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01 CV

3872

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JORGE EDUARDO BALLESTEROS FRANCO,
TESTAMENTARIA DEL SEÑOR JOSE LUIS
BALLESTEROS FRANCO,
JOSE LUIS BALLESTEROS GUTIERREZ,
JUAN PABLO BALLESTEROS GUTIERREZ,
ALEJANDRO BALLESTEROS GUTIERREZ,
RICARDO BALLESTEROS GUTIERREZ,
EUGENIO MINVIELLE ZAMUDIO,
CARLOS MINVIELLE LAGOS,
SAGITTON LIMITED,
GIANNI ENTERPRISES LIMITED,
GIANNI TRUST,
CARDINAL TRUST,
CASFORD LIMITED,
INTERCONSULTING LIMITED,
DEHCOT S.A. de C.V.,
and PARKESBURG CORP.,

Defendants.

FILED
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01 Civ. _____ ()

COMPLAINT

Plaintiff Securities and Exchange Commission alleges:

1. This case arises from massive and highly profitable insider trading in the common stock of Nalco Chemical Company by a member of Nalco's board of directors, his brother, his four sons, and others. The Nalco board member, Jose Luis Ballesteros Franco, was until May 2000 also the Vice-Chairman of a major Mexican construction company, Grupo Mexicano de Desarrollo, S.A. de C.V. On May 28, 2000, he died in a car accident in Mexico. His brother, Jorge E. Ballesteros Franco, is Chairman of Grupo Mexicano.

2. Jose Luis and his brother Jorge Ballesteros used accounts controlled by offshore family trusts to buy Nalco common stock shortly before June 28, 1999, the day that Nalco and a French company, Suez Lyonnaise des Eaux, S.A., jointly announced that a Suez subsidiary would make a tender offer within five business days for all outstanding Nalco common stock at a substantial premium. As a Nalco director, Jose Luis Ballesteros obtained material nonpublic information concerning the Nalco acquisition, and communicated that information to his brother, Jorge Ballesteros. While in possession of that information, Jose Luis and Jorge Ballesteros purchased at least 216,300 Nalco shares at a cost of approximately \$7.2 million, and made illegal profits of more than \$3.2 million.

3. Jose Luis Ballesteros also tipped his four sons, one an analyst in the Investment Banking Division at a major New York investment bank, and another a graduate business student in the United States. Like their father and their uncle, the four sons each bought Nalco shares shortly before the June 28 announcement of the tender offer for Nalco. Using accounts in the names of two foreign corporations, the sons bought 17,664 Nalco shares for approximately :

\$777,000, and made illegal profits of more than \$150,000.

4. Additionally, one of the sons, Jose Luis Ballesteros Gutierrez, tipped a longtime friend, Carlos Minvielle Lagos, who then tipped his father, Eugenio Minvielle Zamudio. These defendants also bought Nalco stock in the week before the merger announcement using separate accounts in the names of different foreign corporations. Together, the Minvielles caused to be purchased 29,365 Nalco shares for approximately \$1.1 million and made over \$400,000 in illegal profits. Approximately half of the profits from Carlos Minvielle's trading (\$21,900) were shared with Jose Luis Ballesteros Gutierrez.

5. The SEC seeks, with respect to all of the defendants except the estate of Jose Luis Ballesteros, injunctions against future violations, full disgorgement of the defendants' illegal profits together with prejudgment interest, and civil monetary penalties pursuant to Sections 21(d)(1), 21(e) and 21A of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d)(1), (e) and § 78u-1]. The SEC seeks disgorgement of illegal profits together with prejudgment interest from the estate of Jose Luis Ballesteros.

JURISDICTION AND VENUE

6. This Court has jurisdiction pursuant to Sections 21(d)(1), 21(e), 21A and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(1) and (e), 78u-1 and 78aa]. Defendants directly or indirectly used the means or instrumentalities of interstate commerce or the mails, or the facilities of a national securities exchange, in connection with their illegal conduct.

7. Venue is proper because defendants placed most of their orders for the securities transactions at issue in this District, and because Nalco's common stock is listed on the New York Stock Exchange.

DEFENDANTS

8. Defendant Jorge Eduardo Ballesteros Franco, age 54, is the brother of Jose Luis Ballesteros Franco, and is a Mexican citizen. Jorge Ballesteros is the Chairman of Grupo Mexicano.

9. Defendant Testamentaria Del Señor Jose Luis Ballesteros Franco is the legal successor in interest to Jose Luis Ballesteros Franco. Jose Luis Ballesteros died in a car accident in Mexico on May 28, 2000. Jose Luis Ballesteros joined Nalco's board of directors on January 1, 1995, and also served as a member of its audit committee. He was the Vice-Chairman of Grupo Mexicano, and a Mexican citizen.

