

1 TERRY R. MILLER (Colo. Bar No. 39007)
2 SECURITIES AND EXCHANGE COMMISSION
3 1961 Stout Street, Suite 1700
4 Denver, Colorado 80294
5 (303) 844-1000
6 millerte@sec.gov
7 Attorney for Plaintiff

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9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11
12 UNITED STATES SECURITIES AND
13 EXCHANGE COMMISSION,

14 Plaintiff,

15 vs.

16 JOHN P. MENDES and ANDRE
17 DABBAGHIAN,

18 Defendants.

Case No. 4:22-cv-05340

COMPLAINT

DEMAND FOR JURY TRIAL

19 Plaintiff, the United States Securities and Exchange Commission (“SEC”), alleges:

20 **SUMMARY**

21 1. This action involves insider trading by Defendant John P. Mendes (“Mendes”) based
22 on material nonpublic information obtained from his close friend, Defendant Andre Dabbaghian
23 (“Dabbaghian”), about an impending corporate transaction.

24 2. In late 2017 and early 2018, Mendes, who worked at a dually-registered broker-
25 dealer and investment adviser, purchased the securities of Layne Christensen Company (“Layne”)
26 in his wife’s brokerage account and for the accounts of other family and friends who were his
27 clients and customers based on inside information that Dabbaghian’s employer, Granite
28 Construction Inc. (“Granite”), was going to acquire Layne. He also recommended that friends do so
as well.

1 3. Dabbaghian worked as the Senior Manager of Corporate Development at Granite,
2 played an integral role in Granite’s negotiations to acquire Layne, and possessed material nonpublic
3 information concerning the Layne acquisition prior to the public announcement of the deal on
4 February 14, 2018 (“Announcement”). He owed his employer, Granite, a duty not to disclose such
5 information about the Layne acquisition. In breach of the duty that he owed Granite, Dabbaghian
6 provided material nonpublic information about the Layne acquisition to his friend Mendes, whom
7 Dabbaghian knew was a registered representative and investment adviser with a dually-registered
8 broker-dealer and investment adviser.

9 4. From November 3, 2017 through February 13, 2018, Mendes purchased Layne
10 securities for his wife and at least 18 different customers and clients (including his parents) based
11 on the information that Dabbaghian shared with him about the Layne acquisition.

12 5. After the Announcement, which occurred prior to market open on February 14, 2018,
13 the price of Layne shares closed at \$14.89, an increase of \$2.27 per share or 18% from the previous
14 day’s closing price. As a result of Mendes’s trades, his wife, customers, and clients made combined
15 profits of approximately \$170,000.

16 6. By engaging in the conduct described in this Complaint, Defendants violated, and
17 unless restrained and enjoined will continue to violate, Section 10(b) of the Securities Exchange Act
18 of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §§ 240.10b-
19 5].

20 7. The SEC brings this action pursuant to the authority conferred upon it by Exchange
21 Act Sections 21(d) and 21A [15 U.S.C. §§ 78u(d); 78u-1]. The SEC seeks a final judgment:
22 (a) permanently enjoining Defendants from violating the federal securities laws alleged in this
23 Complaint; (b) ordering Mendes to disgorge any ill-gotten gains he received with prejudgment
24 interest thereon pursuant to Exchange Act Sections 21(d)(5) and (d)(7) [15 U.S.C. §§ 78u(d)(5) and
25 78u(d)(7)]; (c) ordering both Defendants to pay civil money penalties pursuant to Exchange Act
26 Section 21A [15 U.S.C. § 78u-1]; (d) prohibiting both Defendants, pursuant to Section 21(d)(2) of
27 the Exchange Act [15 U.S.C. § 78u(d)(2)], from acting as an officer or director of any issuer that
28 has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or

1 that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)];
2 and (e) ordering any other and further relief the Court may deem just and proper.

