

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No.

**UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,**

Plaintiff,

v.

**JAMES CHARLES BLUE,
RANDY COOK, and
VICTOR CAMPBELL**

Defendants.

COMPLAINT

Plaintiff, the United States Securities and Exchange Commission (“Commission”), alleges for its Complaint as follows:

SUMMARY

1. Defendants James Charles Blue (“Blue”), the former President and Chief Operating Officer of ConAgra Agri Products Companies (“Agri Products”), Randy Cook (“Cook”), the former President of North America Operations of United Agri Products (“UAP”), and Victor Campbell (“Campbell”), UAP’s former Controller, participated in a fraudulent scheme to overstate UAP’s operating results for fiscal years 1999 and 2000. The defendants carried out a series of fraudulent accounting practices at UAP that included: (1) the improper

recognition of revenue from deferred delivery sales and associated rebates from its suppliers (“associated vendor rebates”), (2) the failure to record bad debt expenses when realized, and (3) the improper recognition of revenue from advance vendor rebates. The defendants undertook these actions in order to meet unrealistic profit targets for 1999 and 2000.

2. At all relevant times, UAP was a wholly-owned subsidiary of ConAgra Foods, Inc. (“ConAgra”), a then Fortune 50 diversified international food company. During 1999 and 2000 UAP’s inflated financial results were incorporated into ConAgra’s consolidated financial statements and were also reported within ConAgra’s Agricultural Products segment.

3. The defendants’ knowing or reckless misconduct caused ConAgra to file with the Commission, and release to the public, materially false and misleading financial statements included in its Annual Reports filed on Forms 10-K for fiscal years 1999 and 2000. The defendants’ misconduct caused ConAgra to fraudulently and materially overstate its income before income taxes by \$46.7 million (7.35%) in 1999 and by \$48.5 million (7.85%) in 2000. At the Agricultural Products’ segment level, the defendants’ knowing or reckless misconduct caused that segment’s reported operating profit to be overstated by 16.36% in fiscal 1999, and 34.97% in fiscal 2000. In connection with an inquiry conducted under the direction of ConAgra’s Audit Committee, forensic accountants retained by special counsel to the Audit Committee tested a sample valued at \$247,898,360 of UAP’s deferred delivery sales originally recorded during the period from fiscal year 1998 through the second quarter of fiscal year 2001 and determined that approximately 40% of the transactions tested were fraudulent in nature.

4. Blue and Cook’s compensation was significantly dependent on UAP’s profitability as was Campbell’s, albeit to a lesser extent. As a result of the misconduct, Blue,

Cook and Campbell earned inflated bonus compensation. Additionally, Cook participated in a profit-based ConAgra compensation plan whereby he received inflated compensation in the form of stock, dividends and stock options.

5. By engaging in this conduct, the defendants violated the anti-fraud, books and records, and internal controls provisions of the federal securities laws, and aided and abetted ConAgra's violation of the reporting, books and records, and internal controls provisions of the federal securities laws. Cook also aided and abetted ConAgra's, Blue's and Campbell's violations of the anti-fraud provisions of the federal securities laws. The Commission requests, among other things, that the Court: 1) enjoin Blue, Cook and Campbell from further violations of the federal securities laws as alleged herein; 2) order defendants to disgorge ill-gotten gains, including pre-judgment interest, and to pay monetary penalties; and 3) permanently prohibit Defendant Cook from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 781] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

JURISDICTION AND VENUE

6. The Commission brings this action pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

7. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa]. The defendants, directly and indirectly, used 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 course of business alleged in this Complaint.

8. Certain of the acts, practices and courses of conduct constituting the violations of law alleged in the Complaint occurred within this judicial district, and, therefore, venue is proper pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa].

