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DISTRICT OF UTAH
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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff

v.

Irving Freiberg and Harvey L. Carmichael,
a/k/a/ Harvey L. Carnicle,

Defendants.

Judge Paul G. Cassell
DECK TYPE: Civil
DATE STAMP: 03/18/2005 @ 11:37:55
CASE NUMBER: 2:05CV00233 PGC

COMPLAINT

Plaintiff Securities and Exchange Commission ("Plaintiff" or "Commission")

alleges as follows:

I. SUMMARY OF THE ACTION

1. This case involves a scheme by defendant Harvey L. Carmichael ("Carmichael"), an undisclosed control person of Gateway International Holdings, Inc.

(“Gateway”), to artificially inflate the market price of Gateway stock for the purpose of profitably liquidating his Gateway stock into the public market. Between September 2001 and January 25, 2002, Carmichael owned as much as 27% of Gateway’s stock, but failed to disclose his ownership in filings with the Commission as required. As part of the scheme, Carmichael sold Gateway stock to public investors in violation of the securities registration provisions of the federal securities laws.

2. To profit from his undisclosed holdings, Carmichael directed a manipulation of the market for Gateway stock during November and December 2001. Pursuant to the scheme, Carmichael induced a cooperating broker-dealer to repeatedly raise the inside bid price of Gateway stock, thereby artificially increasing the stock’s apparent market price. In a second phase of the manipulation, Carmichael in February 2002 hired defendant Irving Freiberg to post a fraudulent corporate profile on several internet websites and to disseminate large numbers of false and misleading unsolicited e-mails touting the stock to prospective investors. As compensation, Freiberg received unregistered shares of Gateway stock. Through the scheme, Carmichael sold restricted Gateway stock for profits of approximately \$150,740, and Freiberg sold 108,000 of the unregistered shares he received as compensation for the fraudulent internet and e-mail promotion, generating proceeds of \$127,195.

3. Through these actions, Carmichael violated, and unless restrained and enjoined will continue to violate, Sections 5(a) and 5(c) of the Securities Act of 1933 (“Securities Act”) and Sections 10(b), 13(d) and 16(a) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rules 10b-5, 13d-1, 13d-2, 16a-2 and 16a-3 thereunder.

II. JURISDICTION AND VENUE

4. The Commission brings this action pursuant to authority conferred on it by Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)] and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(e)] to restrain and enjoin the defendants from engaging in the acts, practices and courses of business described in this Complaint and acts, practices and courses of business of similar purport and object. The Commission seeks permanent injunctions, disgorgement and prejudgment interest, third tier penalties pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act, and a penny stock bar pursuant to Section 20(g) of the Securities Act and Section 21(d)(6) of the Exchange Act as to Carmichael and Freiberg. As to Carmichael, the Commission additionally seeks an officer and director bar pursuant to Section 20(e) of the Securities Act and Section 21(d)(2) of the Exchange Act.

5. This Court has jurisdiction in this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. The defendants, directly or indirectly, made use of the means and instrumentalities of interstate commerce, and of the mails, in connection with the acts, practices, and courses of business alleged in this complaint.

6. Certain of the acts, practices and courses of business constituting the violations of law alleged herein occurred within the District of Utah. Carmichael resides in Utah.

III. DEFENDANTS

7. Harvey L. Carmichael, a/k/a/ Harvey L. Carnicle, age 30, is a stock promoter who resides in Salt Lake City, Utah. During relevant periods, Carmichael was an undisclosed major shareholder of Gateway, and is the current or former officer or director of six other publicly held companies.

8. Irving Freiberg, age 47, is a promoter who resides in Boca Raton, Florida. Since 1998, Freiberg has promoted at least 60 publicly traded microcap companies over the Internet through a website, www.stockgenie.com, as well as through unsolicited e-mail messages. On January 5, 2005, Freiberg pleaded guilty to conspiring to commit securities fraud and other violations in connection with a federal indictment alleging that he fraudulently touted dozens of microcap stocks, including Gateway, and misrepresented compensation received for touting a different microcap stock. *U.S. v. Collardeau et al.*, Crim. No. 03-800 (D.N.J. Nov. 6, 2003) (indictment issued). Freiberg has not yet been sentenced in connection with his guilty plea.