10. Defendant Jose Luis Ballesteros Gutierrez, age 32, is the son of Jose Luis Ballesteros Franco, and is a Mexican citizen. Jose Luis Ballesteros Gutierrez is a self-employed businessman, and resides in Mexico.

11. Defendant Juan Pablo Ballesteros Gutierrez, age 31, is the son of Jose Luis Ballesteros, and is a Mexican citizen. Juan Pablo Ballesteros Gutierrez is employed by Grupo Mexicano, and resides in Mexico.

12. Defendant Alejandro Ballesteros Gutierrez, age 29, is the son of Jose Luis Ballesteros Franco, and is a Mexican citizen. During 1999, Alejandro Ballesteros Gutierrez was a graduate student at the Harvard Business School in Cambridge, Massachusetts.

13. Defendant Ricardo Ballesteros Gutierrez, age 27, is the son of Jose Luis Ballesteros Franco, and is a Mexican citizen. At the time of his illegal conduct, Ricardo Ballesteros Gutierrez was employed as an intern at Lehman Brothers Inc. in Mexico. He later became an analyst in the Investment Banking Division of Lehman Brothers Inc. in New York, but was terminated from that position on or about March 10, 2000.

14. Defendant Eugenio Minvielle Zamudio ("Eugenio Minvielle"), age 68, is a real estate investor. He is a Mexican citizen and resides in Mexico.

15. Defendant Carlos Minvielle Lagos ("Carlos Minvielle"), age 33, is the son of Eugenio Minvielle, and is a Mexican citizen. Carlos Minvielle has had a longstanding friendship with Jose Luis Ballesteros Gutierrez.

16. Defendant Gianni Trust is a trust administered by BT Trustees (Jersey) Ltd. Jorge Ballesteros has authority to invest Gianni Trust assets. Jorge and Jose Luis Ballesteros' mother is the settlor of Gianni Trust. Jorge is and Jose Luis Ballesteros was (with their mother and three siblings) the beneficiaries of Gianni Trust. Gianni Trust owns all of the stock of Gianni Enterprises Limited.

17. Defendant Gianni Enterprises Limited is a private company administered by BT Trustees (Jersey) Ltd. with nominee directors, and is registered in the Republic of Ireland. Jorge Ballesteros directs the investments of Gianni Enterprises which maintains an account in Switzerland at Bankers Trust AG.

18. Defendant Cardinal Trust is a trust administered by BT Trustees (Jersey) Ltd. Jorge Ballesteros has authority to invest Cardinal Trust assets. Jorge Ballesteros' wife is the

settlor of Cardinal Trust. Jorge Ballesteros is (with his children) the beneficiary of Cardinal Trust. Cardinal Trust owns all of the stock of Sagitton Limited.

19. Defendant Sagitton Limited is a private company administered by BT Trustees (Jersey) Ltd. with nominee directors, and is registered in the Republic of Ireland. Jorge Ballesteros directs the investments of Sagitton, which maintains an account in Switzerland at Bankers Trust AG.

20. Defendant Casford Limited ("Casford") is a company registered under the laws of the British Virgin Islands and owned by Juan Pablo Ballesteros Gutierrez, who directs the investments of Casford. It has an account at Stanford Group Company in Houston, Texas.

21. Defendant Interconsulting Limited ("Interconsulting") is a company registered under the laws of Antigua and Barbuda. Defendant Jose Luis Ballesteros Gutierrez is the president and corporate secretary of Interconsulting and directs its investments. Interconsulting maintained an account at Stanford Group Company in Houston, Texas.

22. Defendant Dehcot S.A. de C.V. ("Dehcot") is a company registered under the laws of Mexico and owned by members of the Minvielle family. Carlos Minvielle is the corporate secretary of Dehcot. Dehcot maintained an account at Laredo National Bank, Laredo, Texas, and PrimeVest Financial Services, Inc., St. Cloud, Minnesota.

23. Defendant Parkesburg Corp. ("Parkesburg") is a company registered under the laws of Nevis, West Indies and jointly owned by Eugenio and Carlos Minvielle. Eugenio Minvielle is the president of Parkesburg. Carlos Minvielle is the treasurer and corporate

secretary of Parkesburg. Parkesburg maintains an account in New York City at Salomon Smith Barney.

OTHER RELEVANT ENTITIES

24. Tula Trust is a trust administered by BT Trustees (Jersey) Ltd. Jose Luis Ballesteros had authority to invest Tula Trust's assets, was (with his wife) the settlor of Tula Trust, and was (with his wife and children) the beneficiary of Tula Trust. Tula Trust owns all of the stock of Artarmia Limited.

25. Artarmia Limited is a private company administered by BT Trustees (Jersey) Ltd. with nominee directors, and is registered in the Republic of Ireland. Jose Luis Ballesteros directed the investments of Artarmia, which maintains accounts in Switzerland at Bankers Trust AG and UBS AG.

