

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION

Plaintiff,

v.

JOHN J. KAHL, Jr., ROSA MARIA
GERTRUDE STEPHAN,
ALFRED STEPHAN, and
KRISTINA STEPHAN

Defendants.

FILED
JAMES BONINI
CLERK
06 JUL 19 PM 3:28
U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. CIV. LIMBUS
[Signature]

Case Number:
Judge

2 : 06 cv 608
JUDGE MARBLEY

MAGISTRATE JUDGE ABEL

DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiff, the United States Securities and Exchange Commission (the "Commission"), alleges the following:

INTRODUCTION

1. During August and September 1999, Roger Blackwell, who was a member of the board of directors of Worthington Foods, Inc. ("Worthington") from 1993 to 1999, disclosed material, non-public information regarding Kellogg Company's ("Kellogg") proposed acquisition of Worthington to Defendants John J. Kahl Jr., Rosa Maria Gertrude Stephan ("Gertrude Stephan"), Alfred Stephan, and Kristina Stephan.

2. As a result, Kahl, Gertrude Stephan, and Alfred Stephan purchased Worthington common stock while in possession of, and/or using, material, nonpublic information regarding Kellogg's proposed acquisition of Worthington. Based on Blackwell's information, Kahl profited in the amount of \$168,315.90 from his trading in Worthington securities; Gertrude and Alfred Stephan profited in the amount of \$19,212.60 from their trading

in Worthington securities. Kristina Stephan facilitated the tipping of her parents, Gertrude and Alfred Stephan, by passing to them material, non-public information about Kellogg's proposed acquisition of Worthington, which she received from Roger Blackwell.

3. Defendants, directly and indirectly, have engaged and, unless enjoined, will continue to engage in acts, practices, and courses of business which constitute or will constitute violations of Sections 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") (15 U.S.C. §78j(b)), and Rule 10b-5 (17 C.F.R. §240.10b-5) promulgated thereunder.

4. The Commission brings this action, in part, to enjoin such acts, practices and courses of business pursuant to Sections 21(d) and 21(e) of the Exchange Act (15 U.S.C. §§78u(d) and 78u(e)).

JURISDICTION AND VENUE

5. The Court has jurisdiction of this action pursuant to Sections 21 and 27 of the Exchange Act (15 U.S.C. §§78u and 78aa).

6. Defendants, directly and indirectly, have made use of the: (1) means and instruments of transportation and communication in interstate commerce; (2) means and instrumentalities of interstate commerce; (3) mails; or (4) the facilities of a national securities exchange in connection with the transactions, acts, practices, and courses of business alleged herein within the jurisdiction of this Court and elsewhere.

THE DEFENDANTS

7. Defendant John J. Kahl, Jr. (a.k.a. Jack Kahl) is a resident of Cleveland, Ohio. He was the former president and CEO of a manufacturing concern. Kahl met Roger Blackwell in 1989 at a marketing seminar in Chicago, Illinois. From 1989 onwards, Kahl and Blackwell remained close friends and were business associates.

8. Defendants Alfred and Gertrude Stephan are residents of Columbus, Ohio. Alfred and Gertrude Stephan are the parents of Kristina Stephan. Alfred and Gertrude Stephan have been married for over 53 years.

9. Defendant Kristina Stephan is a resident of New York, New York. Kristina Stephan is the former spouse of Roger Blackwell and daughter of Gertrude and Alfred Stephan.

OTHER INDIVIDUALS INVOLVED

10. Roger Blackwell was a resident of Columbus, Ohio until January 2006, when he reported to a federal correctional facility as a result of his conviction for illegal insider trading and other crimes in *U.S. v. Blackwell, et. al.*, 04 CR 134 (S.D. Ohio). From 1992 to November 29, 1999, Blackwell was a member of the board of directors of Worthington. Blackwell was also a member of the board of directors of several other public and private companies. In addition, Blackwell was a nationally recognized expert in consumer behavior and marketing and was a high-profile marketing professor at Ohio State University.

ENTITIES INVOLVED

A. **Worthington Foods, Inc.**

11. Worthington is a wholly owned subsidiary of Kellogg. It produces meat alternative food products made from soy and wheat proteins. Worthington was a publicly-traded corporation headquartered in Worthington, Ohio until November 29, 1999 when it merged with Kellogg. Worthington's securities were registered under Section 12(g) of the Securities Exchange Act of 1934. Its common stock was traded on the Nasdaq National Market and its options were traded on the Philadelphia Stock Exchange. During the relevant time period, August 1 to September 30, 1999, Worthington's stock traded in the \$11 15/16 to \$14 3/8 range.

12. At all relevant times, Worthington had a policy that prohibited employees and directors from trading in Worthington securities while in possession of material, non-public information. Worthington's policy also prohibited employees and directors from using material, non-public information for personal benefit. In addition, Worthington required all executives and directors to seek approval prior to engaging in transactions in Worthington securities. As a member of the board of directors of Worthington, Roger Blackwell was bound by, and was aware of, this policy.