IV. RELATED PARTIES

9. Gateway International Holdings, Inc. f/k/a Gourmet Gifts, Inc., is a Nevada corporation with offices in Anaheim, California which was formed in 1997. By August 1999, it had become an inactive shell with no significant assets, revenues or operations. On January 25, 2002, Gateway engaged in a reverse merger through which it combined with a privately held machine tool manufacturing company through a stock-for-stock exchange. Gateway has since been in the business of acquiring, refurbishing and selling pre-owned machine tools. In July 1999, Gateway registered its stock with the

Commission pursuant to Section 12(g) of the Exchange Act. Gateway stock was quoted on the Bulletin Board (a quotation service operated by the NASD) until August 28, 2003. Gateway stock is currently quoted in the electronic quotation service operated by the Pink Sheets, LLC. As of February 10, 2003, there were 26,426,300 shares of its common stock issued and outstanding.

10. Vfinance Investments, Inc. (“Vfinance”) is a registered broker-dealer with offices in New York, New Jersey and Florida that made a market for Gateway stock in 2001 and 2002. It is a wholly-owned subsidiary of Vfinance, Inc., a publicly held company with continuing reporting obligations.

11. Allen S. Freed (“Freed”) resides in Cocoa, Florida and has been associated with various broker-dealers since 1972. Between February 2001 and August 2003, Freed was a trader associated with Vfinance.

V. FACTS

A. Carmichael’s Undisclosed Acquisition Of Gateway Stock

12. In late August and early September 2001, Carmichael met with representatives of E. M. Tool Company, Inc. (“E.M. Tool”), a privately held California corporation, concerning a possible reverse merger with Gateway. On September 4, 2001, Carmichael, other Gateway representatives, and the E.M. Tool representatives informally agreed that Gateway would acquire all of the outstanding shares of E.M. Tool in return for 13.5 million shares of Gateway stock.

13. Between about September 24 and December 13, 2001, Carmichael purchased Gateway stock through open market transactions as well as from shareholders who had previously purchased Gateway stock in a private offering in 1998. Certain of

these shares were transferred into the name of Carmichael's mother, who acted as his nominee. Between late September 2001 and January 25, 2002, Carmichael owned or controlled disposition of between 736,000 and 1,032,400 shares of Gateway stock, representing between 17% and 24% of the company's outstanding shares. Carmichael was required to disclose his beneficial ownership of Gateway stock in filings with the Commission, but failed to do so. Carmichael has never filed a Schedule 13D or Forms 3, 4, or 5 with the Commission to report his ownership or disposition of Gateway shares.

B. Carmichael's Orchestration Of A Stock Manipulation Scheme

1. Carmichael Manipulated the Bid Price for Gateway

14. Carmichael manipulated the market for Gateway stock between November 8 and December 6, 2001. During that period, Gateway stock traded at increasing prices of between \$.16 and \$4.55 per share. Carmichael and persons directly or indirectly related to him generated the majority of the demand for Gateway stock, placing orders for 91% of the 324,050 Gateway shares purchased through retail transactions. Carmichael personally sold 35,300 shares during the relevant period.

15. To facilitate the manipulation of the price of Gateway stock, Carmichael recruited Freed, a cooperating broker dealer. Between November 8 and December 6, 2001, Gateway shares traded at increasing prices that were set by Freed at Carmichael's request. Freed increased Vfinance's bid price in response to telephonic requests by Carmichael, who later paid Freed approximately \$3,000-\$4,000. Freed exercised price leadership by frequently raising Vfinance's quoted bid price for Gateway stock and holding the inside bid on the stock during approximately 75% of the total trading hours. Further, Vfinance, through Freed, placed 71% of all interdealer orders, which represented

approximately one-half of the shares traded through such orders. On five days during the relevant period, trading by Vfinance represented between 65% and 100% of total reported volume.

2. Carmichael And Freiberg Conducted A Fraudulent “Spamming” Promotion of Gateway

16. In early February 2002, Carmichael, who continued to hold a large position in Gateway stock, hired Freiberg to publicize Gateway and agreed to pay Freiberg 125,000 shares of Gateway stock for his services. Freiberg prepared a corporate profile indicating that, in light of Gateway’s “schedule[d]” acquisition of six companies, Gateway would achieve \$20-25 million in revenues with gross profit margins of 22%, which represented earnings of \$4.4 to \$5.5 million, by the end of the fiscal year ended September 30, 2002. Carmichael approved the dissemination of this profile.

