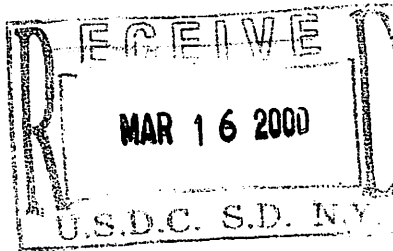


# JUDGE STEIN

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## 00 CIV. 2029



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CERTAIN UNKNOWN PURCHASERS OF  
COMMON STOCK OF FINANCIAL SECURITY  
ASSURANCE HOLDINGS, LTD.,

Defendants.

00 Civ. No. \_\_\_\_\_

### COMPLAINT

Plaintiff Securities and Exchange Commission (the  
"Commission") alleges:

#### NATURE OF THE ACTION

1. This is an insider trading case involving highly profitable purchases of common stock of Financial Security Assurance Holdings, Ltd., ("FSA") made by unknown purchasers through a bank in Luxembourg operating as two banking entities

operating under the names of Banque Gestion Edmond de Rothschild ("Gestion") and Banque Privee Edmond de Rothschild ("Privee") and three banks based in Israel, Bank Hapoalim, Bank Leumi, and Israel Discount Bank. All of the trading at issue was done on the morning of March 9, 2000, prior to an announcement later that day by FSA that it was contemplating a sale of the company to an unnamed party.

2. On March 14, 2000, FSA and Dexia, Europe's largest municipal lender, both formally announced that Dexia would acquire FSA in a cash merger for approximately \$2.6 billion. Under the terms of the acquisition, FSA stockholders will receive \$76 for each of their FSA shares.

3. While in possession of material, nonpublic information concerning the impending announcement of the merger, the unknown defendants purchased a total of approximately 53,500 shares of FSA common stock on March 9<sup>th</sup> at a total cost of approximately \$2,350,500. On Thursday, March 9, 2000, the day of the news report by FSA, the price of FSA common stock rose by approximately \$13 per share, closing at 58 9/16, a gain of 31%. On March 14<sup>th</sup>, FSA stock sold for \$71 11/16 at closing. As a result, defendants made substantial windfall profits of approximately \$1,000,000 by their illegal trading.

**JURISDICTION AND VENUE**

4. This Court has jurisdiction over this action pursuant to Sections 21(e), 21A and 27 of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. §§ 78u(e), 78u-1 and 78aa].

5. Defendants, directly or indirectly, made use of the means or instrumentalities of interstate commerce, or of the mails, or the facilities of a national securities exchange in connection with the transactions, acts, practices and courses of business alleged herein.

6. This Court properly has venue over this action because certain of the securities transactions at issue herein were affected and cleared through United States broker-dealers with offices located in the Southern District of New York. In addition, the common stock at issue is listed on the New York Stock Exchange, which is located in the Southern District of New York.

7. Defendants will, unless restrained and enjoined, continue to engage in the acts, practices and courses of business alleged herein, or in transactions, acts, practices and courses of business of similar purport and object.

**THE DEFENDANTS AND OTHER ENTITIES**

8. CERTAIN UNKNOWN PURCHASERS OF COMMON STOCK OF FSA are the beneficial owners of securities traded in accounts in the names of banks Gestion, Privee, Hapoalim, Leumi, and Israel Discount Bank.

9. FSA, a New York company headquartered in New York, is engaged primarily in providing financial guaranty insurance on asset-backed and municipal obligations such as residential mortgages, consumer receivables, government securities, pooled corporate obligations, investor-owned utility obligations, and a commercial mortgage portfolio. FSA common stock is registered pursuant to Section 12 of the Exchange Act and trades on the New York Stock Exchange.

10. Dexia, Europe's largest municipal lender with assets of over \$230 billion is headquartered in Paris and Brussels. It provides financial services to the public sector in Europe, having a significant presence in France, Belgium and Luxembourg, and operations throughout Europe. Its common stock trades on the Brussels, Paris and Luxembourg Stock Exchanges.

FIRST CAUSE OF ACTION

**Violations of Exchange Act Section 10(b) and  
Rule 10b-5 Promulgated Thereunder**

11. Paragraphs 1 through 10 are realleged and incorporated herein by reference.

12. On March 9, 2000, trading in FSA opened at a price of \$46 6/16. By 11:21 a.m., FSA was up \$6 14/16. At 12:06 p.m., trading in FSA was halted because of an imbalance in trading orders, and was further suspended by the NYSE at 12:33 p.m. on the basis that there was "news pending" to be announced regarding FSA. At the time of the trading halt, FSA's share price was \$55.