26. Nashbark Limited ("Nashbark") is a private company administered by Confidas Finance et Placement, Zurich, Switzerland, with nominee directors, and is registered in the Republic of Ireland. Jose Luis Ballesteros was the beneficial owner of Nashbark. Jose Luis Ballesteros directed the investments of Nashbark, which maintains accounts in New York City at Citibank, N.A.

27. Nalco Chemical Company is a Delaware corporation headquartered in Naperville, Illinois. Nalco manufactures and sells chemicals used in water treatment, pollution control, electric generation and other industrial processes. Nalco's common stock was, at all relevant

times, registered pursuant to Section 12(b) of the Exchange Act and listed on the New York Stock Exchange.

28. Suez Lyonnaise des Eaux, SA is a French company headquartered in Paris, France. Suez is involved in construction, water distribution, waste management, communications, energy distribution and real estate investment. Its stock trades on the Paris Bourse.

29. H2O Acquisition Co. is a Delaware corporation that is a wholly-owned subsidiary of Suez. Suez used H2O as its corporate vehicle to acquire Nalco.

COUNT I
(Violations of Exchange Act
Section 10(b) and Rule 10b-5)

30. Plaintiff SEC repeats and realleges Paragraphs 1 through 29 above.

Nalco's Policies Concerning Insider Trading

31. At all relevant times, Nalco's policies prohibited its directors from using any material nonpublic information concerning Nalco to buy or sell Nalco stock. Nalco also prohibited its directors from passing on such information to others. In particular, Nalco told its directors (i) not to trade Nalco stock without first informing Nalco's Corporate Secretary, (ii) not to trade while in possession of material undisclosed information regarding Nalco, and (iii) not to trade during any particular period for which Nalco recommended suspension of trading. Nalco also told its directors not to own Nalco stock in street name, *i.e.*, in the name of a broker or nominee.

32. Jose Luis Ballesteros was aware of these Nalco policies. As early as January 12,

1995, Nalco sent Jose Luis Ballesteros a letter transmitting a memorandum on insider trading and compliance with SEC rules. Again on December 5, 1996, Nalco sent Jose Luis Ballesteros an updated copy of Nalco's policy statement on insider trading tailored specifically for Nalco directors. Furthermore, Nalco cautioned its directors against insider trading at certain Nalco board meetings.

***Suez Proposes to Acquire Nalco And
Jose Luis Ballesteros Receives This
Inside Information***

33. On April 13, 1999, Suez and Nalco entered into a confidentiality agreement in order to discuss a possible business combination between the two companies. The discussions began on April 21, when senior representatives of Suez and Nalco met in Chicago.

34. On April 27, Suez sent Nalco a letter advising it of Suez's interest in acquiring Nalco in a cash transaction. The next day, Jose Luis Ballesteros attended a regularly scheduled Nalco board meeting. At the meeting, Nalco informed Jose Luis Ballesteros and its other board members of Suez's interest in acquiring Nalco.

35. On May 2, Nalco's financial advisor sent Suez a letter requesting that Suez provide an approximate purchase price to acquire Nalco. Suez replied on May 10 with a preliminary non-binding proposal reiterating its interest in acquiring Nalco and providing a potential purchase price in the range of \$43 to \$49 per share of common stock. Suez indicated that this preliminary proposal was subject to due diligence review.

36. On May 12, Suez and Nalco representatives agreed in a telephone conversation to meet to discuss a possible transaction between the parties. On May 17 and 18, senior

representatives of Suez and Nalco met in Paris and discussed various issues relating to a possible transaction between the parties, including potential synergies between the companies.

37. On May 25, Suez sent a further non-binding proposal to Nalco for a potential cash acquisition of Nalco at a purchase price of \$52 per share of common stock. This offer represented a premium of 53% over Nalco's then-current market price, and a premium of 66% over Nalco's three-month weighted average market price. Nalco advised Suez that Nalco's board would meet on June 5 to consider Suez's proposal.

***Jose Luis Ballesteros Receives Additional Inside Information
Regarding Suez's Proposal to Acquire Nalco***

38. Jose Luis Ballesteros attended the June 5 Nalco board meeting. At this meeting, the board decided that Suez's most recent offer of \$52 per share represented a serious proposal, but that Nalco should seek a higher purchase price. Also at this meeting, Nalco explicitly reminded Jose Luis Ballesteros and its other directors that the information relating to the possible transaction between Nalco and Suez was confidential and should not be disclosed to anyone. Nalco also told the directors that there was a blackout period then in effect during which they were not to buy or sell Nalco stock.

39. Four days later, in a June 9 telephone conversation, Suez and Nalco agreed, subject to negotiation of a definitive merger agreement, that Suez would acquire Nalco for a purchase price of \$54 per share of common stock.

40. On June 11, legal, financial and accounting representatives of Suez continued the due diligence review of Nalco. From June 16 through June 18, Suez and Nalco representatives met in New York City to discuss the proposed acquisition.