9. The defendants, directly and indirectly, have engaged in, and unless restrained and enjoined by this Court will continue to engage in, transactions, acts, practices and courses of business that violate Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Exchange Act Rules 10b-5 and 13b2-1[17 C.F.R. §§ 240.10b-5 and 240.13b2-1]; and have aided and abetted, and unless restrained and enjoined by this Court will continue to aid and abet, violations of Section 13(a) and 13(b)(2)(A) and (B) of the Exchange Act [15 U.S.C. §§ 78m(a) and 78m(b)(2)(A) and (B)] and Exchange Act Rules 12b-20 and 13a-1[17 C.F.R. §§ 240.12b-20 and 240.13a-1].

10. Cook aided and abetted, and unless restrained and enjoined by this Court, will continue to aid and abet violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

DEFENDANTS

11. Blue, age 68, is a resident of Clifton, Texas. He served as President of UAP from September 1991 through June 1998, and then until August 2000, was President and Chief Operating Officer of Agri Products, which included UAP. From September 2000 until his retirement in October 2003, Blue served in a consulting capacity as President, UAP Supplier Relations.

12. Cook, age 52, at all times relevant, was a resident of Fort Collins, Colorado. From September 1992 through July 1997, he was an Executive Vice President with UAP. From August 1997 through his termination from UAP in 2001, he served as President of UAP's North America Operations, and reported to Blue. As President of UAP's North American operations, Cook was second only to Blue in UAP's hierarchy. Cook had overall responsibility for sales at UAP and was involved in the operation of UAP's credit department.

13. Campbell, age 56, is a resident of Greeley, Colorado. From 1984 through early 1999, he was Vice President of Accounting Operations for UAP, and from 1999 through fiscal year 2000, he served as Vice President and Controller of UAP. During the relevant time period, Campbell reported to Blue and had overall responsibility for accounting and finance at UAP. From early 2001, Campbell has served as UAP's Manager of Supplier Programs.

RELEVANT ENTITIES

14. ConAgra is a Delaware corporation with its headquarters in Omaha, Nebraska. Its common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act, and it trades on the New York Stock Exchange. In the period 1999 and 2000, ConAgra's businesses were classified into three reporting segments: Agricultural Products, Refrigerated Foods and Packaged Foods. The Agricultural Products segment had several entities under it, a significant one of which was Agri Products. UAP was part of Agri Products. In fiscal year 1999, ConAgra's Agricultural Products segment contributed 22.4% of ConAgra's revenues and 21.97% of its operating profit, and in fiscal year 2000, contributed 19.7% of ConAgra's revenues and 11.2% of its operating profit. In fiscal years 1999 and 2000, UAP contributed approximately

13% of ConAgra's total company sales and 9% of ConAgra's total company operating profit.

ConAgra's fiscal year ends on the last Sunday in May of each year.

15. UAP, at all times relevant to this Complaint, was headquartered in Greeley, Colorado and was a wholly-owned subsidiary of ConAgra engaged in the sale of agricultural chemicals and related products throughout the United States, Mexico and Canada. UAP was composed of thirteen Independent Operating Companies ("IOCs"). UAP was the largest single member of Agri Products, typically representing between 97% and 100% of Agri Products' operations. UAP's fiscal year ended on the last Sunday in February of each year, and preceded by three months the end of ConAgra's fiscal year. UAP's fiscal year 2000 ended on February 27, 2000, and ConAgra's fiscal year 2000 ended on May 28, 2000. On November 23, 2003, ConAgra completed the sale of UAP to Apollo Management, L.P.

