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CV 99 4917

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

GLEESON, J.  
GO, M.

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
1999 JUN 19 PM 1:57

SECURITIES AND EXCHANGE COMMISSION, )

Plaintiff, )

vs. )

VICTOR M. WANG, )  
GREGG A. THALER, )  
CHARLES T. BENNETT, and )  
JEFFREY S. HONIGMAN, )

Defendants. )

Civil Action No.

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") alleges the following against defendants Victor M. Wang ("Wang"), Gregg A. Thaler ("Thaler"), Charles T. Bennett ("Bennett"), and Jeffrey S. Honigman ("Honigman") (collectively the "Defendants"):

SUMMARY

1. From approximately May 1996 through June 1996, Duke & Company, Inc. ("Duke") and the Defendants, who were principals and owners of Duke, defrauded the investing

public by manipulating the market for the securities of Paravant Computer Systems, Inc. ("Paravant").

2. In June 1996, Duke served as the underwriter for Paravant's initial public offering ("IPO") of common stock and warrants. In the IPO, which was declared effective on June 3, 1996, Paravant's common stock was offered to the public at \$5.00 per share and its warrants were offered at \$0.10 per warrant. On June 3, 1996, trading commenced in Paravant securities. During the first day of trading, the price of Paravant's common stock increased to \$9.875 per share and the price of the warrants increased to \$8.4375 per warrant.

3. The price of Paravant common stock dramatically increased because Duke and the Defendants artificially restricted the supply of Paravant common stock and fraudulently created significant demand for the common stock. For instance, Wang and Thaler allocated a large percentage of the common stock issued in the Paravant IPO to five customer accounts controlled by Woodco Fund Management ("Woodco") (collectively the "Woodco IPO Accounts") on the condition that these customers immediately resell this common stock back to Duke after the commencement of trading following the IPO. This arrangement ensured that Duke had a large supply of Paravant common stock in its inventory account. Prior to the IPO, Bennett and Honigman, as well as other Duke registered representatives ("RR") acting at the direction of Thaler, Bennett and Honigman, pre-solicited customers to purchase Paravant common stock once aftermarket trading in Paravant securities commenced to ensure demand for the common stock. Thus, as a result of the artificially small supply of common stock and the artificially created demand, once aftermarket trading commenced, the price of Paravant common stock increased. On June 4, 1996, after the price of Paravant common stock had increased significantly, Duke resold the common stock that it had repurchased from the Woodco IPO Accounts, as well as

stock Duke did not own (thus taking an enormous short position in the stock), to the retail customers Duke had pre-solicited to purchase common stock. Duke sold these shares of Paravant common stock to customers at prices ranging from \$10.75 to \$13.375 per share. To facilitate these sales, Bennett and Honigman, and other Duke RRs acting at the direction of Thaler, Bennett and Honigman, made material misrepresentations (and failed to disclose material information) to their retail customers. As a result of its manipulative activities in connection with Paravant common stock, Duke generated over \$1,885,137 in ill-gotten gains.

4. Duke and the Defendants also manipulated the market for Paravant warrants. Just as Duke had done with Paravant common stock, Duke restricted the supply of warrants by allocating a large block of Paravant warrants in the IPO to the Woodco IPO Accounts, who had agreed to sell the warrants back to Duke immediately after trading commenced. From June 3, 1996 to June 20, 1996, Duke repurchased the Paravant warrants from the Woodco IPO Accounts and then continued to purchase Paravant warrants in the market until it had amassed a huge inventory of approximately 1.2 million warrants (approximately 74% of the available supply of Paravant warrants). While Duke accumulated this massive position of warrants, the price of the warrants gradually increased to a price of \$12.00 per warrant on June 21, 1996. On June 21, 1996, Duke then dumped over one million warrants on its retail customers at \$12.00 per warrant. To facilitate these sales, Duke's RRs employed high pressure sales tactics to induce their retail customers to purchase the Paravant warrants. Duke generated over \$8,444,445 in ill-gotten gains from its manipulation of the market for Paravant warrants.

#### **NATURE OF THE PROCEEDINGS AND THE RELIEF SOUGHT**

5. The Commission brings this action pursuant to the authority conferred upon it by Sections 20(b) and 20(d) of the Securities Act, 15 U.S.C. §§ 77t(b) and 77t(d), and Sections

21(d) and 21(e) of the Exchange Act, 15 U.S.C. §§ 78u(d) and 78u(e), to restrain and enjoin permanently Wang, Thaler, Bennett and Honigman from violating the antifraud provisions of the federal securities laws. The Commission also seeks disgorgement by the Defendants of their ill-gotten gains plus pre-judgment interest, civil penalties, and such other equitable relief as may be deemed appropriate.

### **JURISDICTION AND VENUE**

6. This Court has jurisdiction over this action, pursuant to Section 22(a) of the Securities Act, 15 U.S.C. § 77v(a), and Sections 21(d), 21(e) and 27 of the Exchange Act, 15 U.S.C. §§ 78u(d), 78u(e) and 78aa.

7. The Commission, pursuant to authority conferred upon it by Sections 10(b), 15(c)(1) and 23(a) of the Exchange Act, 15 U.S.C. §§ 78j(b), 78o(c)(1), and 78w(a), has promulgated Rules 10b-3, 10b-5, 10b-6, and 15c1-2, 17 C.F.R. §§ 240.10b-3, 240.10b-5, 240.10b-6, and 240.15c1-2. Rules 10b-3, 10b-5, and 15c1-2 were in effect at the time of the transactions and events alleged in this Complaint and remain in effect. Rule 10b-6 was in effect at the time of the transactions and events alleged in this Complaint and remained in effect until March 4, 1997 when it was superseded by Exchange Act Regulation M, 17 C.F.R. § 242. All of the conduct herein, which is alleged to be violative of Rule 10b-6, would also constitute a violation of Regulation M.

