acquisition was in all likelihood going to happen and was close to finalizing.

**KNALL COVERED A SHORT POSITION IN GALYANS STOCK**

20. On April 1 and 2, 2004, Knall had sold short in his personal brokerage account 10,000 shares of Galyans common stock at \$9.99 to \$10.18 per share.

21. An investor, like Knall, may “short” a stock or “sell short” by borrowing shares from a broker and selling those shares. Eventually, the investor must return the borrowed shares to the broker or “cover” the short position by purchasing shares of the stock. If the price of the stock drops, the investor can make money by selling high and buying low. If the price of the stock rises, on the other hand, the investor can lose money.

22. On Wednesday, June 16, 2004, three trading days after learning that Galyans had been sold, Knall covered his short position by purchasing 10,000 shares of Galyans common stock at \$11.03 to \$11.35 per share. By covering his short position prior to the public announcement of the acquisition, which caused Galyans’ stock price to increase, Knall avoided losses of \$55,281.

23. When Knall purchased Galyans stock to cover his short position, he had reason to know that he had obtained information about the proposed acquisition indirectly from a Dicks representative. He understood that the information about the acquisition came from an employee of a real estate company that represented Dicks and, therefore, surmised that Dicks was the acquiror.

24. When Knall purchased Galyans stock to cover his short position, he had reason to know that the information he possessed about the proposed acquisition was nonpublic. He was not aware of any public announcement or any material increase in Galyans stock price. He had

access to information about Galyans, including its stock price, but he did not try to determine whether the acquisition had been announced.

25. After Knall covered his short position on June 16, 2004, he realized that there had been no announcement of Dicks' proposed acquisition of Galyans. Four business days later, Knall reported his trade to McDonald's Chief Executive Officer and its Chief Compliance Officer, on the morning of June 22, 2004, the day after the proposed acquisition had been publicly announced.

### **CLAIM**

#### **Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3] thereunder**

26. Paragraphs 1 through 25 are realleged and incorporated by reference as though fully set forth herein.

27. After Dicks had taken a substantial step or steps to commence a tender offer for Galyans stock, Knall purchased or caused to be purchased Galyans stock, while in possession of material information relating to such tender offer that he knew or had reason to know was nonpublic and knew or had reason to know had been acquired directly or indirectly from the offering company, Dicks, or an officer, director, partner, employee or other person acting on behalf of Dicks.

28. As a result of the activities described above, Knall violated Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3] thereunder.

### **RELIEF REQUESTED**

**WHEREFORE**, the Commission respectfully requests that the Court:

(a) find that Knall violated Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3] thereunder;

(b) permanently enjoin Knall from violating Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3] thereunder;

(c) order Knall to pay to the Commission disgorgement of his ill-gotten gains resulting from the illegal trading alleged herein plus prejudgment interest;

(d) order Knall to pay a civil penalty pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1];

(e) 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; and order such other relief as the Court may deem appropriate.

Respectfully submitted,

/s/ Thomas J. Meier  
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