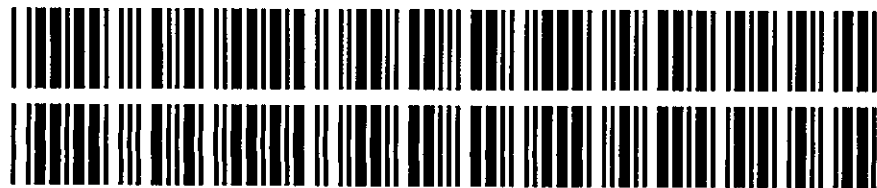
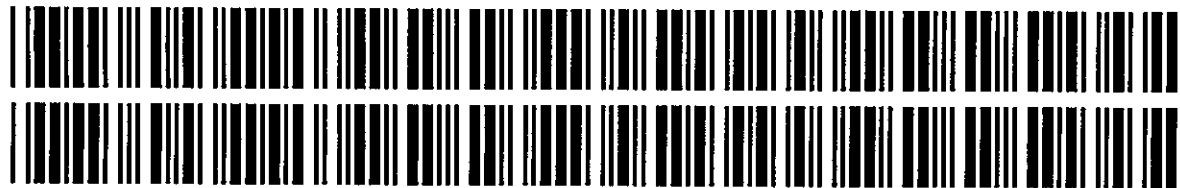


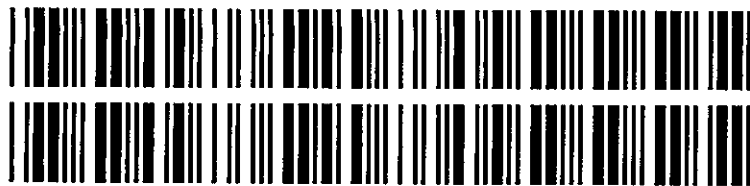
CV-S-00-1088



CV-S-00-1088-0001



09/05/2000



\*A / /



KATHERINE S. ADDLEMAN  
MICHAEL R. MACPHAIL  
ANDRES R. GUEVARA

Attorneys for Plaintiff  
SECURITIES AND EXCHANGE COMMISSION  
1801 California Street, Suite 4800  
Denver, Colorado 80202  
Telephone: (303) 844-1000  
Fax: (303) 844-1010

RECEIVED  
AND FILED  
SEP 5 3 02 PM '00  
CLERK  
BY *[Signature]*  
DEPUTY

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

vs.

LEE E. GAHR, and  
CHILL TECH INDUSTRIES, INC.,

Defendants.

CV-S-00-1088-KJD-RJJ

**COMPLAINT FOR  
INJUNCTIVE AND  
OTHER EQUITABLE  
RELIEF**

Plaintiff Securities and Exchange Commission ("Commission"), for its complaint alleges  
as follows:

**I. SUMMARY OF THE ACTION**

1. Between approximately September 1998 and May 2000, Chill Tech Industries, Inc. ("Chill Tech"), through its chief operating officer Lee E. Gahr ("Gahr"), made numerous false and misleading statements through an Internet website, various press releases, phony unsolicited faxes, and a magazine article. These statements concerned: (1) the "environmentally friendly" nature of, purported testing of, and Chill Tech's ability to manufacture, the "Arctic

1 Can," purportedly a self-cooling beverage can; (2) presentations of the Arctic Can to various  
2 well-known companies and governmental entities and related revenue and earnings projections;  
3 (3) financial and stock projections, and predictions of future listing of Chill Tech's stock on the  
4 Nasdaq Stock Market, In. ("Nasdaq"); and (4) Chill Tech's receipt of financing commitments  
5 and agreements to acquire substantial assets.

6  
7 2. Gahr, who ran Chill Tech pursuant to a management agreement, was responsible  
8 for all of the above statements.

9 3. Certain of the above statements caused the price and volume of Chill tech stock to  
10 increase significantly in the short term.

11 4. While Gahr was disseminating the false press releases, he personally sold  
12 1,056,500 shares of Chill Tech common stock for profits of at least \$278,738.