3 **JURISDICTION AND VENUE**

4 8. **Jurisdiction.** This Court has jurisdiction over this action pursuant to Sections 21(d),
5 21A, and 27(a) of the Exchange Act [15 U.S.C. §§ 78u(d); 78u-1; 78aa(a)].

6 9. **Venue.** Venue is proper in this District pursuant to Section 27(a) of the Exchange
7 Act [15 U.S.C. § 78aa(a)]. Defendant Dabbaghian resides in this district and certain of the acts,
8 practices, transactions, and courses of business alleged in this Complaint occurred within this
9 District, including certain communications in which Dabbaghian conveyed to Mendes material
10 nonpublic information about the Layne acquisition and Mendes placing orders for the purchase of
11 Layne securities.

12 10. **Divisional Assignment.** Under Civil Local Rule 3-2(d), this case should be assigned
13 to the San Francisco or Oakland Division because a substantial part of the acts, practices,
14 transactions, and course of business alleged in this Complaint occurred within Alameda County,
15 including the majority of the purchases of Layne securities alleged in this Complaint.

16 **DEFENDANTS**

17 11. **John P. Mendes** resides in Philadelphia, Pennsylvania. From at least January 2013
18 through the present, Mendes has worked as a registered representative and investment adviser
19 representative with a dually-registered broker-dealer and investment adviser.

20 12. **Andre Dabbaghian** resides in Santa Cruz, California. From at least 2012 through at
21 least 2019, Dabbaghian worked for Granite. From at least November 2015 through mid-2018,
22 Dabbaghian served as the Senior Manager of Corporate Development at Granite. Dabbaghian was
23 formerly registered as a securities broker with the Financial Industry Regulatory Authority
24 (“FINRA”) and previously worked as an investment banking analyst.

RELEVANT ENTITIES

1
2 13. **Granite Construction Inc.** is a construction and construction materials company
3 that is headquartered in Watsonville, California. Granite’s common stock is listed and publicly
4 traded on the New York Stock Exchange.

5 14. **Layne Christensen Company** was a global water management, infrastructure
6 services, and drilling company headquartered in The Woodlands, Texas. In June 2018, Granite
7 acquired all of the assets of Layne. Prior to its acquisition by Granite, Layne’s common stock was
8 listed on the NASDAQ exchange and traded under the symbol “LAYN.”

9 **FACTS**

10 **A. Dabbaghian’s Role at Granite**

11 15. Dabbaghian worked as the Senior Manager of Granite’s Corporate Development
12 division from at least November 2015 through mid-2018. His duties included working on the
13 expansion of Granite through organic growth and mergers and acquisitions (“M&A”) by identifying
14 M&A opportunities and acquisition targets for Granite, conducting valuation analysis of those
15 opportunities and targets, and preparing reports and materials relating to potential M&A
16 opportunities and targets for Granite’s board of directors and senior executives.

17 16. As an employee of Granite, Dabbaghian was subject to the company’s policies and
18 procedures, including policies relating to insider trading and treatment of material nonpublic
19 information. Under those policies, which were in effect during 2017 and 2018 and at all times
20 relevant to the facts herein, Dabbaghian owed Granite a duty not to disclose material nonpublic
21 information without a corporate purpose, including information relating to the potential acquisition
22 of another company by Granite.

23 17. Dabbaghian was aware of and understood his duty to Granite with respect to material
24 nonpublic information based on his experience at Granite and prior experience as an investment
25 banking analyst.

26 **B. Dabbaghian’s Relationship with Mendes**

27 18. Dabbaghian and Mendes have known each other since high school. In 2017 and early
28

1 2018, Mendes was Dabbaghian's closest friend. Dabbaghian and Mendes socialized in person and
2 frequently communicated about investing in the stock market and cryptocurrency, their careers, and
3 all aspects of their personal lives, including Dabbaghian's work at Granite. Mendes knew that
4 Dabbaghian worked on potential M&A deals for Granite.