41. On June 17, Jose Luis Ballesteros attended a regularly scheduled Nalco board meeting, in Naperville, Illinois. At the meeting, Nalco told Jose Luis Ballesteros and its other board members that (i) Suez had substantially completed its due diligence review without any surprises, (ii) Suez had conditionally offered to pay a price of \$54 per share, and (iii) the transaction would likely be finalized sometime between June 20 and 27, at which point the Nalco board would meet to vote on the transaction.

***Jose Luis Ballesteros Buys Nalco And Tips His Brother
Concerning The Nalco/Suez Transaction***

42. Over the next five business days, June 18 through 24, Jose Luis Ballesteros and his brother Jorge Ballesteros proceeded to buy 216,300 shares of Nalco stock. When the Ballesteros brothers sold these shares a few days later, after the public announcement of the Suez acquisition, they reaped profits totaling \$3,227,446.04. The Ballesteros brothers' purchases are as follows:

Institution	Person Directing Purchase	Account	Date of Purchase	Number of Shares Purchased	Purchase Price per Share (\$)	Profit (\$)
Bankers Trust SA, Geneva, Switzerland	J.L. Ballesteros	Artarmia	6/18/99	8,300	35.86600	132,874.70
	J.L. Ballesteros	Artarmia	6/22/99	8,300	36.18750	130,206.25
	Jorge Ballesteros	Gianni	6/22/99	34,000	36.18750	533,375.00
	Jorge Ballesteros	Sagitton	6/22/99	19,300	36.18750	302,768.75
	Jorge Ballesteros	Gianni	6/23/99	70,000	36.90050	1,048,215.00
	Jorge Ballesteros	Gianni	6/24/99	30,000	38.98334	386,749.80
UBS AG, Zurich, Switzerland	J.L. Ballesteros	Artarmia	6/21/99	8,200	36.00000	130,175.00
	J.L. Ballesteros	Artarmia	6/23/99	5,200	36.92428	77,743.74
Citibank, N.A., New York, USA	J.L. Ballesteros	Nashbark	6/18/99	7,000	35.84460	112,212.80
	J.L. Ballesteros	Nashbark	6/21/99	7,000	36.12500	110,250.00
	J.L. Ballesteros	Nashbark	6/22/99	14,000	36.62500	213,500.00
	J.L. Ballesteros	Nashbark	6/24/99	5,000	42.00000	49,375.00
Totals				216,300		3,227,446.04

43. Jose Luis Ballesteros' insider trading began shortly after he left the June 17 Nalco board meeting. As he was about to board a plane, Jose Luis Ballesteros telephoned an employee of Bankers Trust Company in New York City who served as personal banker to both Jose Luis Ballesteros and Jorge Ballesteros (the "BT Private Banker"). Jose Luis Ballesteros instructed the BT Private Banker to buy as many shares of Nalco stock as possible for up to \$300,000. The BT Private Banker understood, based on past practice, that Jose Luis Ballesteros wanted the Nalco stock purchased through Artarmia's account at Bankers Trust AG in Switzerland. Jose Luis Ballesteros' order was executed on June 18, when Artarmia's account bought 8,300 Nalco shares at a price of \$35.866 per share.

44. On June 18, Jose Luis Ballesteros sent written instructions to an employee of Citibank, N.A. in Mexico City who served as another of his personal bankers (the "Citibank Private Banker"), directing the purchase by Nashbark at market price of approximately 7,000 shares of Nalco stock. Jose Luis Ballesteros' order was executed on June 18, when Nashbark's account at Citibank bought 7,000 Nalco shares at a price of \$35.8446 per share.

45. Jose Luis Ballesteros then sent written instructions to the Citibank Private Banker in Mexico City directing the purchase of an additional 21,000 Nalco shares for Nashbark. Jose Luis Ballesteros later telephoned the Citibank Private Banker and directed that only 7,000 shares of Nalco stock be purchased that day. Jose Luis Ballesteros' order was executed on Monday, June 21, when Nashbark's account at Citibank bought 7,000 Nalco shares at a price of \$36.125 per share.

46. Jose Luis Ballesteros then called the Citibank Private Banker in Mexico City

again and instructed the banker to buy the remaining 14,000 Nalco shares of his previous 21,000 share order. Jose Luis Ballesteros' order was executed on June 22, when Nashbark's account at Citibank bought 14,000 shares of Nalco stock at a price of \$36.625 per share.

47. Also on June 21, Artarmia's account at UBS in Switzerland bought, at the direction of Jose Luis Ballesteros, an additional 8,200 Nalco shares at \$36.00 per share.

48. Also on June 21, Jose Luis Ballesteros called the BT Private Banker in New York City and directed the purchase of an additional \$300,000 worth of Nalco stock. This order was executed on June 22, when Artarmia's account at Bankers Trust AG bought an additional 8,300 Nalco shares at a price of \$36.1875 per share.