8. Venue lies in this court 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. Certain of the acts, transactions and practices occurred in the Eastern District of New York. For instance, Duke maintained, and transacted business through, an office in Woodbury, New York. Duke and the

Defendants solicited, and sold Paravant securities to, a number of customers who lived in Syosset, New York, Roslyn New York and Port Washington, New York.

9. The Defendants, directly or indirectly, singly or in concert, made use of the means or instruments of transportation and communication in, and the means or instrumentalities of, interstate commerce, or of the mails, in connection with the transactions, acts, practices and courses of business alleged herein.

#### **STATUTES AND RULES ALLEGED TO HAVE BEEN VIOLATED**

10. Wang, Thaler, Bennett and Honigman have engaged, and unless enjoined will continue to engage, directly or indirectly, in transactions, acts, practices, and courses of business that constitute violations of Section 17(a) of the Securities Act of 1933 ("Securities Act"), 15 U.S.C. § 77q(a), and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. § 78j(b), and Rules 10b-5 and 10b-6, 17 C.F.R. §§ 240.10b-5 and 240.10b-6 ("the antifraud provisions") (On March 4, 1997, Regulation M, 17 C.F.R. §§ 100 et seq., superceded and replaced Rule 10b-6, however, the conduct described herein, which was violative of Rule 10b-6, is also violative of Regulation M).

11. Wang, Thaler, Bennett and Honigman directly or indirectly, singly or in concert, aided and abetted, and unless enjoined, will continue to aid and abet violations of Sections 10(b) and 15(c) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78o(c), and Rules 10b-3 and 15c1-2 thereunder, 17 C.F.R. §§ 240.10b-3 and 240.15c1-2.

#### **DEFENDANTS**

12. Wang, age 34 and a resident of Sarasota, Florida, was the Chairman and Chief Executive Officer ("CEO") of Duke from August 1993 to April 1998. Wang was also a 60% shareholder of Wang Holdings, Inc. ("Wang Holdings"), Duke's parent company, and was responsible

for all trading, market making, underwriting and syndicate activities at Duke. Wang possessed, directly and indirectly, the power to direct or control the management and policy of Duke. Wang has Series 7, 62, 63 and 24 securities licenses.

13. Thaler, age 33 and a resident of New York, New York, was a principal and a sales manager of Duke from August 1993 to April 1998. From July 1995 through April 1998, Thaler was the President of Duke. Thaler held a 9.9% interest in Wang Holdings. Thaler was an RR at Duke. Thaler was also responsible for directing and supervising Duke's RRs. Thaler has Series 7, 63 and 24 securities licenses.

14. Bennett, age 32 and a resident of Great Neck, New York, was a principal of, and a sales manager at, Duke from February 1994 to April 1998. Bennett held a 9.9% interest in Wang Holdings. Bennett was an RR at Duke. Bennett also supervised RRs at Duke. Bennett has Series 7, 63 and 24 securities licenses.

15. Honigman, age 37 and a resident of Jericho, New York, was sales manager at, and a principal of, Duke from March 1994 to April 1998. Honigman was a 9.9% shareholder of Wang Holdings. Honigman was an RR at Duke. Honigman also supervised RRs at Duke. Honigman has Series 7, 63 and 24 securities licenses.

#### **OTHER RELATED PARTIES**

16. Duke is a Florida corporation that had its principal place of business in New York, New York. Duke also maintained a branch office in Woodbury, New York. Duke has been registered with the Commission pursuant to Section 15 of the Exchange Act as a broker-dealer since November 1979. In August 1993, Wang Holdings purchased a controlling interest in Duke. In June 1996, Duke employed approximately 350 individuals in its two offices. In April 1998, Duke ceased its operations as a broker-dealer. On March 24, 1999, on the complaint and application of the Securities

Investor Protection Corporation ("S.I.P.C."), the Honorable Allen G. Schwartz, United States District Judge for the Southern District of New York, appointed a S.I.P.C. trustee to liquidate the business of Duke, pursuant to Section 78eee(b)(3) of the Securities Investor Protection Act of 1970 ("S.I.P.A."), 15 U.S.C. § 78eee(b)(3). Duke has not, however, withdrawn its broker-dealer registration from the Commission, or withdrawn its registration from the National Association of Securities Dealers ("NASD").

17. Paravant is a Florida corporation based in Melbourne, Florida. Paravant sells rugged portable computer systems for use in United States and foreign military establishments and commercial enterprises. On June 3, 1996, Paravant issued 1,150,000 shares of common stock at \$5.00 per share and 1,610,000 warrants at \$0.10 per warrant in its IPO. At all relevant times following its IPO, Paravant securities traded on the National Association of Securities Dealers Automated Quotation System ("NASDAQ") National Market System ("NMS").

18. Woodco Fund Management, Inc. is a Texas corporation with its principal place of business in Houston, Texas. Woodco purportedly provides investment advice to, and invests in securities on behalf of, various corporations and individuals including the Woodco IPO Accounts. Woodco manages accounts primarily for offshore corporations located in Curacao, Netherland Antilles and various foreign individuals. Woodco maintained brokerage accounts on behalf of the accounts it managed at numerous broker-dealers, including Duke.