## 13 14 II. JURISDICTION AND VENUE

15 5. This Court has jurisdiction over this action pursuant to Section 22(a) of the  
16 Securities Act of 1933 [15 U.S.C. §77u(a)] ("Securities Act") and Sections 21(e) and 27 of the  
17 Securities and Exchange Act of 1934 [15 U.S.C. §§78u(e) and 78aa] ("Exchange Act"). Venue  
18 lies in this Court pursuant to Section 22(a) of the Securities Act and Section 27 of the Exchange  
19 Act.

20  
21 6. In connection with the transactions, acts, practices, and courses of business  
22 described in this Complaint, each of the defendants, directly and indirectly, has made use of the  
23 means or instrumentalities of interstate commerce, of the mails, and/or of the means and  
24 instruments of transportation or communication in interstate commerce.

1           7. Defendant Chill Tech resides within this judicial district. Additionally, certain of  
2 the transactions, acts, practices and course of business constituting the violations of law alleged  
3 occurred within this judicial district.  
4

5  
6                                   **III. DEFENDANTS**

7           8. Lee E. Gahr, age 36, is a resident of Vancouver, British Columbia, and was  
8 appointed chief operating officer on December 8, 1998. Gahr was in charge of the day-to-day  
9 operations of Chill Tech pursuant to a management agreement between Chill Tech and Biscay  
10 Management and Consulting Ltd. ("Biscay"), a private company that Gahr operated.

11          9. Chill Tech is a Nevada corporation.  
12

13                                   **IV. BACKGROUND**

14          **A. STATEMENTS MADE BY CHILL TECH AND GAHR**

15          10. Between September 1998 and August 17, 1999, Chill Tech issued 11 false and  
16 misleading press releases.

17          11. By no later than March 1999, Chill Tech posted on its Internet website,  
18 www.chilltech.com, past press releases dating back to November 1998. Chill Tech posted press  
19 releases dated as follows on its Internet website soon after they were issued: November 6, 1998;  
20 December 11, 1998; February 5, 1999; February 22, 1999; March 1, 1999; March 3, 1999;  
21 March 7, 1999; March 10, 1999; March 14, 1999; and May 3, 2000.  
22

23          12. Sometime between February and April 1999, at least two individuals in the  
24 United States received phony faxes touting Chill Tech stock. The faxes purported to consist of a  
25

1 promotional article concerning Chill Tech published in "Vision," a fictitious magazine  
2 supposedly published in Geneva, Switzerland.

3 13. A promotional article touting Chill Tech was published in the April 1999 issue of  
4 Market Pulse Journal, a quarterly publication with an unpaid circulation of approximately  
5 20,000.

6 14. These press releases, Internet website, phony faxes, and magazine article  
7 contained false and misleading statements concerning: (1) the "environmentally friendly" nature  
8 of, purported testing of, and Chill Tech's ability to manufacture, the "Arctic Can," purportedly a  
9 self-cooling beverage can; (2) "presentations" of the Arctic Can with a view towards selling the  
10 product to various well-known companies and governmental entities; (3) financial and stock  
11 price projections, and predictions of future Nasdaq listing; and (4) Chill Tech's receipt of  
12 financing commitments and agreements to acquire substantial assets.

13 15. Gahr and Chill Tech were the source of the statements contained in the press  
14 releases, Internet website, phony faxes, and the Market Pulse Journal article, or Gahr and Chill  
15 Tech drafted, approved, and/or reviewed such statements prior to their issuance.

16  
17  
18 **B. MISREPRESENTATIONS MADE BY CHILL TECH AND GAHR**

19 16. Gahr and Chill Tech publicly disseminated the following statements:

20 (a) In five press releases (issued December 11, 1998; February 5, 1999;  
21 March 1, 1999; March 3, 1999; and May 12, 1999), Chill Tech stated that the Arctic Can was a  
22 "technologically feasible, environmentally friendly, and economically competitive" product and  
23 in two press releases (issued September 9, 1998 and November 6, 1998), Chill Tech stated that it  
24 was developing a "self-chilling beverage can."  
25

1 (b) In a press release issued December 11, 1998, Chill Tech stated that all  
2 research and development of the Arctic Can had been completed and prototypes were being  
3 tested.