49. By June 21, Jose Luis Ballesteros had provided his brother, Jorge Ballesteros, with material confidential inside information regarding Suez's offer to acquire Nalco. During his telephone conversation with the BT Private Banker on June 21, Jose Luis Ballesteros told the BT Private Banker that his brother Jorge Ballesteros would be calling the banker to buy some Nalco stock.

50. The very next morning, Jorge Ballesteros called the BT Private Banker and placed purchase orders for \$5 million worth of Nalco stock in the Gianni account, and \$700,000 worth of Nalco stock in the Sagitton account. At the time, Jorge Ballesteros knew that his brother Jose Luis Ballesteros was buying Nalco stock, and Jose Luis Ballesteros knew of the purchase orders placed by Jorge Ballesteros for the Gianni and Sagitton accounts.

51. Jorge Ballesteros' orders were executed over the period June 22 through 24, with the purchase of a total of 153,300 shares of Nalco stock for the Gianni and Sagitton accounts at

Bankers Trust AG. Collectively, Jose Luis Ballesteros and Jorge Ballesteros purchased 169,900 shares of Nalco stock through the BT Private Banker for the accounts of Artarmia, Gianni, and Sagitton.

52. On June 23, at the direction of Jose Luis Ballesteros, the Artarmia account at UBS purchased an additional 5,200 shares of Nalco stock at \$36.92428 per share.

53. On June 24, Jose Luis Ballesteros telephoned the Citibank Private Banker to discuss the possibility of buying additional shares of Nalco stock through Nashbark. Jose Luis Ballesteros instructed that all of the remaining liquid assets available in the Nashbark accounts at Citibank be used for the purchase of additional shares of Nalco stock, and Nashbark's account at Citibank purchased 5,000 Nalco shares on June 24 at a price of \$42.00 per share.

54. In making their Nalco purchases, the Ballesteros brothers (Jose Luis Ballesteros and Jorge Ballesteros) used capital in accounts of the three defendant trusts they controlled (Tula Trust, Gianni Trust and Cardinal Trust) and traded through accounts of the three defendant Irish corporations they also controlled (Artarmia, Gianni and Sagitton).

The Suez-Nalco Takeover Discussions Become Public

55. On June 24, Nalco publicly announced that it was in merger negotiations with an unnamed suitor.

56. On June 27, Nalco's board approved Suez's offer to acquire Nalco for \$53.00 per share. Jose Luis Ballesteros attended the June 27 board meeting. At the meeting, Nalco told Jose Luis Ballesteros and its other directors that they could not buy or sell Nalco stock during the tender period.

57. On Monday, June 28, Suez and Nalco jointly announced that they had signed a definitive merger agreement for Suez to acquire all outstanding shares of Nalco. Suez agreed to pay \$53.00 per share for each Nalco common share, a premium of approximately \$10.50 over the June 25, closing price of \$42.50 per share. The transaction was structured to occur through a cash tender offer, which began on July 1, 1999.

***The Ballesteros Brothers And Related Entities
Cash In On Their Illegal Insider Trading***

58. On or about July 1, Jose Luis Ballesteros directed the sale of all of the Nalco shares he had purchased through UBS at a price of \$51.875 per share.

59. On July 1, Jose Luis Ballesteros directed the sale of all of the Nalco shares purchased through Citibank, at a price of \$51.875 per share.

60. On July 2, both Ballesteros brothers sold all of the Nalco shares they had purchased through the BT Private Banker at a price of \$51.875 per share.

61. As a result of these transactions, these two defendants realized unlawful profits totaling \$3,227,446.04.

***Jose Luis Ballesteros Tips His Four Sons
Who Also Buy Nalco
While In Possession Of Inside Information***

62. By June 21, 1999, Jose Luis Ballesteros Franco also had, directly or indirectly, provided his four sons with confidential inside information regarding Suez's offer to acquire Nalco. On that same day, the four Ballesteros brothers told a broker at Stanford Group Company in Houston, Texas that they wanted to buy Nalco stock. They told the broker that they wanted to accomplish this by borrowing money from Stanford and using as collateral certificates of deposit

under their control held by Stanford's off-shore bank. All four brothers expressed a sense of urgency to the Stanford broker and told the broker that they were concerned that the price of Nalco would be moving upward. Stanford thereafter agreed to lend them the money to buy the Nalco stock. Later that week, Ricardo Ballesteros Gutierrez asked the Stanford broker if margin privileges could be used to buy Nalco stock.

63. The four brothers began buying Nalco stock on June 23. On that day, the eldest brother, Jose Luis Ballesteros Gutierrez, opened a new account at Stanford Group Company in Houston, Texas in the name of Interconsulting, and told the broker that he and two of his brothers, Ricardo and Alejandro, would direct trading in that account.