5 19. Mendes discussed his business and career with Dabbaghian. Mendes invited
6 Dabbaghian to start a business with him. Dabbaghian gave Mendes free advice and guidance
7 regarding his career and business ideas. At all times relevant to the facts herein, Dabbaghian knew
8 that Mendes was a registered representative who traded in securities on behalf of his customers and
9 clients.

10 **C. Granite's Acquisition of Layne**

11 20. Granite identified Layne as an acquisition target during 2016, but the company's
12 efforts to acquire Layne were unsuccessful. Granite reengaged in potential acquisition discussions
13 with Layne in mid-September 2017, and the companies worked closely on the potential deal until
14 February 14, 2018, when the companies announced that they had entered into an agreement under
15 which Granite would acquire all of the outstanding shares of Layne in a stock-for-stock transaction
16 valued at \$565 million or \$17 per share of Layne's stock.

17 21. Dabbaghian was involved in Granite's potential acquisition of Layne from at least
18 June 2016 through the date of the Announcement. He was one of a handful of Granite employees
19 involved in negotiating the deal and drafting presentations to Granite's board of directors
20 throughout the entire transaction process.

21 22. Dabbaghian participated in the valuation of Layne, drafted Granite's proposals and
22 offer letters to Layne, circulated and kept track of the acknowledgements of Granite's nondisclosure
23 agreement with Layne executed by members of Granite's deal team, and participated in due
24 diligence meetings in Texas, where Layne was located.

25 **D. Dabbaghian Provided Material Nonpublic Information to Mendes**

26 23. During the fourth quarter of 2016, Dabbaghian told Mendes that Layne and a handful
27 of other companies were on Granite's short list of potential acquisition targets.

28 24. After Granite reengaged in discussions with Layne in September 2017, Dabbaghian

1 again told Mendes about Granite’s interest in acquiring Layne. In particular, in early October 2017,
2 Dabbaghian mentioned Layne by name and spoke at length with Mendes about Granite’s potential
3 acquisition of Layne.

4 25. In the following weeks, Dabbaghian informed Mendes that he was working on
5 Granite’s proposal to acquire Layne and that Granite’s board had approved an acquisition of Layne
6 at a cost of up to \$15.25 per share.

7 26. From October 2017 through the date of the Announcement, Dabbaghian and Mendes
8 exchanged text messages discussing details of the Layne negotiations, which they referred to as
9 “Houston,” given Layne’s proximity to Houston, Texas. These text messages included information
10 such as the timing of Granite’s offer letters to Layne, the specific share prices offered for Layne’s
11 stock, outcomes of Granite’s meetings with Layne management, and the anticipated timing of the
12 execution of the merger agreement.

13 27. During this same period, Dabbaghian and Mendes had phone calls at least weekly
14 where Dabbaghian provided further details to Mendes on the status of Granite’s bid for Layne.

15 **E. Mendes Illegally Traded Layne Securities**

16 28. In late 2017 and early 2018, Mendes purchased Layne securities – including shares
17 of stock and equity options – for his wife and at least 18 of his customers and clients based on
18 material nonpublic information about the Layne acquisition that he received from Dabbaghian.
19 Many of these customers and clients were family members and close, personal friends. The trades
20 often followed key events in Granite’s efforts to acquire Layne.

21 29. From November 10, 2017, through February 12, 2018, Mendes purchased Layne
22 securities in two accounts held by his wife, including both stock and risky call options.

23 30. From November 3, 2017, through January 8, 2018, Mendes purchased Layne stock
24 in an account held by his parents.

25 31. From November 3, 2017, through February 13, 2018, Mendes purchased Layne
26 securities for his customers and clients. Mendes initially purchased shares of Layne stock for his
27 customers and clients, but as he learned more about the progress and timing of the deal, he also
28 purchased Layne call options for a select group, including options with expiration dates close in

1 time to when Mendes anticipated the public announcement of the acquisition based on material
2 nonpublic information provided by Dabbaghian.

3 32. Upon the announcement of Granite's agreement to acquire Layne, Mendes's illegal
4 trading generated profits of approximately \$33,200 in his wife's accounts, \$9,200 in his parents'
5 accounts, and \$127,400 in his other customers' and clients' accounts.