## FACTS

### **A. Paravant Issues Securities Through an Initial Public Offering Underwritten By Duke**

19. Between approximately February 1996 and March 1996, Duke and Paravant negotiated a contract which outlined the terms of the IPO, and provided that Duke was to serve as the lead underwriter for the Paravant IPO.

20. Wang and Thaler negotiated the terms of the contract with Paravant's officers.

21. Edmond Nagel ("Nagel"), an employee of Woodco and a consultant to Duke, also participated in the negotiations between Duke and Paravant of the terms of the offering.

22. Pursuant to this agreement, Duke underwrote the Paravant IPO on a firm commitment basis. Through this IPO, Paravant offered 1,150,000 shares of common stock at \$5 per share and 1,610,000 warrants at \$0.10 per warrant. (The warrants were exercisable for the purchase of one share of common stock at \$6 per share for a period of five years commencing on November 30, 1997).

23. While negotiating the terms of the IPO, Wang, Thaler and Nagel, on behalf of Woodco, negotiated an additional "side deal" with Paravant's officers. Under the terms of this side deal, Paravant's officers agreed to sell 360,355 shares of their own Paravant common stock (41,500 shares at \$3 per share and 318,855 shares at \$4 per share) in a private placement to various Woodco managed accounts ("Woodco Private Placement Accounts").

24. In April 1996, Paravant's officers sold these 360,355 shares to the Woodco Private Placement Accounts.



25. In May 1996, Paravant filed a registration statement with the Commission registering the shares Paravant's officers sold to the Woodco Private Placement Accounts in the private placement, as well as the common stock and warrants Paravant issued through its IPO.

26. The shares of Paravant common stock that the Woodco Private Placement Accounts purchased were subject to a lock-up agreement pursuant to which the common stock could not be sold for 18 months without Duke's written consent.

27. After purchasing these shares, the Woodco Private Placement Accounts deposited the Paravant common stock into brokerage accounts at three broker-dealers other than Duke.

**B. Duke's Brokers Primed the Market for the Sale of Paravant Securities**

28. In May 1996, prior to the Paravant IPO being declared effective, Thaler, Bennett and Honigman each conducted sales meetings with Duke's RRs wherein they each directed Duke's sales force to solicit purchases of Paravant securities both in the IPO and in trading immediately following the IPO, which is known as the aftermarket.

29. In May 1996, Duke's RRs, including Bennett and Honigman, contacted customers by telephone and asked customers to commit to purchasing a certain dollar amount of Paravant securities. Duke's RRs, including Bennett and Honigman, told customers that they would fill as much as possible of the customers' orders in the IPO and would fill the balance of the customers' order in the aftermarket at the most favorable price possible.

30. By soliciting purchases of Paravant securities in the aftermarket prior to the IPO, Duke ensured that there would be a demand for Paravant securities after the IPO was declared effective.

31. In May 1996, Duke's RRs, including Bennett and Honigman, also conditioned their customers' participation in Paravant's IPO upon their commitment to purchase Paravant

common stock in the aftermarket. Thus, if a customer refused to commit to purchasing Paravant common stock in the aftermarket, Duke refused to allocate securities to the customer in the IPO.



32. Honigman also told customers that if they wanted to participate in Paravant's IPO, they had to agree to purchase Paravant common stock in the aftermarket in an amount four times more than they spent in the IPO.

33. Bennett's and Honigman's representations were inaccurate. There was no requirement that customers purchase securities in the aftermarket in order to receive an allocation of Paravant securities in the IPO.

34. During May 1996, Duke's RRs, including Honigman, also told customers by telephone that there was significant interest in the offering that would drive the price of Paravant securities up and that they expected the price of Paravant common stock to double or triple following the opening of trading. For instance, Honigman told Robert Randall (a customer of Honigman) that the price of Paravant stock would double or triple following the opening of trading.

35. In fact, Duke's RRs, including Honigman, had no reasonable basis for their price predictions, because there was no public market for Paravant common stock and warrants, no assurance that one would develop, and the securities offered in the IPO were speculative and involved a high degree of risk.

36. In other initial public offerings that Duke underwrote, Duke and its RRs engaged in a similar pattern of pre-soliciting the aftermarket and conditioning customers' participation in an IPO on their commitment to purchase securities in the aftermarket. For instance, Duke and its RRs engaged in this pattern of activity in conjunction with the IPO of Sel-leb Marketing, Inc. ("Sel-leb IPO") that Duke underwrote in July 1995.

**C. Duke Restricted the Supply of Paravant Securities by Allocating Large Blocks of These Securities to Controlled Accounts in the IPO**

37. After Duke became the lead underwriter of the Paravant IPO, Wang determined which other broker-dealers would participate in the underwriting syndicate. Wang also determined the amount of Paravant securities to be allocated to each syndicate member.

38. Wang allocated to Duke 758,970 shares of Paravant common stock, or 66% of the offering, and 1,053,200 Paravant warrants, or 65% of the offering, to sell to its own customers.

39. Thaler, Honigman and Bennett then determined the allocation of Paravant securities for each RR at Duke.

40. Thaler was the RR for the Woodco IPO Accounts.

41. Thaler, Bennett and Honigman allocated 261,500 Paravant shares, or 34%, of Duke's total allotment, to the Woodco IPO Accounts. Thaler, Bennett and Honigman also allocated 678,500 Paravant warrants, or 64% of Duke's total allotment, to the Woodco IPO Accounts. Thaler, Bennett and Honigman made these allocations knowing that the Woodco IPO Accounts had agreed to sell their Paravant common stock and warrants back to Duke immediately after the IPO.