64. Jose Luis Ballesteros Gutierrez, Alejandro Ballesteros Gutierrez and Ricardo Ballesteros Gutierrez instructed the Stanford broker to buy 5,164 Nalco shares in the Interconsulting account through orders executed on June 23, June 24 and June 25, at prices ranging from \$37.25 to \$44.4877 per share.

65. The fourth brother, Juan Pablo Ballesteros Gutierrez, instructed the same Stanford broker to buy 12,500 shares in the name of Casford in an order executed on June 25 at \$44.4877 per share.

66. Ultimately the four brothers borrowed over \$720,000 to buy Nalco stock through the Interconsulting and Casford accounts. In addition, the Interconsulting account used margin privileges to complete its purchases. In all, just \$33,000 of the Ballesteros brothers' own money was used to buy Nalco.

***The Ballesteros Sons and Related Entities
Cash In on Their Illegal Insider Trading***

67. On or about July 1, 1999, Jose Luis Ballesteros Gutierrez, in consultation with his brothers Alejandro and Ricardo, instructed the Stanford broker to sell all the Nalco stock in the Interconsulting account. On July 1, 1999 all the Nalco stock was sold at a price of \$51.875 per share, and the three Ballesteros brothers realized illegal profits totaling approximately \$46,433.98. After the sale, all of the proceeds were wired back to these three brothers' respective off-shore Stanford bank accounts in proportion to their original contribution to the purchase price of the Nalco stock.

68. On November 15, 1999, Juan Pablo Ballesteros Gutierrez tendered the Nalco shares in his Casford account at \$53.00 per share to Suez and realized illegal profits of \$106,403.75.

69. The Ballesteros brothers' purchases are set forth below:

Institution	Person Directing Purchase	Account	Date of Purchase	Number of Shares Purchased	Purchase Price per Share (\$)	Profit (\$)
Stanford Group Company	J. L. Ballesteros Gutierrez	Interconsulting Limited	6/23/99	400	37.25	5,850
Stanford Group Company	R. Ballesteros Gutierrez	Interconsulting Limited	6/24/99	1,200	40.00	14,250
Stanford Group Company	J.L. Ballesteros G.; A. Ballesteros G.; and R. Ballesteros G.	Interconsulting Limited	6/25/99	3,564	44.4877	J.L.B. Gutierrez: 4,952.37; A. B. Gutierrez: 14,778.44; and R. B. Gutierrez: 6,603.17
Stanford Group Company	J.P. Ballesteros Gutierrez	Casford Limited	6/25/99	12,500	44.4877	106,403.75
TOTALS				17,664		152,837.73

***Jose Luis Ballesteros Gutierrez Tips Carlos Minvielle Who Buys Nalco
While in Possession of Inside Information***

70. By June 23, Jose Luis Ballesteros Gutierrez told his longtime friend, Carlos Minvielle, about Nalco. On June 24, Carlos Minvielle, as secretary of Dehcot, opened an account in the name of Dehcot at PrimeVest Financial Services, Inc. On that same day, and while in possession of material nonpublic information concerning Nalco, Carlos Minvielle caused Dehcot to purchase 4,365 Nalco shares at \$40.875 per share. In order to fund Dehcot's purchase, Carlos Minvielle wired \$180,000 from a money exchange in Mexico to a Dehcot account at Laredo National Bank in Laredo, Texas on June 24, and then caused Dehcot to forward that money to PrimeVest Financial Services, Inc. on June 25.

***Carlos Minvielle And Dehcot Cash
In On Their Illegal Insider Trading
And Share Half Of Their Illegal
Profits to Jose Luis Ballesteros Gutierrez***

71. On July 1, 1999, pursuant to instructions from Carlos Minvielle, all the Nalco shares in the Dehcot account were sold at a price of \$51.875 per share, and Dehcot realized illegal profits totaling \$48,015.

72. On July 8, 1999, Jose Luis Ballesteros Gutierrez told the broker at Stanford that his Interconsulting account was expecting a wire transfer of \$43,800 from Laredo National Bank. He instructed the broker to transfer half of the expected funds (*i.e.*, \$21,900) to Carlos Minvielle's account at Salomon Smith Barney Inc. upon receipt of the money and tell him when the wire transfer was completed. On July 12, 1999, \$43,800 was, in fact, wired to Jose Luis's Interconsulting account at Stanford from the same Dehcot bank account at Laredo National Bank

that had funded the Nalco purchases. Three days later, on July 15, \$21,900 was wired from Jose Luis' Interconsulting account to Carlos Minvielle's account at Salomon Smith Barney. This amount represented approximately half of the illegal profits realized by Dehcot in connection with its illegal trading in Nalco stock.

***Carlos Minvielle Tips His Father Who Buys Nalco
While in Possession of Inside Information***

73. By June 23, 1999, Carlos Minvielle had also provided his father, Eugenio Minvielle, with confidential inside information concerning Nalco. On June 23, Eugenio Minvielle instructed his broker at Salomon Smith Barney to buy 25,000 Nalco shares through his Parkesburg account. On that same day, this account bought 25,000 Nalco shares at \$37.251 per share.