4 (c) In three press releases Chill Tech stated that it had negotiated with a  
5 German manufacturing company, GEMI, S.R.O. ("GEMI"), as follows:  
6

7 (i) In a press release issued on February 5, 1999, Chill Tech stated  
8 that it had received a letter of intent from GEMI for the manufacturing of the  
9 Arctic Can;

10 (ii) In a press release issued on February 22, 1999, Chill Tech stated  
11 that talks regarding manufacturing between Chill Tech and GEMI were  
12 continuing; and

13 (iii) In a press release issued on March 1, 1999, Chill Tech stated that it  
14 had entered into a "manufacturing agreement" with GEMI for GEMI to  
15 manufacture the Arctic Can.

16 (d) In three press releases Chill Tech stated that it had made presentations of  
17 the Arctic Can with a view towards selling the product to various companies and government  
18 entities as follows:  
19

20 (i) In a press release issued On March 3, 1999, Chill Tech stated that  
21 it had made an "official presentation" both to employees of the U.S. Navy and  
22 members of the U.S. Senate Armed Services Committee;

23 (ii) In a press release issued on March 10, 1999, Chill Tech stated that  
24 it had made a "proposal" to the U.S. Federal Emergency Management Agency  
25 ("FEMA"); and,

1 (iii) In a press release issued on March 14, 1999, Chill Tech stated that  
2 DelMonte Foods Corp. ("DelMonte") had invited Chill Tech to make a  
3 "presentation" later that month and that DelMonte was "extremely interested" in  
4 the Arctic Can.

5 (e) Chill Tech and/or Gahr made financial projections as follows:

6 (i) In a press release issued on March 3, 1999, Chill Tech stated that  
7 its profits from a contract with the U.S. Navy would exceed \$5 million dollars per  
8 year.

9 (ii) In a press release issued on March 10, 1999, Chill Tech stated that  
10 a contract with FEMA could generate up to "an additional three million dollars  
11 worth of annual revenue."

12 (iii) In an April 1999 article published in the Market Pulse Journal  
13 Chill Tech stated that it would earn more than \$9 million during its "first year" of  
14 operations, more than \$28 million during the second year, and "an estimated" \$48  
15 million by the third year.

16 (iv) The phony faxes stated that Chill Tech common stock would reach  
17 a price of \$15-\$20 a share by the year 2000.

18 (f) Chill Tech claimed to have received offers of financing from The Globus  
19 Group ("Globus") as follows:

20 (i) In a press release issued on March 1, 1999, Chill Tech stated that it  
21 had received an offer of \$12 million in financing by Globus; and  
22  
23  
24  
25

1 (ii) In a press release issued on March 7, 1999, Chill Tech stated that it  
2 would pursue the acquisition of \$4 million worth of "NASD-approved assets in  
3 the form of television air time" in a deal developed by Globus.

4 (g) The March 7, 1999 press release further stated that Chill Tech's  
5 acquisition of assets in the form of television air time would provide the company with "the asset  
6 base" required to be quoted on the Nasdaq Small Cap market.

7 (h) The phony faxes stated that corporate entities Anheuser-Busch Cos. Inc.  
8 and The Coca-Cola Co. were "rumored to be proposing buy-outs" of Chill Tech.

9  
10 17. The foregoing statements were false and/or misleading for the following reasons:

11 (a) The Arctic Can was not "environmentally friendly" since the product  
12 contained Freon, a substance banned because of environmental concerns under international  
13 treaty since 1996 - - a fact which the company admitted in a May 3, 2000 press release but failed  
14 to disclose in any of its prior press releases, included those issued on September 9 and November  
15 6, 1998.

16 (b) No product testing was begun before early 2000.

17 (c) No letter of intent was signed and no manufacturing agreement existed  
18 between Chill Tech and GEMI.