**THE DEFENDANTS' FRAUDULENT SCHEME TO
INFLATE UAP'S OPERATING RESULTS**

**A. BLUE, COOK AND CAMPBELL FOSTERED
AN ENVIRONMENT FOR FRAUD**

16. Blue and Cook, with Campbell's knowledge or recklessness, pressured the UAP sales force to meet unrealistic profit before taxes ("PBT") targets in fiscal years 1999 and 2000. This pressure was one of the factors that caused UAP to overstate its operating results, and directly increased the bonus compensation paid to the defendants and others. The defendants promoted the excessive use of improperly recognized deferred delivery sales to meet the unrealistic PBT targets and encouraged UAP managers and other personnel to engage in sales practices which contravened the generally accepted accounting principles ("GAAP") governing the recognition of revenue on deferred delivery sales. The defendants knew, or were reckless in

not knowing, that UAP could not meet the unrealistic PBT targets without utilizing improper accounting practices, particularly during periods when UAP's actual sales and PBT were already below operating targets. Additionally, Blue, Cook and Campbell failed to change UAP's credit function, which encouraged UAP personnel to ignore creditworthiness and growing bad debt levels in order to meet PBT targets. Finally, the defendants caused UAP to prematurely recognize revenue from advance vendor rebates paid to UAP in contravention of GAAP.

B. BLUE, COOK AND CAMPBELL CAUSED UAP TO IMPROPERLY RECOGNIZE REVENUE FROM DEFERRED DELIVERY SALES AND ASSOCIATED VENDOR REBATES

17. Under GAAP, revenue from products is typically not recognized until the seller has substantially fulfilled the terms of the arrangement, which usually occurs upon delivery of the goods or product or performance of services.

18. Deferred delivery sales, by which a sale is made but the goods are retained by the seller at the buyer's request, may be recognized as revenue by the seller before delivery of the goods to the buyer only if certain accounting requirements are met. If these conditions are not met, the seller may not recognize the sales as revenue until the goods are shipped to the customer. Accounting and Auditing Enforcement Release No. 108 sets forth the requirements for revenue recognition of deferred delivery sales. Among those requirements are that: (1) the risks of ownership have passed to the buyer at the time of the sale; (2) the buyer has made a fixed commitment to purchase the goods; (3) the buyer, not the seller, has requested that delivery be deferred, and the buyer has a substantial business purpose for ordering the goods on such basis; (4) there is a fixed schedule for delivery of the product; (5) the seller has not retained any specific performance obligations; (6) the ordered goods have been segregated from the seller's

inventory and are not subject to being used to fill other orders; and (7) the goods are complete and ready for shipment.

19. UAP recorded its deferred delivery sales using bill and hold storage agreements and sales contracts. Under the bill and hold agreements, UAP recorded revenue when the sales invoice was generated in UAP's computerized sales system. Under the sales contract method, UAP aggregated the sales contracts with customer signatures at the end of the fiscal year and recorded the resulting revenue in UAP's books by means of a journal entry. UAP improperly recognized millions of dollars in revenue under both of these methods of deferred delivery sales because UAP recognized revenue on both types of transactions without assuring that the necessary accounting requirements were met. Additionally, UAP received associated vendor rebates at the time of each deferred delivery sale, and these amounts also were improperly recognized as revenue.

i. Fiscal Year 1999

20. On or about July 7, 1998, which was during UAP's second quarter of fiscal year 1999, UAP's Senior Financial Officer ("SFO") distributed a memorandum to UAP management, including Blue, Cook and Campbell, addressing recent scrutiny by the Commission of public companies engaging in the improper use of bill and hold sales. Subsequently, Blue, Cook and Campbell, among others, discussed UAP's usage of deferred delivery sales and the need for compliance with the accounting requirements. Blue, Cook and Campbell knew the accounting requirements applicable to deferred delivery sales, however, by the end of fiscal year 1999, Blue and Cook, with Campbell's knowledge, were more concerned with sales than complying with the accounting requirements.

21. In July 1998, Blue sent a memorandum to UAP's sales managers notifying them of the increased PBT target for fiscal year 1999 from 14% to 18.25%. In August 1998, Blue, Cook and five other senior UAP executives each signed commitment letters, which they sent to ConAgra's Chief Executive Officer, specifying their intent to meet their pro-rata share of UAP's increased PBT target. Campbell knew that Blue had informed the sales force of this increase and that the additional commitments were being made by UAP's senior executives.