42. On June 3, 1996, the day of the Paravant IPO, Thaler exercised control over the Woodco IPO Accounts and ensured that these accounts sold their Paravant securities back to Duke.

43. Thaler, Bennett and Honigman also allocated 55,300 shares of Paravant common stock and 55,300 warrants to Thaler's customers ("Thaler's Favored Customers"). Thaler's Favored Customers received larger allocations of Paravant securities in the IPO than other customers of Duke. Further, unlike Duke's other customers, Thaler's Favored Customers were

not required to purchase Paravant common stock in the aftermarket as a condition of their participation in the IPO.

44. Thaler, Bennett and Honigman allocated the balance of Duke's portion of the Paravant IPO, approximately 438,000 shares of common stock and approximately 335,000 warrants, to other Duke RRs, who then allocated the securities among their own customers who had agreed to purchase Paravant securities in the IPO and in aftermarket trading.

45. In other initial public offerings underwritten by Duke, Duke engaged in a similar pattern of ensuring that a large block of securities offered in the IPO were allocated to controlled accounts at Woodco, which had agreed to flip their securities back to Duke once aftermarket trading began. For instance, Duke engaged in this pattern of activity in connection with the Sel-leb IPO.

**D. Once Aftermarket Trading Commenced, Duke Took Efforts to Ensure that the Price of Paravant Common stock Increased**

46. At 3:28 p.m. on June 3, 1996, the Paravant IPO was declared effective and aftermarket trading began.

47. Duke acted as a market maker in Paravant common stock and warrants. At 3:29 p.m., Duke began posting bids (i.e., the price that Duke would be willing to pay) on NASDAQ for Paravant common stock and warrants.

48. Wang directed all trading activity at Duke in Paravant common stock on June 3, 1996 and June 4, 1996.

49. Duke's traders, at Wang's direction, entered the first bid for Paravant common stock at \$5.50 per share at 3:29 p.m.

50. Immediately after the Paravant IPO was declared effective, Wang gave Duke's trader, Robert Shapiro ("Shapiro"), order tickets for the sale of Paravant common stock and warrants from the Woodco IPO Accounts. Wang then instructed Shapiro to execute these orders at specific prices.

51. At 3:30 p.m., the first of Thaler's Woodco IPO Accounts sold 65,000 shares back to Duke at \$5.50 per share.

52. At 3:36 p.m., three more Woodco IPO Accounts sold 175,000 shares of Paravant common stock to Duke at \$6.50 per share.

53. At 3:41 p.m., Duke repurchased 21,500 shares from the last Woodco IPO Account at \$9 per share.

54. In total, between 3:30 p.m. and 3:41 p.m. on June 3, 1996, Duke repurchased all of the 261,500 shares of Paravant common stock allocated to the affiliated Woodco IPO Accounts. These purchases accounted for 22% of the entire float of Paravant common stock available at the time in the market.

55. Despite Duke's RRs' previous representations that Duke would sell Paravant securities to retail customers in the aftermarket at the best prices available, on June 3, 1996, Duke did not then sell any of the Paravant common stock it had purchased from the Woodco IPO Accounts to its retail customers. Rather, at Wang's direction, Duke held Paravant common stock in its inventory as the price of Paravant common stock increased from \$5.50 to \$9.875 per share during the day.

56. On June 3, 1996, Duke, as well as other market makers, raised the bid price for Paravant common stock despite the fact that there were virtually no customer or market makers

purchasing Paravant common stock in the market at that time (other than Duke's pre-arranged purchases of Paravant stock from the Woodco IPO Accounts).

57. At 9:30 a.m. on June 4, 1996, Paravant common stock opened at a bid price of \$9.75 per share. Duke then repurchased an additional 55,300 shares of Paravant common stock from Thaler's Favored Customers at \$9.75 per share.

58. Between 9:41 a.m. and 9:47 a.m., Duke sold approximately 400,000 shares of Paravant common stock at \$10.75 per share to its bona-fide retail customers that Duke's RRs had solicited prior to the IPO. In addition to reselling the shares of Paravant common stock purchased from the Woodco IPO Accounts, Duke took a short position in Paravant common stock. Despite these sales, Duke did not adjust its bid price for Paravant common stock.

59. Between 11:41 a.m. and 12:02 p.m., Duke sold an additional 1,700,000 shares of Paravant common stock at \$13.375 per share to its bona-fide retail customers. Duke's RRs had solicited many of these sales before the IPO.

60. During this 21-minute period, Duke sold more than 150% of the Paravant common stock available in the market without adjusting its bid price for the common stock. At the end of this selling activity, Duke held a short position of over two million shares.

61. During the remainder of the day on June 4, 1996, Duke continued to sell Paravant common stock to its customers at \$13.375 per share.

62. By the end of June 4, 1996, Duke had sold short almost three million shares of Paravant common stock in 441 transactions to its customers on a new issue which had a public float of only 1.5 million shares.

63. On June 4, 1996, despite the lock-up agreements, Duke released the 360,355 shares of Paravant common stock for sale which were held by the Woodco Private Placement

Accounts. Duke then purchased these shares of Paravant common stock from the Woodco Private Placement Accounts to cover, in part, its short position.