17. Between February 2002 and May 17, 2004, Freiberg posted the profile, including the financial projections, on an Internet website, www.stockgenie.com, and until at least June 12, 2002, also posted it on another website, www.stockinfoking.com. Between February 20 and March 6, 2002, Freiberg also disseminated the profile through a large number of unsolicited “spam” e-mails to prospective investors.

18. The projections contained in the profile were false and misleading because the profile did not disclose that Gateway’s ability to make future acquisitions was contingent on raising \$5 million, and that Gateway had no means of raising the necessary funds. Gateway ultimately reported revenues of approximately \$2.2 million and a \$956,693 net loss for its 2002 fiscal year. After the Commission commenced an enforcement inquiry into the matter, Gateway issued a press release on June 27, 2002, disclaiming responsibility for the e-mails and characterizing the projections in the profile as

“grossly overstated.”

3. Carmichael And Freiberg Acted With Scienter

19. Carmichael acted knowingly or recklessly in approving the fraudulent projections in the disseminated profile. Carmichael attended meetings prior to the Gateway reverse merger during which Gateway’s management discussed the weak financial condition of E.M. Tool, which became the successor to Gateway. One participant testified that at these meetings, it was understood that “if they [E.M. Tool] were going to go out and do acquisitions, they would need additional capital.” Carmichael further undertook to assist the post-merger entity in raising capital to finance its acquisition plans.

20. Freiberg also acted knowingly or recklessly in creating and disseminating the fraudulent Gateway profile. Gateway’s chief financial officer had provided him with projections that were substantially lower than those in the disseminated profile. Further, Freiberg testified that it was his practice to review corporate press releases and Commission filings prior to publicizing a company’s stock. However, Gateway’s public filings contravened Freiberg’s projections. These filings reported 2001 revenues for Gateway of only \$4,098,698 and a \$99,083 net loss for the year. The financial statements also included a “going concern” audit opinion, and the accompanying notes disclosed that the company had negative working capital and no assurance that it would have “sufficient funds to execute its intended business plan or generate positive operating results.”

C. Trading in Gateway Stock by Carmichael and Freiberg

21. Following the dissemination of the spam e-mails by Carmichael and Freiberg, the reported trading volume of Gateway stock increased significantly. Between

February 20 and March 6, 2002, between 7,700 and 170,000 shares of Gateway stock were reported traded, averaging 80,300 shares per day. In contrast, between zero and 99,900 shares of stock were reported traded during the ten trading days preceding the dissemination of the e-mails, averaging 17,000 shares per day.

22. Between November 12, 2001 and July 31, 2002, Carmichael sold 174,500 shares of Gateway stock that he had acquired either from various Gateway shareholders in private transactions, or on the open market, for profits of approximately \$150,740. Carmichael's unregistered Gateway stock sales began only seven weeks after he started to purchase such stock.

23. Also in violation of the securities registration provisions, Freiberg sold 108,000 of the unregistered Gateway shares he had received from Carmichael for a profit of \$127,195.

FIRST CLAIM FOR RELIEF
FRAUD AND MARKET MANIPULATION: Violations by Carmichael And
Freiberg of Section 10(b) of the Exchange Act and Rule 10b-5 [15 U.S.C. §§ 78j (b)]

24. Paragraphs 1 through 23 are hereby realleged and incorporated by reference.

25. Defendants Carmichael and Freiberg, directly and indirectly, with scienter, by use of the means or instrumentalities of interstate commerce, or of the mails, have employed devices, schemes or artifices to defraud; have made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or have engaged in acts, practices or courses of business which have been and are operating as a fraud or deceit upon the purchasers or sellers of securities.

26. By reason of the conduct described in paragraph 25, defendants Carmichael and Freiberg have violated and, unless restrained and enjoined, will continue to violate and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

SECOND CLAIM FOR RELIEF
SALE OF UNREGISTERED SECURITIES: Violations by Carmichael of Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)]

27. Paragraphs 1 through 23 are hereby realleged and incorporated by reference.

28. Defendants Carmichael and Freiberg, directly or indirectly, made use of the means or instruments of transportation or communication in interstate commerce or of the mails to offer and sell securities of Gateway through the use or medium of a prospectus or otherwise, and carried or caused to be carried through the mails, or in interstate commerce, by means or instruments of transportation, such securities for the purpose of sale or for delivery after sale, when no registration statement had been filed or was in effect as to such securities.