22. During the third quarter of fiscal year 1999, Campbell received two e-mails from UAP personnel indicating that UAP's recognition of revenue on its deferred delivery sales "may not be 100% proper," and delineating specific ways the sales failed to meet the relevant accounting criteria under GAAP.

23. Despite having received this information, Campbell failed to take adequate steps to investigate the validity of the allegations and to ensure that UAP's practices in recognizing revenue on its deferred delivery sales complied with GAAP.

24. In the third quarter of fiscal year 1999, knowing that UAP was already approximately \$10 million short of its PBT for the year, Blue and Cook, with Campbell's knowledge, instructed the UAP sales force to maximize the company's profits by seeking prepaid cash on deferred delivery sales which they knew, or were reckless in not knowing, would be recorded as revenue in the current fiscal year. This revenue recognition practice did not comply with GAAP because, among other things, UAP, not the customer, had solicited the transaction.

25. On or about January 28, 1999, one month before the end of UAP's 1999 fiscal year, UAP distributed a memorandum detailing the accounting requirements for deferred

delivery sales to Blue, Cook and other UAP executives and sales personnel. Cook read the memorandum and knew that UAP had to comply with the accounting requirements to recognize revenue. Campbell failed to ensure that the memorandum included the requirement that a fixed delivery date be included on the documentation for deferred delivery sales, despite being informed by UAP's outside auditors that a fixed delivery date was needed before revenue could be recognized on a deferred delivery sale.

26. This same January 28, 1999 memorandum stated that UAP's practice was to allow product substitution on deferred delivery sales. Campbell knew, or was reckless in not knowing, that product substitution was contrary to the accounting requirements under GAAP and that the outside auditors viewed UAP's product substitution practice as problematic.

27. In February 1999, which was the last month of UAP's fourth quarter of fiscal year 1999, at a UAP sales meeting that Blue, Cook, Campbell and most of UAP's sales personnel attended, Campbell explained the requirements for deferred delivery sales. Subsequently, at the same meeting, and in the presence of Campbell and Blue, Cook told the sales staff to ignore these same accounting requirements and to proceed as they had done in the past in aggressively soliciting deferred delivery sales. Blue failed to instruct the sales force to disregard Cook's remarks and follow the January 28th memorandum's instructions for recognizing revenue on deferred delivery sales, and instead, emphasized the need to do what needed to be done to make their sales targets. Cook knew, or was reckless in not knowing, that his comments would encourage the UAP sales force, which he was in charge of, to improperly record revenue from deferred delivery sales without complying with the governing accounting requirements.

28. Near the end of UAP's fiscal year 1999, UAP's SFO told Blue and Cook that he had concerns about the propriety of UAP's deferred delivery sales. The SFO further told Blue and Cook that deferred delivery sales were a "hot button issue" and could "spark an interest" with the Commission. He had previously advised Blue and Cook that the Commission was closely watching such transactions. The SFO also informed Cook that because of his concerns about UAP's bill and hold transactions, he did not want to be involved with UAP's close for fiscal year 1999.

29. At the end of UAP's fiscal year 1999, UAP closed its books and reported its financial results to ConAgra. Blue, Cook and Campbell knew, or were reckless in not knowing, that UAP's results contained improperly recognized revenue from deferred delivery sales and from vender rebates associated with such sales.

ii. Fiscal Year 2000

30. For fiscal year 2000, Blue, with the knowledge of Cook and Campbell, increased UAP's PBT target from 14% to 25%, even though he, Cook and Campbell knew that UAP had failed to meet the 18.25% target set in 1999.