64. To cover the rest of its short position, during the next eight days of trading, Duke purchased a total of 2,701,516 shares of Paravant common stock from its customers at prices ranging from \$11.75 to \$14.125 per share.

65. Duke, at Wang's direction, did not execute its retail customers' aftermarket orders to purchase Paravant common stock at the best available price. Rather, as indicated in Paragraphs 28 through 33, Duke's RRs solicited aftermarket purchases of Paravant common stock before the IPO became effective and the RRs told their customers that they would purchase in the aftermarket at the best available price. Wang, however, directed Duke to hold the order tickets for these customers' purchases of Paravant common stock until June 4, 1996, when Wang directed Duke's traders to execute the customer purchase orders throughout the day solely at his direction. Duke did not execute these customer purchase orders until the price of Paravant common stock had increased to between \$10.75 and \$13.375 per share.

66. Duke's RRs failed to disclose to their customers that their purchase orders would not be filled at the best available price in the market.

67. Duke generated \$836,510 in trading profits from the purchase and sale of Paravant common stock before it had completed its participation in the distribution of Paravant common stock to the investing public.

68. Duke generated \$1,048,627 in commissions from the purchase and sale of Paravant common stock before it had completed its participation in the distribution of Paravant common stock to the investing public.

69. Duke's total profit from the purchase and sale of Paravant common stock before it had completed its participation in the distribution of Paravant common stock to the investing public was approximately \$1,885,137.

**E. Duke Manipulated the Market for Paravant Warrants**

70. At 3:28 p.m. on June 3, 1996, the minute Paravant's IPO was effective, Duke entered the first bid for Paravant warrants at \$.50 per warrant, and aftermarket trading for Paravant warrants commenced.

71. Between 3:32 p.m. and 3:34 p.m. on June 3, 1996, Duke purchased at prices ranging between \$0.50 and \$0.875 per warrant, all of the 678,500 Paravant warrants allocated to the affiliated Woodco IPO Accounts. These warrants accounted for 42% of all Paravant warrants available in the market.

72. On June 3, 1996, Duke then began raising its bid price for Paravant warrants from 3:34 p.m. until the market closed at 4:00 p.m. As the price of Paravant warrants rose from \$0.50 to \$7.625 per warrant, Duke raised the bid price for Paravant warrants on 17 occasions.

73. Wang directed all aftermarket trading in Paravant warrants at Duke, and he directed Duke to raise its bid price for Paravant warrants on June 3, 1996.

74. On June 3, 1996, Duke and other market makers increased the bid price for Paravant warrants despite the fact that there were virtually no customers or market makers purchasing Paravant warrants in the market (other than Duke's pre-arranged purchases of Paravant warrants from the Woodco IPO Accounts).

75. On June 4, 1996, Duke purchased 55,300 Paravant warrants from Thaler's Favored Customers at \$7.625 per warrant.



76. Between June 5, 1996 and June 20, 1996, Duke continued to purchase Paravant warrants in the market and increase its inventory position of Paravant warrants to approximately 1,200,000 warrants, or almost 75% of all publicly traded Paravant warrants.

77. As Duke decreased the supply of Paravant warrants in the market through its purchases of the warrants, the price increased to \$12.00 per warrant.

78. On June 21, 1996, Duke undertook a massive selling effort to dump the Paravant warrants into the market. Duke sold 1,026,000 warrants to its customers at \$12 per warrant in approximately 275 transactions.

79. In order to facilitate this massive selling effort, Thaler, Honigman and Bennett offered to Duke's RRs a sales credit of \$2.00 for each warrant sold on June 21, 1996.

80. Duke's RRs failed to disclose to customers that they were being paid these sales credits.

81. On June 21, 1996, Duke dominated and controlled the market for Paravant warrants by controlling approximately 93% of the market activity.

82. Despite the fact that Duke had sold approximately 1,026,000 Paravant warrants on June 21, 1996 (approximately 63% of the warrants available in the market), Duke never adjusted its bid or offer price for Paravant warrants during the day.

83. On June 21, 1996, Duke resold to bona-fide retail customers all of the Paravant warrants it had repurchased from the Woodco IPO Accounts on June 3, 1996.

84. Duke's trading in Paravant warrants operated as a fraud on the market. As a market maker, Duke represented to the market that its bid and ask price for Paravant warrants was based on legitimate supply and demand. This was not the case. The effect of Duke's

manipulative trading activity was to raise artificially the price of Paravant warrants to a higher level than a free and open market would dictate.

85. Duke generated \$7,962,630 in trading profits from the purchase and sale of Paravant warrants before it had completed its participation in the distribution of Paravant warrants to the public.

86. Duke generated \$481,815 in commissions from the purchase and sale of Paravant warrants before it had completed its participation in the distribution of Paravant warrants to the public.

87. Duke's total profit from the purchase and sale of Paravant warrants before it had completed its participation in the distribution of Paravant warrants to the public was approximately \$8,444,445.

88. Thaler received approximately \$143,536 in commissions for his sales of Paravant stock and warrants before Duke completed its participation in the distribution of Paravant stock and warrants to the public.

89. Bennett received approximately \$91,041 in commissions for his sales of Paravant stock and warrants before Duke completed its participation in the distribution of Paravant stock and warrants to the public.

90. Honigman received approximately \$234,877 in commissions for his sales of Paravant stock and warrants before Duke completed its participation in the distribution of Paravant stock and warrants to the public.

**CLAIMS FOR RELIEF**

**FIRST CLAIM FOR RELIEF AGAINST WANG**

**Wang Manipulated the Market of Paravant Warrants in Violation of Section 17(a)  
of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5  
Thereunder**

91. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 90 above.