***Eugenio Minvielle And Parkesburg Cash
In On Their Illegal Insider Trading***

74. Eugenio Minvielle called his broker on or about July 1, 1999. Pursuant to his instructions, 13,000 Nalco shares in the Parkesburg account were sold at a price of \$51.9375 per share. Minvielle called his broker again on or about July 12, and ordered the sale of the remaining 12,000 Nalco shares in the Parkesburg account at a price of \$51.875 per share. From the sale of the Nalco stock, Eugenio Minvielle and Parkesburg realized illegal profits totaling \$366,412.50.

75. The Minvielles' purchases are set forth below:

Institution	Person Directing Purchase	Account	Date of Purchase	Number of Shares Purchased	Purchase Price per Share (\$)	Profit (\$)
PrimeVest Financial Services Inc.	Carlos Minvielle	Dehcot S.A. de C.V.	6/24/99	4,365	40.875	48,015
Salomon Smith Barney	Eugenio Minvielle	Parkesburg Corp.	6/23/99	25,000	37.251	366,412.50
TOTALS				29,365		414,427.50

Jose Luis Ballesteros' Attempted Cover-Up

76. In a Schedule 14D-9 questionnaire dated June 30, and submitted to Nalco on July 1, Jose Luis Ballesteros tried to conceal from Nalco his June and July trading in Nalco stock by falsely stating that he had engaged in no transactions in Nalco stock within the past 60 days. He further misrepresented that the full extent of his beneficial ownership of Nalco stock consisted of 20,800 shares he had acquired prior to May 1999.

The Ballesteros Family's Violation Of Their Fiduciary Duties

77. As a Nalco director, Jose Luis Ballesteros owed a fiduciary duty to Nalco and its shareholders. As a result, Jose Luis Ballesteros had a duty not to trade while in possession of the material nonpublic information he obtained concerning the Suez acquisition and to safeguard the confidentiality of that information and not misuse it.

78. In breach of these duties, and for his personal benefit, Jose Luis Ballesteros traded and caused to be traded Nalco stock and communicated material nonpublic information concerning the proposed acquisition to his brother Jorge Ballesteros and four sons. Jose Luis

Ballesteros knew or was reckless in not knowing the information he disclosed was nonpublic and that his disclosure of the information was improper and in breach of duties he owed. Jose Luis Ballesteros' disclosure of this information was made under circumstances in which he knew, or should have known, or acted with reckless disregard of the fact that his brother Jorge Ballesteros and four sons were likely to effect transactions in Nalco stock or to disclose the information to others who were likely to effect such transactions.

79. Jorge Ballesteros and Jose Luis Ballesteros' four sons knew, should have known, or acted in reckless disregard of the fact that the information they received, directly or indirectly, from Jose Luis Ballesteros was nonpublic, and that the information was disclosed to them in violation of a fiduciary or other duty of trust and confidence. Accordingly, Jorge Ballesteros and Jose Luis Ballesteros' four sons inherited Jose Luis Ballesteros' duty not to trade on that information and not to communicate it improperly to others. Jorge Ballesteros and Jose Luis Ballesteros' four sons knowingly or recklessly breached these duties for their direct or indirect benefit.

The Minvielle Family's Violation of Their Fiduciary Duties

80. After inheriting Jose Luis Ballesteros' duty not to trade on the inside information concerning the Nalco/Suez transaction, and not to communicate it improperly to others, Jose Luis Ballesteros Gutierrez violated such duties, and for his personal benefit traded and caused to be traded Nalco stock and communicated, directly or indirectly, material nonpublic information concerning Nalco to Carlos Minvielle. Jose Luis Ballesteros Gutierrez knew or was reckless in not knowing the information he disclosed was nonpublic and that his disclosure of the

information was improper and in breach of duties he owed. Jose Luis Ballesteros Gutierrez's disclosure of this information was made under circumstances in which he knew, or should have known, or acted with reckless disregard of the fact that Carlos Minvielle was likely to effect transactions in Nalco stock or to disclose the information to others who were likely to effect such transactions.

81. Carlos Minvielle knew, should have known, or acted in reckless disregard of the fact that the information he received, directly or indirectly, from Jose Luis Ballesteros Gutierrez was nonpublic, and that the information was disclosed to him in violation of a fiduciary or other duty of trust and confidence. Accordingly, Carlos Minvielle inherited Jose Luis Ballesteros Gutierrez's duty not to trade on that information and not to communicate it improperly to others. Carlos Minvielle knowingly or recklessly breached these duties for his direct or indirect benefit.