31. In November 1999, ConAgra shared with Blue and Cook an anonymous letter it had received alleging fraud at UAP, including, among other things, at least one specific allegation that Blue and Cook had directed UAP distribution companies to acquire high-margin products from a UAP manufacturing company and resell them to customers using bill and hold transactions knowing that the sales were to be reversed in the next fiscal year. The letter further alleged "displays of unethical management" at UAP, that management relentlessly encouraged employees to follow "frivolous direction in order to make plan," that "overstated profits total in

the millions,” and that “it is at the core levels of management where corruption is bread, [sic] and then disseminated through various channels of the company, like poison, via fraudulent transactions, manipulative leadership, and blatant dishonesty.” Blue shared the allegations contained in this anonymous letter with Campbell.

32. In fiscal year 2000 and earlier in the fourth quarter than in any prior year, Blue and Cook, with Campbell’s knowledge, exerted pressure for increased sales by encouraging UAP personnel to obtain deferred delivery sales even if the customer had not prepaid. Without the receipt of money prior to recording a deferred delivery sale, UAP personnel were able to record deferred delivery sales having only the sales contract paperwork which made it significantly easier to engage in fraudulent and improper accounting practices. As a result, the overall number of deferred delivery sales, as well as the revenue associated with it, increased in fiscal year 2000.

33. On December 23, 1999, during a conference call with Blue, Cook and Campbell, UAP’s five area Vice Presidents agreed to increase sales by \$175 million during the fourth quarter of fiscal year 2000. This represented a 41.5% increase over the previous year’s fourth quarter sales. At the time of this agreement, Blue, Cook and Campbell knew that the agricultural industry, as a whole, was experiencing difficulties and that at the end of the third quarter of fiscal year 2000, UAP was \$339.1 million short of its third quarter revenue target. They also knew that UAP’s third and fourth quarters were generally the least productive selling periods.

34. On or about January 5, 2000, Blue, Cook and Campbell attended a quarterly review meeting for the UAP Midwest IOC. Blue and Cook exerted pressure for increased sales. Specifically, Blue stated to the Midwest IOC sales personnel that the Midwest IOC needed to make its PBT number in order for the sales personnel to receive their bonuses. Additionally,

Blue and Cook made statements to the IOC managers and sales force that condoned practices related to deferred delivery sales that did not comply with GAAP such as selling goods that UAP did not have in inventory, product substitution and soliciting deferred delivery sales. The defendants knew, or were reckless in not knowing, that such statements indicated to the sales force that it was acceptable to ignore the accounting requirements for revenue recognition for deferred delivery sales in their effort to meet their sales targets.

35. On or about January 24, 2000, Blue, Cook and Campbell attended a meeting with the outside auditors, ConAgra's Director of Financial Reporting and a UAP vice president, who was an accountant, where UAP's deferred delivery practices were discussed. At this meeting, the importance of complying with the accounting rules in order to recognize revenue on deferred delivery sales was discussed. In the meeting Blue stated that UAP aggressively solicited deferred delivery sales, a practice that did not comply with the GAAP requirement that the buyer be the one to request that the transactions be on a bill and hold basis, and both Blue and Cook emphasized that they had a business to run.

36. Subsequently, on January 27, 2000, Campbell received, from the UAP vice president who had attended the January 24, 2000 meeting, an e-mail to which Staff Accounting Bulletin ("SAB") 101 was appended. A SAB represents interpretations and practices followed by the Commission's Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws. SAB 101 sets forth, among other things, accounting criteria for recognizing revenue on deferred delivery sales. In the e-mail the vice president expressed "serious reservations regarding the propriety of UAP's

contemplated revenue recognition practices, in particular with respect to bill and hold transactions in UAP's FY 2000 4th quarter.”

37. On February 7, 2000, Campbell conferred with James O'Donnell, then ConAgra's Chief Financial Officer, and Jay Bolding, then ConAgra's Corporate Controller. Campbell was told at the meeting of additional fraud allegations related to UAP deferred delivery sales. Included among these allegations were that certain IOCs were recording deferred delivery sales to inactive customer accounts, including some instances where the customer's billing address was no longer valid. According to the allegations, these sales were reversed in subsequent periods. Campbell was further told that ConAgra's Internal Audit group was engaged in a review of UAP's revenue recognition practices. Campbell subsequently discussed both of these matters with Blue.