92. From June 3, 1996 through at least June 21, 1996, Wang, directly or indirectly, singly or in concert, by use of the means or instruments of transportation or communication in, or the means or instrumentalities of, interstate commerce, or of the mails, in the offer or sale and in connection with the purchase or sale of securities, knowingly or recklessly: (1) employed devices, schemes and artifices to defraud; (2) obtained money or property by means of, or otherwise 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; and (3) engaged in acts, transactions, practices and courses of business which have operated as a fraud or deceit upon purchasers of the securities and other persons.

93. As part, and in furtherance, of this fraudulent conduct, among other things, Wang, knowingly or recklessly, manipulated the market for Paravant warrants. Among other things, Wang engaged in the following manipulative acts, practices and courses of business: a) Wang directed Duke to dominate and control the market for Paravant warrants on, at least, June 21, 1996; b) Wang effected a series of transactions through which Duke artificially restricted the supply of Paravant warrants in the public market by, among other things, selling 678,500 warrants to the affiliated Woodco IPO Accounts and then directing Duke to immediately repurchase the warrants once aftermarket trading commenced, and subsequently hold these

warrants in its inventory account while Duke continued to accumulate additional Paravant warrants in the market; c) Wang directed Duke, which was acting as a market maker for Paravant securities, to increase the price for Paravant warrants despite the fact that there was no genuine market demand for the warrants; d) Wang caused Duke to pay RRs a sales credit of \$2.00 for warrant sold to retail customers to create demand for Paravant warrants; and e) caused Duke RRs to make false representations and omit, and cause the omission of, material facts to retail customers regarding Paravant securities. These acts, practices and courses of business operated as a fraud or deceit as to the nature of the market for Paravant warrants.

94. Wang knew, or was reckless in not knowing, of the manipulative activities described in Paragraphs 1 through 90 above.

95. By reason of the foregoing, Wang has, directly or indirectly, singly or in concert, violated, and unless permanently enjoined, will again violate Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

### **SECOND CLAIM FOR RELIEF AGAINST THALER**

#### **Thaler Manipulated the Market of Paravant Warrants in Violation of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**

96. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 90 above.

97. From June 3, 1996 through at least June 21, 1996, Thaler, singly or in concert, by use of the means or instruments of transportation or communication in, or the means or *instrumentalities* of, interstate commerce, or of the mails, in the offer or sale and in connection with the purchase or sale of securities, knowingly or recklessly: (1) employed devices, schemes

and artifices to defraud; (2) obtained money or property by means of, or otherwise 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; and (3) engaged in acts, transactions, practices and courses of business which have operated as a fraud or deceit upon purchasers of the securities and other persons.

98. As part, and in furtherance of, this fraudulent conduct, Thaler knowingly or recklessly manipulated the market for Paravant warrants. Among other things, Thaler engaged in the following manipulative acts, practices and courses of business: a) Thaler effected a series of transactions through which Duke artificially restricted the supply of Paravant warrants in the public market by, among other things, selling 678,500 warrants to the Woodco IPO Accounts on the condition that these accounts resell these securities to Duke immediately upon commencement of aftermarket trading of Paravant securities; b) Thaler effected a series of transactions through which Duke artificially restricted the supply of Paravant warrants in the public market by, among other things, selling 55,300 Paravant warrants to Thaler's Favored Customers who had agreed to resell these warrants back to Duke at Thaler's discretion in aftermarket trading; and c) Thaler directed Duke RRs to make false representations and omit and cause the omission, of material facts to retail customers regarding Paravant securities. These acts, practices and courses of business acted as a fraud or deceit as to the nature of the market for Paravant warrants.

99. Thaler knew, or was reckless in not knowing, of the manipulative activities described in Paragraphs 1 through 90 above.

100. By reason of the foregoing, Thaler, has, directly or indirectly, singly or in concert, violated, and unless permanently enjoined, will again violate Section 17(a) of the Securities Act,

15 U.S.C. § 77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

**THIRD CLAIM FOR RELIEF AGAINST BENNETT AND HONIGMAN**

**Bennett and Honigman Manipulated the Market of Paravant Warrants in Violation of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**

101. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 90 above.

102. From June 3, 1996 through at least June 21, 1996, Bennett and Honigman, singly or in concert, by use of the means or instruments of transportation or communication in, or the means or instrumentalities of, interstate commerce, or of the mails, in the offer or sale and in connection with the purchase or sale of securities, knowingly or recklessly: (1) employed devices, schemes and artifices to defraud; (2) obtained money or property by means of, or otherwise 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; and (3) engaged in acts, transactions, practices and courses of business which have operated as a fraud or deceit upon purchasers of the securities and other persons.

103. As part, and in furtherance of, this fraudulent conduct, Bennett and Honigman knowingly or recklessly manipulated the market for Paravant warrants. Among other things, Bennett and Honigman engaged in the following manipulative acts, practices and courses of business: a) they directed Duke's sales force to sell the Paravant warrants to customers on June 21, 1996, once the price of Paravant warrants had increased to \$12.00 per warrant; b) they offered a sales credit of \$2.00 per warrant to Duke's sales force as an incentive to sell Paravant warrants on June 21, 1996; c) they sold Paravant warrants to their own retail customers on June 21, 1996; and d) they made

and directed Duke RRs to make false representations, and omit and cause the omission, of material facts to retail customers regarding Paravant securities. These acts, practices and courses of business acted as a fraud or deceit as to the nature of the market for Paravant warrants.