B. The Kellogg Company

13. Kellogg, a Delaware corporation headquartered in Michigan, and its subsidiaries manufacture and market ready-to-eat cereal and convenience food products. The company's products are generally marketed under the Kellogg name and are sold to the grocery trade for resale to consumers.

BACKGROUND

14. On July 8, 1999, Kellogg's representatives approached Worthington's Chairman, President and Chief Executive Officer, Dale Twomley, to discuss the possibility of a business combination. On July 16, 1999, top Kellogg officials met with Twomley and other Worthington officials to execute a confidentiality agreement. On July 20, 1999, during a regularly scheduled board meeting, Twomley informed the Worthington board of directors (the "Board") of the ongoing discussions with Kellogg. At that meeting, the Board authorized management to engage an investment banker. Blackwell was a member of the Worthington board of directors throughout 1999.

15. On August 10, 1999, Twomley and Worthington officials discussed pricing the deal at .76 Kellogg share per Worthington share (\$26.08 per Worthington share). On August

11, 1999, during a special telephonic meeting, the Board authorized the negotiation of a definitive merger agreement. Soon thereafter, Worthington formally engaged U.S. Bancorp Piper Jaffray as its investment banker. On August 24, 1999, Worthington began its due diligence process.

16. On August 26, 1999, during a special telephonic meeting, the Board authorized management to pursue an all cash transaction. That same day, Twomley informed all the board members including Blackwell about the proposed merger and explicitly instructed them not to tell anyone about it and not to use the information for personal benefit.

17. On August 30, 1999, Kellogg delivered to Worthington an initial draft of the merger agreement. On September 8, 1999, the Board met with legal counsel to review the merger agreement. On September 23, 1999, Twomley and Kellogg officials agreed to a price of \$24 per share for Worthington stock. The next day, on September 24, 1999, the Board held a special meeting (with Blackwell present) during which the directors authorized management to complete the definitive agreement. Copies of the merger agreement were sent to the Worthington directors on September 27, 1999. On September 29, 1999, the Board met and approved the merger agreement. The parties executed the merger agreement by the end of the day on September 30, 1999. On the morning of October 1, 1999, the parties issued a press release announcing the merger agreement in which Kellogg would pay \$24 for each share of Worthington stock. Worthington's stock price closed on October 1, 1999, at \$23 1/16, up \$8.75 or 61.4% from the prior day's closing.

THE IMPROPER CONDUCT OF THE DEFENDANTS

A. The Stephens

18. Blackwell was aware of Worthington's well-established policy and prohibitions against insider trading. Blackwell understood, as a Worthington director, that he was prohibited from trading Worthington stock while in possession of material, non-public information and that he was prohibited from tipping others about that information.

19. On or about August 11, 1999, Blackwell breached his duty of trust and confidence to Worthington and its shareholders by disclosing to Kristina Stephan, Gertrude Stephan, and Alfred Stephan material non-public information about the impending merger of Worthington and Kellogg. Specifically, Blackwell disclosed material, non-public information about the Worthington-Kellogg merger to Kristina Stephan, his wife, and agreed with her suggestion that they should tip her parents about the Worthington-Kellogg merger. Kristina Stephan then informed Gertrude Stephan, her mother, about the Worthington-Kellogg merger. She told Gertrude Stephan to purchase Worthington securities and that the purchase would likely result in a profit. Gertrude Stephan informed her husband, Alfred, of the material, non-public information. Gertrude and Alfred Stephan and Kristina Stephan knew that Blackwell was on the board of directors at Worthington and knew that Blackwell disclosed this information to them in breach of his duty of trust and confidence to Worthington and its shareholders. On or about August 11, 1999, Gertrude and Alfred Stephan jointly purchased approximately 300 shares of Worthington common stock.

20. On or about August 30, 1999, Blackwell and Kristina Stephan met with Gertrude Stephan and disclosed additional, material, non-public information about the impending merger of Worthington and Kellogg. Blackwell and Kristina Stephan disclosed that a

Worthington-Kellogg merger was more likely and would result in an increase in Worthington's stock price. Blackwell and Kristina Stephan also provided Gertrude Stephan with \$20,000 to invest in Worthington stock. Gertrude Stephan informed her husband, Alfred, of the material, non-public information. On or about August 30, 1999, Gertrude and Alfred Stephan jointly purchased approximately 1,500 shares of Worthington common stock.