13. At 1:47 p.m., FSA publicly announced that it had been in discussions with an unnamed third party concerning the possible sale of FSA. FSA further noted that no more news would be forthcoming unless and until a definitive agreement was reached. Trading in FSA shares reopened at 2:22 p.m. at \$59 1/2 and closed at \$58 9/16, a gain of 31%.

14. FSA is generally a lightly traded stock. The institutional and individual trading volume on March 9<sup>th</sup> prior to the halt was 116,500 shares, which is unusually high for FSA. In particular, limit orders to purchase large amounts of FSA

shares were placed by Bank Hapoalim and Bank Leumi Tel Aviv on March 9<sup>th</sup> prior to the announcement. The SEC is not aware of any news or other public information circulating in the market about the sale of FSA prior to FSA's limited announcement on the afternoon of March 9<sup>th</sup>.

15. During the three weeks prior to March 9<sup>th</sup>, FSA had been trading at prices ranging from \$43 to \$52 per share with a volume ranging generally between 40,000 and 80,000 shares per day, with occasional spikes above 100,000 shares during that period. On March 9<sup>th</sup>, FSA stock increased from 46 6/16 to 58 9/16 in the course of the day, and almost 405,000 shares were traded.

16. Prior to FSA's March 9<sup>th</sup> announcement (in which Dexia was not mentioned), FSA and Dexia had undertaken to maintain the confidentiality of information relating to the proposed acquisition, including entering into a confidentiality agreement between the parties as of June 24, 1999, later revised in January, 2000, and instructed those employees and agents working on behalf of the parties in the matter to hold such information in confidence.

17. On March 9, 2000 the UNKNOWN PURCHASER DEFENDANTS purchased 53,500 shares of FSA common stock through the New York Stock Exchange as follows:

Hapoalim	7,000	at 46 3/8
	500	at 51
	2,500	at 52
Gestion	5,000	at 46 3/8
	7,000	at 55
Privee	8,000	at 55
	5,000	at 55
Leumi	5,000	at 46 12/16
	5,000	at 55
Israel Discount	8,500	at 46 12/16

18. At the time the UNKNOWN PURCHASER DEFENDANTS purchased FSA common stock, they were in possession of material, nonpublic information about the impending announcement of FSA's merger with Dexia. The defendants knew, had reason to know, or recklessly disregarded the fact (1) that their trading was in breach of fiduciary or similar duties of trust and confidence they owed to the shareholders of FSA or to the source from which they received material nonpublic information or (2) that material nonpublic information about the merger had been communicated to them in breach of fiduciary or similar duties of trust and confidence.

19. Bank Leumi placed orders to sell 2,000 shares of FSA on Tuesday, March 14<sup>th</sup>, (1,000 shares at \$70; 1,000 shares at \$76); 8,000 shares at \$72 on March 15<sup>th</sup>, and additional FSA shares the same day at varying prices, having made additional purchases after 1:47 p.m. on March 9<sup>th</sup>. Bank Gestion placed orders to sell 12,000 FSA shares at \$70 on March 14<sup>th</sup> along with additional FSA shares it had purchased after 1:47 p.m. on March 9<sup>th</sup>. Bank Hapoalim has not sold its holdings in FSA as of the filing of the Complaint. Bank Privee placed orders to sell 10,000 FSA shares at \$69 on March 14<sup>th</sup> along with additional FSA shares it had purchased after 1:47 p.m. on March 9<sup>th</sup>. Israel Discount Bank has not sold its holdings in FSA as of the filing of the Complaint. The proceeds from these sales could be available to the UNKNOWN PURCHASERS as early as 2 a.m. EST, Friday, March 17, 2000.

20. By reason of the foregoing, defendant UNKNOWN PURCHASERS, 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], and are likely to commit such violations in the future unless enjoined from doing so.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Commission respectfully requests that this Court enter a judgment:



(i) permanently enjoining the defendants from violating Sections 10(b) and 14(e) of the Exchange Act [15 U.S.C. §§ 78j(b)] and Rules 10b-5 [17 C.F.R. §§ 240.10b-5];

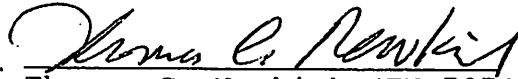
(ii) ordering the defendants to disgorge all profits realized from the unlawful trading alleged herein, with prejudgment interest;

(iii) ordering defendants to pay civil penalties under Section 21A of the Exchange Act [15 U.S.C. § 78u-1]; and

(iv) granting such other relief as this Court may deem just and appropriate.

Dated: March 16, 2000

Respectfully submitted,



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