6 33. Mendes received commissions of \$8,753.75 on his illegal trading in the customer
7 and client accounts.

8 **FIRST CLAIM FOR RELIEF**

9 **CLAIM I**

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

12 34. The SEC realleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 33, inclusive, as if they were fully set forth herein.

14 35. At all relevant times, Granite's policies and procedures required that Dabbaghian
15 maintain the confidentiality of Granite's material nonpublic information and prohibited him from
16 disclosing this information to others without a corporate purpose.

17 36. Dabbaghian provided his close, personal friend Mendes with material nonpublic
18 information about Granite's potential acquisition of Layne in violation of Granite's policies and
19 procedures and in breach of the duty he owed to the company and its shareholders.

20 37. Dabbaghian knew or recklessly disregarded that the information he provided was
21 material and nonpublic and that he had breached his duty by disclosing insider information to
22 Mendes.

23 38. Dabbaghian received a personal benefit from providing the material nonpublic
24 information to Mendes, including the benefit of providing a gift of information to a close friend.

25 39. Dabbaghian also recklessly disregarded that Mendes would trade on the material
26 nonpublic information he provided.

27 40. Mendes purchased Layne securities based on material nonpublic information that he
28 received from Dabbaghian. Mendes knew or recklessly disregarded that the information was
material and nonpublic.

1 41. Mendes knew, was reckless in not knowing, or consciously avoided knowing that the
2 information he received from Dabbaghian was conveyed in breach of Dabbaghian's duty or similar
3 obligation arising from a relationship of trust and confidence owed to Granite and its shareholders.

4 42. By virtue of the foregoing, Defendants, singly or in concert with others, in
5 connection with the purchase or sale of securities, by the use of the means or instrumentalities of
6 interstate commerce, or of the mails, or a facility of a national securities exchange, directly or
7 indirectly: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of
8 material fact or omitted to state material facts necessary in order to make the statements made, in
9 the light of the circumstances under which they were made, not misleading; or (c) engaged in acts,
10 practices, or courses of business which operated or would have operated as a fraud or deceit upon
11 persons. By virtue of the foregoing, Defendants, directly or indirectly, violated, and unless enjoined,
12 will again violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5
13 thereunder [17 C.F.R. § 240.10b-5].

14 **PRAYER FOR RELIEF**

15 WHEREFORE, the SEC respectfully requests that the Court enter a Final Judgment:

16 **I.**

17 Finding that Defendants violated the provisions of the federal securities laws as alleged
18 herein;

19 **II.**

20 Permanently restraining and enjoining Defendants from, directly or indirectly, engaging in
21 conduct in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5
22 thereunder [17 C.F.R. § 240.10b-5];

23 **III.**

24 Prohibiting Defendants, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. §
25 78u(d)(2)], from acting as an officer or director of any issuer that has a class of securities registered
26 pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports
27 pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)];
28

1 **IV**

2 Ordering Defendant Mendes to disgorge all ill-gotten gains, plus prejudgment interest;

3 **V.**

4 Ordering Defendants to pay civil penalties pursuant to Section 21A of the Exchange Act [15
5 U.S.C. § 78u-1]; and

6 **VI.**

7 Granting such other and further relief as this Court may deem just, equitable, or necessary in
8 connection with the enforcement of the federal securities laws and for the protection of investors.

9 **JURY DEMAND**

10 The Commission demands a trial by jury on all claims so triable.

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12 Dated: September 20, 2022

Respectfully submitted,

13
14 /s/ Terry R. Miller

15 Terry R. Miller
16 Securities and Exchange Commission
17 Denver Regional Office
18 Byron G. Rogers Federal Building
19 1961 Stout Street, Suite 1700
20 Denver, CO 80294-1961
21 (303) 844-1041
22 Email: millerte@sec.gov

23 *Attorneys for Plaintiff*
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26
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