104. Bennett and Honigman knew, or were reckless in not knowing, of the manipulative activities described in Paragraphs 1 through 90 above.

105. By reason of the foregoing, Bennett and Honigman, have, directly or indirectly, singly or in concert, violated, and unless permanently enjoined, will again violate Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

#### **FOURTH CLAIM FOR RELIEF AGAINST WANG AND THALER**

##### **Violations of Section 10(b) of the Exchange Act and Rule 10b-6 Thereunder**

106. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 90 above.

107. Defendants Wang and Thaler, while they were (1) an underwriter or prospective underwriter in a particular distribution of securities; (2) an issuer or other person on whose behalf such distribution was being made; (3) a broker, dealer, or other person who agreed to participate or was participating in such distribution; or (4) an "affiliated purchaser" as defined in Rule 10b-6(c)(6), 17 C.F.R. § 240.10b-6(c)(6), directly or indirectly, singly or in concert, in connection with the purchase or sale of any security, by use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, knowingly or recklessly: (a) bid for or purchased for any account in which they had a beneficial interest, any security which was the subject of a distribution, any security of the same class and series, or any

right to purchase any such security; or (b) attempted to induce any person to purchase any such security or right, before they completed their participation in such distribution.

108. As set forth in Paragraphs 1 through 90 above, Wang and Thaler, were underwriters, a broker, dealer or other persons who participated in a distribution of Paravant securities.

109. The distribution of the Paravant offering of common stock and warrants did not come to rest until Duke sold the common stock and warrants to bona-fide retail customers, which occurred on June 4, 1996 with respect to Paravant common stock and on June 21, 1996 with respect to Paravant warrants.

110. While the distribution of Paravant common stock and warrants continued, and before Duke's, Wang's and Thaler's participation in the distribution of Paravant common stock and warrants was completed, Wang and Thaler bid for and purchased Paravant common stock and warrants, or induced other persons to purchase Paravant common stock and warrants, or both. Specifically, before Duke sold Paravant common stock and warrants, which were offered through Paravant's IPO, to its bona-fide retail customers, Wang and Thaler bid for and purchased, and induced other persons to purchase Paravant common stock and warrants.

111. As a result of the foregoing, defendants Wang and Thaler violated Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-6 thereunder, 17 C.F.R. § 240.10b-6, and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Section 101 of Regulation M (17 C.F.R. § 242.101).



**FIFTH CLAIM FOR RELIEF AGAINST BENNETT AND HONIGMAN**

**Violations of Section 10(b) of the Exchange Act and Rule 10b-6 Thereunder**

112. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 90 above.

113. Defendants Bennett and Honigman, while they were (1) an underwriter or prospective underwriter in a particular distribution of securities; (2) an issuer or other person on whose behalf such distribution was being made; (3) a broker, dealer, or other person who agreed to participate or was participating in such distribution; or (4) an “affiliated purchaser” as defined in Rule 10b-6(c)(6), 17 C.F.R. § 240.10b-6(c)(6), directly or indirectly, singly or in concert, in connection with the purchase or sale of any security, by use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, knowingly or recklessly: (a) bid for or purchased for any account in which they had a beneficial interest, any security which was the subject of a distribution, any security of the same class and series, or any right to purchase any such security or (b) attempted to induce any person to purchase any such security or right, before they completed their participation in such distribution.

114. As set forth in Paragraphs 1 through 90 above, Bennett and Honigman, were underwriters, a broker, dealer or other persons who participated in a distribution of Paravant securities.

115. While the distribution of Paravant common stock and warrants continued and before Duke’s, Bennett’s and Honigman’s participation in the distribution of Paravant common stock and warrants was completed, Bennett and Honigman bid for and purchased Paravant common stock and warrants, or induced other persons to purchase Paravant common stock and

warrants, or both. Specifically, in the days before the Paravant IPO, Bennett and Honigman solicited their customers to purchase Paravant common stock in the aftermarket.

116. As a result of the foregoing, defendants Bennett and Honigman violated Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-6 thereunder, 17 C.F.R. § 240.10b-6, and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Section 101 of Regulation M (17 C.F.R. § 242.101).

**SIXTH CLAIM FOR RELIEF AGAINST WANG,  
THALER, BENNETT AND HONIGMAN**

**Aiding and Abetting Violations by Wang, Thaler, Bennett and Honigman of Duke's  
Violations of Sections 10(b) and 15(c) of the Exchange Act and Rules 10b-3 and 15c1-2  
Thereunder**

117. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 90 above.

118. Duke, and defendants Wang, Thaler, Bennett and Honigman, directly or indirectly, singly or in concert, and knowingly or recklessly, made use of the mails or any means or instrumentality of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of, a security (other than commercial paper, bankers' acceptances, or commercial bills) otherwise than on a national securities exchange of which Duke was a member, by means of manipulative, deceptive, or other fraudulent devices or contrivances, as defined by rules and regulations of the Commission, including, without limitation, by means of: (1) acts, practices, or courses of business which operated as a fraud or deceit upon any person; or (2) untrue statements of a material fact and omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not

misleading, which statement or omission was made with knowledge or reasonable grounds to believe that it was untrue or misleading.

119. As part and in furtherance of this fraudulent conduct, Duke manipulated the market for the Paravant warrants as described in paragraphs 4, 19 through 27 and 70 through 87 above.