21. On December 28, 1999, as a result of the Worthington-Kellogg merger, all 1,800 shares of Worthington stock were liquidated for a profit of \$19,212.60. The following chart illustrates Gertrude and Alfred Stephan's purchases and sales of Worthington securities and their profits:

Trade Date	Shares	Price	Total Cost	Profit	Total Profit
11-Aug-99	300	\$13.88	\$4,241.50		
30-Aug-99	1,500	\$13.00	\$19,754.00		
28-Dec-99		1,800	\$24.00		\$43,208.10
					\$19,212.60

B. John J. Kahl

22. On or about September 20, 1999, Blackwell breached his duty of trust and confidence to Worthington and its shareholders by disclosing material, non-public information to Kahl. Kahl and Blackwell have been close friends and business associates since 1989. Blackwell and Kahl served together on at least two boards of public and private companies. Kahl was aware of the laws against insider trading based on his prior service on several public company boards.

23. On or about September 20, 1999, Blackwell informed Kahl about the impending Worthington-Kellogg merger. Moreover, Blackwell informed Kahl that the stock was expected to increase in price after the merger was completed. Blackwell told Kahl that if he

decided to buy Worthington stock, he should purchase his shares in small increments in order to avoid detection of his trading because Worthington stock was a thinly-traded security.

24. Kahl knew that Blackwell was on the board of directors at Worthington and knew that Blackwell disclosed this information to him in breach of Blackwell's duty of trust and confidence to Worthington and its shareholders. Kahl improperly benefited by trading on Blackwell's material, non-public information. On or about September 20, 1999, Kahl purchased 15,000 shares of Worthington stock.

25. On or about November 1, 1999, Kahl sold his Worthington securities and realized a profits of \$168,315.90. The following chart shows Kahl's purchases and sales of Worthington securities and his profits:

Trade	SELL	Debit	Credit	
20-Sep-99	5,000	\$12.06	\$60,980.50	
20-Sep-99	2,000	\$12.06	\$24,392.20	
20-Sep-99	900	\$12.06	\$10,976.49	
20-Sep-99	1,100	\$12.06	\$13,415.71	
20-Sep-99	1,500	\$12.13	\$18,387.90	
20-Sep-99	1,500	\$12.06	\$18,294.15	
20-Sep-99	1,500	\$12.13	\$18,387.90	
20-Sep-99	1,500	\$12.13	\$18,391.94	
1-Nov-99	7,700	\$23.625	\$180,337.19	
2-Nov-99	7,300	\$23.688	\$171,205.50	
				\$168,315.90

CLAIM

Violations of Section 10(b) of the Exchange Act (15 U.S.C. § 78j(b)) and Rule 10b-5 (17 C.F.R. § 240.10b-5) Promulgated Thereunder

26. Paragraphs 1-25 are realleged and incorporated by reference herein.

27. By the conduct alleged above, Defendant Kahl, Defendant Gertrude Stephan, Defendant Alfred Stephan, and Defendant Kristina Stephan, in connection with the purchase of

securities by the use of the means and instrumentalities of interstate commerce, by the use of the mails, or by the use of the facilities of a national securities exchange, directly and indirectly; employed devices, schemes, and artifices to defraud; made untrue statements of material facts and 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 engaged in acts, practices and courses of business which would and did operate as a fraud and deceit upon the purchasers and sellers of securities.

28. The defendants acted with scienter when they engaged in the conduct alleged in paragraphs 1 to 25, above.

29. By reason of the activities alleged above, the defendants violated Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5, 17 C.F.R. § 240.10b-5, promulgated thereunder.

PRAYER FOR RELIEF

THEREFORE, the Commission respectfully requests that this Court:

I.

Find that the Defendants committed the violations alleged above.

II.

Grant a Final Judgment Order of Permanent Injunction, Civil Penalties, and Other Equitable Relief ("Final Judgment"), in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, enjoining the defendants, their agents, servants, employees, assigns, attorneys, and those persons in active concert or participation with them who receive actual notice of the Final Judgment by personal service or otherwise, and each of them, from, directly or indirectly, engaging in acts, practices, and courses of business, in violation of Section 10(b) of the

Exchange Act (15 U.S.C. §78j(b)), and Rule 10b-5 (17 C.F.R. §240.10b-5) promulgated thereunder.

III.

Grant an Order requiring defendants to pay disgorgement of their ill-gotten gains plus prejudgment interest from October 1, 1999 to the date of final judgment in this matter.

IV.

Grant an Order requiring the defendants to pay civil penalties pursuant to Section 21A of the Exchange Act (15 U.S.C. §78u-1).

V.

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

VI.

Grant an Order for such further relief as the Court may deem appropriate.

Dated: July 19, 2006

Respectfully Submitted,


Adolph J. Dean (Alabama ASB-2869-N77A)
Sunil R. Harjani (Illinois 6272357)
ATTORNEYS FOR PLAINTIFF
UNITED STATES SECURITIES AND
EXCHANGE COMMISSION
175 W. Jackson Boulevard, Suite 900
Chicago, Illinois 60604
Telephone: (312) 353-7390