29. By reason of the conduct described in paragraph 28, defendants Carmichael and Freiberg have violated and, unless restrained and enjoined, will continue to violate Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

THIRD CLAIM FOR RELIEF
FAILURE TO FILE OWNERSHIP REPORTS: Violations by Carmichael of Section 13(d)(1) of the Exchange Act and Rules 13d-1 and 13d-2 thereunder [15 U.S.C. § 78m(d)(1) and 17 C.F.R. §§ 240.13d-1 and 13d-2]

30. Paragraphs 1 through 23 are hereby realleged and incorporated by reference.

31. Defendant Carmichael acquired or otherwise became, directly or indirectly, the beneficial owner of more than 5 per cent of the outstanding common stock

of Gateway, a security registered with the Commission pursuant to Section 12 of the Exchange Act, and failed to timely send to the issuer of the security and to any exchange where Gateway common stock was traded, and to file with the Commission, a statement containing the information required by Schedule 13D or 13G concerning his ownership of Gateway, and failed to make amendments to the schedule when material changes occurred in the facts that were reflected in the initial filings.

32. By reason of the conduct described in paragraph 31, defendant Carmichael has violated and, unless restrained and enjoined, will continue to violate Section 13(d)(1) of the Exchange Act and Rules 13d-1 and 13d-2 thereunder [15 U.S.C. § 78m(d)(1) and 17 C.F.R. §§ 240.13d-1 and 13d-2].

FOURTH CLAIM FOR RELIEF
FAILURE TO FILE OWNERSHIP REPORTS: Violation by Carmichael of
Section 16(a) of the Exchange Act and Rules 16a-1 and 16a-2 thereunder
[15 U.S.C. § 78p(a) and 17 C.F.R. § 240.16a-1 and § 240.16a-2]

33. Paragraphs 1 through 23 are hereby realleged and incorporated by reference.

34. Defendant Carmichael acquired or otherwise became, directly or indirectly, the beneficial owner of more than 10 per cent of the outstanding common stock of Gateway, a security registered with the Commission pursuant to Section 12 of the Exchange Act, and failed to timely file with the Commission a statement of the amount of all equity securities of Gateway of which he was the beneficial owner, and failed to timely file statements indicating changes in such beneficial ownership of Gateway.

35. By reason of the conduct described in paragraph 34, defendant Carmichael has violated and, unless restrained and enjoined, will continue to violate Section 16(a) of the Exchange Act and Rules 16a-1 and 16a-2 thereunder.

VI. PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court:

A.

Find that the defendants committed the violations alleged.

B.

Enter an Order of Permanent Injunction as to the defendants, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, enjoining them from further violations of the provisions of law and rules alleged in this complaint.

C.

Enter an Order requiring defendants to pay third-tier civil penalties pursuant to Section 20(d) of the Securities Act and Section 21(d)(3) of the Exchange Act.

D.

Enter an order barring defendant Carmichael from acting as an officer or director of a public company pursuant to Section 20(e) of the Securities Act and Section 21(d)(2) of the Exchange Act.

E.

Enter an order pursuant to Section 20(g) of the Securities Act and Section

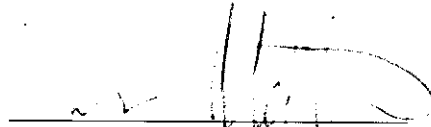
21(d)(6) of the Exchange Act barring the defendants from participating in any penny stock offering.

F.

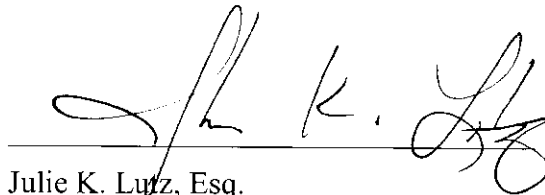
Grant such further equitable relief as this Court deems appropriate and necessary.

DATED: March 17, 2005

Respectfully submitted,



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