

THE DEFENDANT

5. Defendant Cairo resides in the Washington, D.C. area.

FACTUAL ALLEGATIONS

6. At the time of the events alleged in this complaint, Vacation Break was a Florida corporation with its headquarters in Fort Lauderdale, Florida. Vacation Break's securities had been registered with the Commission since 1995 and, at the time of the transactions and events alleged in this complaint, were traded on the National Association of Securities Dealers, Inc.'s Automated Quotation System. Vacation Break developed, marketed and operated vacation time-share units. Vacation Break was merged into another company in 1997 after the failure of the proposed merger that was the subject of the defendant's non-public information.

7. Berkley Group is a privately-held company with offices in Fort Lauderdale, Florida which also develops, markets and operates time-share units.

8. On October 8, 1996, the principals of Vacation Break and the principals of Berkley Group began discussing a possible merger of Vacation Break and various entities controlled by the owners of the Berkley Group. The initial discussion progressed, and expanded to include an agreement to merge Vacation Break with other time-share companies controlled by the owners of Berkley Group, including the entire Berkley Group.

9. On or about October 28, 1996, defendant misappropriated from an employee of Vacation Break, in breach of his fiduciary or similar duty of trust and

confidence owed to that employee, material nonpublic information relating to the proposed transaction with the principals of the Berkley Group.

10. While in possession of this material nonpublic information, defendant purchased 15,000 shares of Vacation Break at an average price of approximately \$8.80 per share.

11. The first public announcement regarding the discussions came on November 26, 1996, when Vacation Break announced that it was in discussions regarding a potential merger. The next day, November 27, 1996, Vacation Break announced that it had reached a definitive merger agreement with the Berkley Group and other related entities.

12. After the November 27, 1996 public announcement regarding Vacation Break's agreement with the Berkley Group the price of Vacation Break securities rose significantly, and the defendant subsequently sold his shares of Vacation Break stock at a profit. Knowledge of Vacation Break's proposed merger with the Berkley Group constituted material, non-public information.

COUNT I – VIOLATION OF SECTION 10(b) AND RULE 10b-5

13. Plaintiff Commission incorporates and realleges all of the previous allegations of this complaint.

14. By reason of the foregoing acts, defendant violated, and unless 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].

WHEREFORE, the Commission respectfully requests that this Court:

I.

Find that the defendant committed the violations alleged herein.

II.

Enter a Final Judgment permanently enjoining defendant, his agents, servants, employees, attorneys-in-fact, and all persons in active concert or participation with him who received actual notice of the Final Judgment by personal service or otherwise, and each of them, from violating Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5 [17 C.F.R. 240.10b-5] thereunder.

III.

Enter a Final Judgment ordering defendant to disgorge the ill-gotten gains, plus prejudgment interest thereon, arising out of the conduct alleged herein.

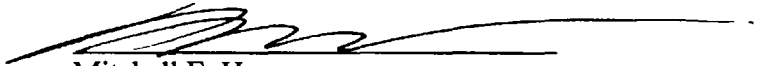
IV.

Enter a Final Judgment ordering defendant to pay civil penalties pursuant to Section 21A of the Exchange Act [15 U.S.C. 78u-1].

V.

Grant such other relief as the Court may deem just and appropriate.

Respectfully submitted,



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S.D. Fl. A-5500-259

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June 4, 1999

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COMMISSION**
1401 Brickell Avenue, Suite 200
Miami, Florida 33131
Telephone: (305) 982-6336

JS 44
(Rev. 12/96)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1997, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

SECURITIES AND EXCHANGE COMMISSION

DEFENDANTS

MITCHELL CAIRO

MAGISTRATE JUDGE
JOHNSON(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

ABROWN09906698/WPD/LRJ

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT n/a

(IN U.S. PLAINTIFF CASES ONLY)

NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME ADDRESS AND TELEPHONE NUMBER)

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(305) 982-6361, SEC, 1401 Brickell Ave., #200
Miami, FL 33131

ATTORNEYS (IF KNOWN)

Samuel J. Winer, Esq., Foley & Lardner, Washington
Harbour, 3000 K. Street, N.W., #500, Washington, DC

(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | |
|----------------------------|----------------------------|---|----------------------------|----------------------------|
| PTF | DEF | | PTF | DEF |
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Citizen of This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Citizen of Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| | | Incorporated or Principal Place of Business in This State | | |
| | | Incorporated and Principal Place of Business in Another State | | |
| | | Foreign Nation | | |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions A OR B
A REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Eminent Domain <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	A CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	A LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Mgmt. Relations <input type="checkbox"/> 730 Labor Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	B SOCIAL SECURITY <input type="checkbox"/> 861 HIA 1395ff <input type="checkbox"/> 862 Black Lung 923 <input type="checkbox"/> 863 DIWC/DIWW 1405ig <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI 1405ig FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS Third Party 26 USC 7609

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

15 U.S.C. 78j(b) and 17 C.F.R. 240.10b-5. Violations of the antifraud provision of the federal securities laws.

LENGTH OF TRIAL
via 2 days estimated (for both sides to try entire case)

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

Perm. Inj. Disgorgement DEMAND: ☐ YES ☒ NO
PenaltiesVIII. RELATED CASE(S) (See instructions).
IF ANY

JUDGE King

DOCKET NUMBER 98-2280-CIV-KING

DATE 6/4/99 SIGNATURE OF ATTORNEY OF RECORD

Jennifer S. Byrne

FOR OFFICE USE ONLY

RECEIPT AMOUNT APPLYING IFP JUDGE MAG. JUDGE