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10 **UNITED STATES DISTRICT COURT**  
11 **FOR THE DISTRICT OF ARIZONA**

12  
13 SECURITIES AND EXCHANGE  
COMMISSION,

14 Plaintiff,

15 v.

16 JERRY C. MOYES,

17 Defendant.

Case No.

**COMPLAINT FOR VIOLATIONS  
OF THE FEDERAL SECURITIES  
LAWS**

18 Plaintiff Securities and Exchange Commission (“Commission”) alleges as  
19 follows:

20 **JURISDICTION AND VENUE**

21 1. This Court has jurisdiction over this action pursuant to Sections  
22 21(d)(1), 21(e), 21A(a), and 27 of the Securities Exchange Act of 1934  
23 (“Exchange Act”), 15 U.S.C. §§ 78u(d)(1), 78u(e), 78u-1(a), & 78aa. Defendant  
24 has, directly or indirectly, made use of the means or instrumentalities of interstate  
25 commerce, of the mails, or of the facilities of a national securities exchange, in  
26 connection with the transactions, acts, practices, and courses of business alleged in  
27 this complaint.  
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1           12.    At all relevant times, Swift had an insider trading policy that  
2 prohibited employees from trading in Swift securities while aware of material,  
3 nonpublic information concerning the company.

4           13.    On May 21, 2004, Moyes purchased 87,000 shares of Swift common  
5 stock for his personal trust account that he jointly held with his wife. On May 24,  
6 2004, Moyes purchased an additional 100,000 Swift shares for his personal  
7 account. Swift timely filed statements of changes in beneficial ownership (known  
8 as Form 4s) with the SEC reflecting Moyes' trades.

9           14.    On the evening of May 24, 2004, Swift announced its second quarter  
10 earnings projections and the board's authorization of the stock repurchase plan.  
11 Swift finalized the press release announcing these developments on May 24.  
12 Moyes reviewed the press release before it was issued. The next day, Swift's  
13 stock closed at \$18.71 per share, a 20% increase from the previous day's close,  
14 with a trading volume increase of over 400%. Moyes did not sell his stock but  
15 would have realized a profit of \$622,130.80 had he done so.

16           15.    Upon learning of Moyes' trades, Swift's independent directors took  
17 corrective action, including implementing a stricter insider trading policy,  
18 instituting a pre-clearing process for all trades by company insiders, and asking  
19 Moyes to deposit funds equal to his unrealized profits into a trust account under  
20 their control. Moyes voluntarily complied with their request.

21           16.    By purchasing Swift stock while aware of the second quarter earnings  
22 projections and the board's authorization of the stock buyback plan before this  
23 information became public, Moyes violated Section 10(b) of the Exchange Act  
24 and Rule 10b-5 thereunder.

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**CLAIM FOR RELIEF**  
**FRAUD IN CONNECTION WITH THE**  
**PURCHASE OR SALE OF SECURITIES**  
**Violations of Section 10(b) of the Exchange Act**  
**and Rule 10b-5 thereunder**

17. The Commission realleges and incorporates by reference ¶¶ 1 through 16 above.

18. Moyes, by engaging in the conduct described above, directly or indirectly, in connection with the purchase or sale of a security, by the use of means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange, with scienter:

- a. employed devices, schemes, or artifices to defraud;
- b. made untrue statements of a material fact or omitted to state a material fact necessary in order to make the statements made, in 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 other persons.

19. By engaging in the conduct described above, Moyes violated, and unless restrained and enjoined will continue to violate, 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.

**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that the Court:

**I.**

Issue a final judgment, in a form consistent with Fed. R. Civ. P. 65(d), permanently enjoining Moyes and his officers, agents, servants, employees, and

1 attorneys, and those persons in active concert or participation with any of them,  
2 who receive actual notice of the final judgment by personal service or otherwise,  
3 and each of them, from violating Section 10(b) of the Exchange Act, 15 U.S.C. §  
4 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

5 **II.**

6 Order Moyes to disgorge all ill-gotten gains from his illegal conduct,  
7 together with prejudgment interest thereon.

8 **III.**

9 Order Moyes to pay civil penalties under Section 21A of the Exchange Act,  
10 15 U.S.C. § 78u-1(a).


11 **IV.**

12 Retain jurisdiction of this action in accordance with the principles of equity  
13 and the Federal Rules of Civil Procedure in order to implement and carry out the  
14 terms of all orders and decrees that may be entered, or to entertain any suitable  
15 application or motion for additional relief within the jurisdiction of this Court.

16 **V.**

17 Grant such other and further relief as this Court may determine to be just  
18 and necessary.

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21 DATED: September 21, 2005

  
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Georgia Saviola  
Attorneys for Plaintiff  
Securities and Exchange Commission