38. On February 18, 2000, just before the end of UAP's fiscal year, ConAgra faxed to Blue and Cook a second anonymous letter it had received. Among other things, the letter alleged that, “We have sales contracts being booked to revenues that really don't exist in the customers' minds. Millions and millions of dollars of these fraudulent transactions exist today, and we aren't even close to achieving our 'mandated' goal, dictated by Greeley [UAP's headquarters] administration.” The letter also stated that, “These two [a reference to Blue and Cook] have built up such a huge volume of doing this over their careers that they will never be able to dig out of it.” Blue notified Cook and Campbell about the second letter and discussed the allegations with them.

39. In February 2000, ConAgra's Director of Financial Reporting was directed to initiate a survey of UAP's thirteen IOCs on their deferred delivery practices. On or about

February 23, 2000, Campbell compiled the results and forwarded them to Blue and Cook. The results, based on the submissions provided by ten of the thirteen IOCs, indicated that contrary to the accounting requirements for bill and hold sales: (1) substitution occurred at several of UAP's IOCs, sometimes as much as 25% of the time; (2) there was not always a fixed delivery date; (3) UAP salespersons, not the buyers, frequently initiated the bill and hold transactions; and (4) the products were not always complete and ready for shipment at the time of invoicing.

40. On March 6, 2000, Campbell learned of Internal Audit's interim revenue recognition review findings, including information that of the approximately \$60 million of fiscal year 2000 bill and hold sales reviewed to date from the southern IOCs, approximately \$50 million were questionable because of, among other things, false billing addresses, forgeries of customer signatures and improper completion of sales contracts by sales personnel.

41. As part of its review, Internal Audit sent confirmations to UAP customers who had engaged in deferred delivery sales with UAP. On or about March 31, 2000, Campbell edited these confirmation requests deleting a request that customers confirm that they actually owned the goods. Campbell knew, or was reckless in not knowing, that transfer of the risk of ownership was an essential accounting requirement for revenue recognition of deferred delivery sales and that this omission would affect the accuracy of the customers' responses to the confirmations.

42. On April 24, 2000, in a conference call with members of Internal Audit and others, Campbell learned of additional significant problems with fiscal 2000 deferred delivery sales by UAP's Midsouth, Great Lakes and Southwest IOCs. Among other things, Campbell learned that UAP's Midsouth IOC did not have signed storage agreements for approximately \$29 to \$30 million of its bill and hold sales and UAP Great Lakes and Southwest IOCs had probable

segregation and subsequent delivery issues with approximately \$30 million of their deferred delivery sales.

43. On or about June 29, 2000, in a meeting with Internal Audit, Campbell became aware that Internal Audit had determined that approximately \$46.3 million of UAP's deferred delivery sales for fiscal year 2000 were questionable due to various deficiencies in the documentation supporting the sales. Nevertheless, these suspect sales were included in UAP's revenue and ultimately reported in ConAgra's consolidated financial statements and in the Agricultural Products segment for fiscal year 2000.

44. On or about July 13, 2000, Internal Audit issued a draft written report assessing revenue recognition within eight of the thirteen UAP operating companies. The draft report concluded that: (1) UAP employees at certain locations during fiscal year 2000 signed customers' signatures on warehouse storage agreements and sales contracts; (2) committed inventory was not physically segregated from other inventory available for sale at any of the locations visited by Internal Audit; (3) during the fourth quarter of fiscal year 1999, sales managers in the Great Lakes IOC instructed sales personnel to invoice customers for prepayments based on purchases from prior growing seasons; (4) in the Great Lakes IOC, some fiscal 1999 monthly statements were withheld from customers to conceal that UAP had billed these customers without their authorization; (5) during fiscal year 2000 in the Midsouth IOC, the mailing addresses for some customers were changed to that of the UAP sales location; (6) \$46.3 million in questionable deferred delivery sales was recognized as revenue in fiscal year 2000, consisting of over 1,200 transactions involving unsigned and unsubstantiated sales agreements and questionable customers' signatures; and (7) in certain instances during fiscal year 2000, UAP

used documents which did not contain proper language for transferring title, risk of loss, or a definite delivery date, all of which were necessary for revenue recognition.