19 (d) No face-to-face meetings or other presentations regarding the Arctic Can  
20 occurred:

21 (i) Chill Tech merely mailed unsolicited correspondence to the U.S.  
22 Navy and no correspondence was sent to the members of the U.S. Senate Armed  
23 Services Committee Senate;  
24  
25



1 (ii) Chill Tech merely mailed unsolicited correspondence to FEMA;  
2 and

3 (iii) DelMonte was not "extremely interested" in the Arctic Can and no  
4 meeting or other "presentation" had been scheduled. DelMonte requested  
5 additional information about the Arctic Can that the Defendants never provided.

6 (e) The financial projections in the March 3, 1999 press release, the March  
7 10, 1999 press release, the Market Pulse Journal, and in the phony faxes each lacked a  
8 reasonable basis because, among other reasons, they were predicated on fictitious business  
9 relationships and undermined by Chill Tech's developmental stage status, lack of a viable  
10 product, and lack of significant assets or revenues.

11 (f) The March 1, 1999 and March 7, 1999 press releases regarding financing  
12 were each false because neither Globus nor its principal Bruce Gorcyca a/k/a/ Anthony DiMarco  
13 ("DiMarco") possessed or otherwise had access to the represented assets or financing.

14 (g) The March 7, 1999 press release was false because Chill Tech lacked the  
15 assets, capitalization, net income and/or bid price necessary to satisfy Nasdaq's requirements for  
16 listing.

17 (h) The claims in the phony faxes regarding a "buyout" of Chill Tech by  
18 Anheuser-Busch were false because Anheuser-Busch never considered a business combination  
19 with Chill Tech.  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**V. MARKET IMPACT**

18. Some of the false statements disseminated by the Defendants substantially impacted the market for Chill Tech Stock.

19. The closing price of Chill Tech stock increase between 15% and 94% on the dates of four of the press releases. These included: the September 9, 1998 press releases initially touting the Arctic Can (closing price increase by 89% from \$1.03 to \$2); the December 11, 1998 press release concerning testing and manufacturing of the Arctic Can (closing price increased by 15% from \$1.03 to \$1.19); the March 10, 1999 press release regarding a purported business relationship with FEMA (closing price increased by 21% from \$.75 to \$.91); and the August 17, 1999 press release disclosing delays in producing the Arctic Can, but expressing confidence in eventual production (closing price increased by 94% from \$.16 to \$.31). In addition, reported volume on the dates of six of the press releases increased between 51% and 734%.

**VI. GAHR'S TRADING**

20. From January through December 1999, Gahr sold at least 1,056,500 shares of Chill Tech common stock at prices between \$1.09 and \$.04 per share through Canadian and U.S. brokerage accounts in his and Biscay's names.

21. At least some of these shares came directly from Chill Tech and were issued between December 1998 and June 1999.

22. On four occasions, Gahr sold stock on the date of, or one day after, the issuance of a false press release by Chill Tech.

23. Gahr realized profits of at least \$278,738 through these sales.

**FIRST CAUSE OF ACTION**

(Violations of Exchange Act §10(b) and Rule 10b-5)

24. Plaintiff repeats and realleges paragraphs 1 through 23 above.

25. Defendants Gahr and Chill Tech, with scienter, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce or of the mails, directly or indirectly: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material facts 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; or (c) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit upon purchasers of securities in violation of Section 10(b) of the Exchange Act [15 U.S.C. §78j(b)] and Rule 10b-5 [17 C.F.R. §240.10b-5] thereunder.

26. By reason of the foregoing, Defendants Gahr and Chill Tech violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and unless restrained and enjoined will continue to do so.

**SECOND CAUSE OF ACTION**

(Violations of Securities Act § 17(a)(1))

27. Plaintiff repeats and realleges paragraphs 1 through 23 above.

28. Defendant Gahr; with scienter, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce, or by the use of the mails, directly or indirectly employed devices, schemes or artifices to defraud in violation of Section 17(a)(1) of the Securities Act [15 U.S.C. § 77q(a)(1)]. 29. By reason of the foregoing, Defendant Gahr violated Section 17(a)(1) of the Securities Act and unless restrained

1 and enjoined will continue to do so.