120. As a result of the foregoing, Duke violated Sections 10(b) and 15(c)(1) of the Exchange Act, 15 U.S.C. §78j(b) and § 78o(c), and Rules 10b-3 and 15c1-2, 17 C.F.R. §§ 240.10b-3 and 240.15c1-2.

121. As described above in paragraphs 4, 19 through 27 and 70 through 87 above, Wang, Thaler, Bennett and Honigman each provided substantial assistance to Duke in furtherance of its manipulative scheme.

122. Wang, Thaler, Bennett and Honigman each knew, or were reckless in not knowing, that Duke was manipulating the market for Paravant warrants and that their roles in Duke's manipulative scheme were improper.

123. Pursuant to Section 20(f) of the Exchange Act, 15 U.S.C. § 78t(f), and by reason of the foregoing, Wang, Thaler, Bennett and Honigman each aided and abetted and unless enjoined will again aid and abet, violations of Sections 10(b) and 15(c) of the Exchange Act, 15 U.S.C. §78j(b) and § 78o(c), and Rules 10b-3 and 15c1-2, 17 C.F.R. §§ 240.10b-3 and 240.15c1-2.

**SEVENTH CLAIM OF RELIEF AGAINST WANG**

**Wang's Failure to Promptly Execute Customer Orders  
For Paravant Common Stock Was a Material Omission**

124. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 90 above.

125. From June 3, 1996 through at least June 4, 1996, Wang, singly or in concert, by use of the means or instruments of transportation or communication in, or the means or instrumentalities of, interstate commerce, or of the mails, in the offer or sale and in connection with the purchase or sale of securities, knowingly or recklessly: (1) employed devices, schemes and artifices to defraud; (2) obtained money or property by means of, or otherwise 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; and (3) engaged in acts, transactions, practices and courses of business which have operated as a fraud or deceit upon purchasers of the securities and other persons.

126. As part and in furtherance of this fraudulent conduct, Wang, knowingly or recklessly failed to execute promptly Duke's retail customers' orders to purchase Paravant common stock. Specifically, Wang delayed the execution of numerous customer orders to purchase Paravant common stock that were received on or before June 3, 1996 until June 4, 1996 when the price of Paravant common stock had increased significantly.

127. Wang failed to direct Duke's RRs to tell their retail customers that Duke would not fill the customers' after-market purchase orders at the best available price, as Duke's RRs had previously represented to their customers.

128. These misrepresentations and omissions were material.

129. By reason of the foregoing, Wang, has, directly or indirectly, singly or in concert, violated, and unless permanently enjoined, will again violate Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

**EIGHTH CLAIM FOR RELIEF AGAINST BENNETT AND HONIGMAN**

**Material Misstatements in Violation of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**

130. The Commission realleges and incorporates by reference the allegations contained in Paragraphs 1 through 90 above.

131. From May 1996 through at least June 3, 1996, Bennett and Honigman, directly or indirectly, singly or in concert, by use of the means or instruments of transportation or communication in, or the means or instrumentalities of, interstate commerce, or of the mails, in the offer or sale and in connection with the purchase or sale of securities, knowingly or recklessly: (1) employed devices, schemes and artifices to defraud; (2) obtained money or property by means of, or otherwise made untrue statements of material fact, or have 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; and (3) engaged in acts, transactions, practices and courses of business which have operated as a fraud or deceit upon purchasers of the securities and other persons.

132. As part and in furtherance of this fraudulent conduct, Bennett and Honigman knowingly or recklessly, falsely told customers that they were required to purchase Paravant common stock in the aftermarket as a condition to receiving Paravant common stock and warrants in the IPO as described in Paragraphs 28 through 33 above.

133. These misrepresentations were material.

134. As part and in furtherance of this fraudulent conduct, Honigman, knowingly or recklessly, made baseless predictions regarding the future prices of Paravant common stock as described in Paragraphs 34 and 35 above.

135. By reason of the foregoing, Bennett and Honigman, have, singly or in concert, violated, and unless permanently enjoined, will again violate Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5.

#### **RELIEF REQUESTED**

WHEREFORE, the Commission respectfully requests that this Court:

#### **I.**

Grant a Final Judgment permanently enjoining Wang, Thaler, Bennett and Honigman, their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from violating Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rules 10b-5, and 10b-6 thereunder, 17 C.F.R. §§ 240.10b-5 and 240.10b-6.

## II.

Grant a Final Judgment permanently enjoining Wang, Thaler, Bennett and Honigman, their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them from aiding and abetting further violations of Sections 10(b) and 15(c) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78o(c), and Rules 10b-3 and 15c1-2, 17 C.F.R. §§ 240.10b-3 and 240.15c1-2.

## III.

Grant a Final Judgment requiring Wang to pay all ill-gotten gains that he and/or Duke obtained as a result of the violations alleged in this complaint, and to pay pre-judgment interest thereon.

## IV.

Grant a Final Judgment requiring Thaler, Bennett and Honigman to each pay all ill-gotten gains that they each obtained as a result of the violations alleged in this complaint, and to pay pre-judgment interest thereon.

## V.

Grant a Final Judgment assessing civil money penalties against Wang, Thaler, Bennett and Honigman pursuant to Section 20(d) of the Securities Act, 15 U.S.C. 77t(d), and Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3), in an amount to be determined by the Court.

IV.

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

Dated: August 18, 1999  
New York, N.Y.

Respectfully submitted,

EDWIN H. NORDLINGER (EN-6258)  
Deputy Regional Director

*Edwin H. Nordlinger*

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