82. After inheriting Jose Luis Ballesteros Gutierrez's duty not to trade on the inside information concerning the Nalco/Suez transaction, and not to communicate it improperly to others, Carlos Minvielle violated such duties, and for his personal benefit traded and caused to be traded Nalco stock and communicated material nonpublic information concerning the proposed acquisition to his father Eugenio Minvielle. Carlos Minvielle knew or was reckless in not knowing the information he disclosed was nonpublic and that his disclosure of the information was improper and in breach of duties he owed. Carlos Minvielle's disclosure of this information was made under circumstances in which he knew, or should have known, or acted with reckless disregard of the fact that Eugenio Minvielle was likely to effect transactions in Nalco stock or to disclose the information to others who were likely to effect such transactions.

83. Eugenio Minvielle knew, should have known, or acted in reckless disregard of the fact that the information he received, directly or indirectly, from Carlos Minvielle was nonpublic, and that the information was disclosed to them in violation of a fiduciary or other duty of trust and confidence. Accordingly, Eugenio Minvielle inherited Carlos Minvielle's duty not to trade on that information and not to communicate it improperly to others. Eugenio Minvielle knowingly or recklessly breached these duties for his direct or indirect benefit.

84. By reason of the foregoing, defendants, directly and indirectly, violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

COUNT II
(Violations of Exchange Act
Section 14(e) and Rule 14e-3)

85. Plaintiff SEC repeats and realleges Paragraphs 1 through 84 above.

86. By June 16, 1999, Suez had taken a substantial step or steps to commence its tender offer for the outstanding shares of Nalco common stock.

87. Beginning on or about June 17, defendants engaged directly or indirectly in fraudulent, deceptive or manipulative acts or practices in connection with a tender offer by Suez for the common stock of Nalco by (i) purchasing or causing to be purchased the securities of Nalco while in possession of material information relating to the tender offer, which information they knew or had reason to know was nonpublic and which information they knew or had reason to know was obtained directly or indirectly from Suez or Nalco or a person acting on behalf of either Suez or Nalco; or (ii) communicating to others material nonpublic information relating to

the Suez tender offer, under circumstances in which it was reasonably foreseeable that such communications were likely to result in the purchase or sale of the securities of Nalco.

88. By reason of the foregoing, defendants directly or indirectly 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.

PRAYER FOR RELIEF

Plaintiff Securities and Exchange Commission requests judgment:

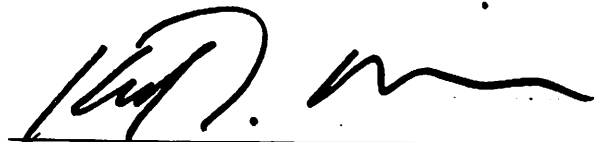
- (i) permanently enjoining defendants Jorge E. Ballesteros Franco, Gianni Enterprises Limited, Sagitton Limited, Gianni Trust, Cardinal Trust, Jose Luis Ballesteros Gutierrez, Ricardo Ballesteros Gutierrez, Alejandro Ballesteros Gutierrez, Juan Pablo Ballesteros Gutierrez, Carlos Minvielle Lagos, Eugenio Minvielle Zamudio, Casford Limited, Interconsulting Limited, Dehcot S.A. de C.V., and Parkesburg Corp. from violating Sections 10(b) and 14(e) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78n(e)], and Rules 10b-5 and 14e-3 thereunder [17 C.F.R. §§ 240.10b-5 and 240.14e-3];
- (ii) ordering defendants Jorge E. Ballesteros Franco, Gianni Enterprises Limited, Sagitton Limited, Gianni Trust, Cardinal Trust, Jose Luis Ballesteros Gutierrez, Juan Pablo Ballesteros Gutierrez, Alejandro Ballesteros Gutierrez, Ricardo Ballesteros Gutierrez, Carlos Minvielle Lagos, Eugenio Minvielle Zamudio, Casford Limited, Interconsulting Limited, Dehcot S.A. de C.V., and Parkesburg Corp. to disgorge all profits realized from the unlawful trading described above, together with prejudgment interest;
- (iii) ordering defendant Testamentaria Del Señor Jose Luis Ballesteros Franco to disgorge all profits realized from the unlawful trading described above, together with

prejudgment interest;

(iv) ordering defendants Jorge E. Ballesteros Franco, Gianni Enterprises Limited, Sagitton Limited, Gianni Trust, Cardinal Trust, Jose Luis Ballesteros Gutierrez, Ricardo Ballesteros Gutierrez, Alejandro Ballesteros Gutierrez, Juan Pablo Ballesteros Gutierrez, Carlos Minvielle Lagos, Eugenio Minvielle Zamudio, Casford Limited, Interconsulting Limited, Dehcot S.A. de C.V., and Parkesburg Corp. to pay civil monetary penalties under Section 21A of the Exchange Act [15 U.S.C. § 78u-1]; and

(v) granting such other relief as the Court may deem just and appropriate.

Dated: May 8, 2001
Washington, D.C.



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