2  
3 **THIRD CAUSE OF ACTION**

4 (Violations of Securities Act §§ 17(a)(2) and (3))

5 30. Plaintiff repeats and realleges paragraphs 1 through 23 above.

6 31. Defendant Gahr, in the offer or sale of securities, by the use of means or  
7 instruments of transportation or communication in interstate commerce, or by the use of the  
8 mails, directly or indirectly (a) obtained money or property by means of untrue statements of  
9 material fact and by omissions to state material facts necessary in order to make the statements  
10 made, in the light of the circumstances under which they were made, not misleading; or (b)  
11 engaged in transactions, practices or courses of business which operate, operated or would  
12 operate as a fraud or deceit upon purchasers of securities in violation of Sections 17(a)(2) and (3)  
13 of the Securities Act [15 U.S.C. §§ 77q(a)(2) and (3)].  
14

15 32. By reason of the foregoing, Defendant Gahr violated Sections 17(a)(2) and (3) of  
16 the Securities Act and unless restrained and enjoined will continue to do so.  
17

18  
19 **FOURTH CAUSE OF ACTION**

20 (Violations of Securities Act § 5(a) and 5(c))

21 33. Plaintiff repeats and realleges paragraphs 1 through 23 above.

22 34. Defendant Gahr, directly and indirectly, in connection with the sale and offer to  
23 sell securities by the means or instruments of transportation or communication in interstate  
24 commerce, or the mails, has:

25 35. Caused to be carried through the mails or in interstate commerce securities for the

1 purpose of sale or for delivery after sale when no registration statement was in effect; and

2 36. By reason of the foregoing, Defendant Gahr violated Sections 5(a) and 5(c) of the  
3 Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].  
4

5 **WHEREFORE**, the Commission respectfully requests that this Court:  
6

7 **I.**

8 Enter a permanent injunction restraining and enjoining Defendants Gahr and Chill Tech,  
9 their subsidiaries, officers, directors, agents, servants, employees, and attorneys-in-fact, and all  
10 persons in active concert or participation with them, and each of them, from violating, directly or  
11 indirectly, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

12 **II.**

13 Enter a permanent injunction restraining and enjoining Defendant Gahr his subsidiaries,  
14 officers, directors, agents, servants, employees, and attorneys-in-fact, and all persons in active  
15 concert or participation with him from violating, directly or indirectly, Sections 17(a)(1),  
16 17(a)(2) and 17(a)(3) of the Securities Act.  
17

18 **III.**

19 Enter a permanent injunction restraining and enjoining Defendant Gahr, his subsidiaries,  
20 officers, directors, agents, servants, employees, and attorneys-in-fact, and all persons in active  
21 concert or participation with him from violating, directly or indirectly, Sections 5(a) and 5(c) of  
22 the Securities Act.  
23  
24  
25

IV.

Order Defendant Gahr to disgorge all illegal gains, together with prejudgment interest.

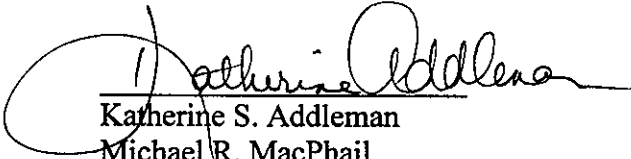
V.

Order Defendant Gahr to pay civil money penalties pursuant to Section 20(d)(i) of the Securities Act [15 U.S.C. 77t(d)(i)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. 78u(d)(3)].

VI.

Grant such other relief as this Court may deem just or appropriate.

Dated: 9/5, 2000

  
Katherine S. Addleman  
Michael R. MacPhail  
Andres R. Guevara

Attorneys for Plaintiff  
Securities and Exchange Commission  
1801 California Street, Suite 4800  
Denver, Colorado 80202  
(303) 844-1000  
(303) 844-1010 (fax)