45. The report concluded that UAP had increased its use of aggressive year-end deferred delivery sales, and that the aggressive sales practices sent a confusing or negative message throughout UAP. Part of the confusing or negative message resulted from Cook's comments to ignore the accounting requirements for deferred delivery sales set out in the January 28, 1999 memorandum and the failure by anyone to correct Cook's comments at the February 1999 meeting.

46. At the end of UAP's fiscal year 2000, Blue, Cook and Campbell reported financial results to ConAgra which they knew, or were reckless in not knowing, materially overstated UAP's results of operations because they contained improperly recognized revenue from deferred delivery sales and associated vendor rebates. The misconduct with respect to deferred delivery sales and associated vendor rebates caused ConAgra to fraudulently overstate its income before income taxes by \$6.6 million, or 1.04%, in fiscal year 1999, and by \$29.5 million, or 4.78%, in fiscal year 2000. At the Agricultural Products' segment level, the misconduct caused that segment's reported operating profit to be overstated by 2.46% in fiscal year 1999 and by 21.27% in fiscal year 2000.

C. BLUE, COOK AND CAMPBELL KNEW, OR WERE RECKLESS IN NOT KNOWING, THAT UAP HAD RECORDED INSUFFICIENT BAD DEBT EXPENSE

47. GAAP requires that an accrual for an uncollectible account be recorded as a liability or reserve, and a related expense be charged against income, in the period in which the delinquent account is determined to be uncollectible. Under paragraph 8 of Statement of

Financial Accounting Standards No. 5, if the loss or impairment of an asset is probable, then an estimated loss shall be accrued by a charge to income in an amount that can be reasonably estimated. Generally, UAP's policy required that accounts which were past due between 90 days and one year should be reserved at 50%, and accounts over one year past due were to be reserved 100%. Each of the defendants knew UAP's bad debt policy and that a reduction to UAP's bad debt reserve would result in an increase to UAP's PBT. Also, each of the defendants participated in calculating UAP's bad debt reserve.

48. During fiscal years 1998, 1999 and 2000, Blue, Cook and Campbell received copies of ConAgra Internal Audit reports which identified, among other things, repeated problems at several of its IOCs with UAP credit practices that contributed to UAP's failure to record sufficient bad debt expense, including: (1) improper "freshening" of receivables, that is, improperly reclassifying past due accounts receivables as current notes receivables, thereby enabling UAP to exclude the past-due receivables from the bad debt reserve calculation; (2) inadequate or insufficient bad debt reserves at certain IOCs; (3) an informal and undocumented process for granting credit; and (4) numerous customer balances which exceeded their approved credit limits.

49. During the second quarter of fiscal year 1999, Blue and Cook learned that the amount of bad debt for UAP's Northwest and West IOCs was substantial enough that it might adversely affect those IOCs' ability to achieve their PBT targets for that fiscal year. In other words, Blue and Cook knew that those IOC's inability to collect fiscal year 1999 and older receivables would mean a reduction in their income for that period.

50. During the third quarter of fiscal year 1999, UAP's Vice President in charge of Credit Operations ("VP of Credit") informed Blue and Cook in a memorandum that UAP needed to control its problems with "burdening credit" and needed to focus on the existing concerns regarding write offs and reserves. To address these issues the VP of Credit proposed that the credit department be restructured. Under the existing structure, IOC sales managers had the authority to fire and determine the compensation of the IOC credit personnel. The VP of Credit had repeatedly warned Cook and others that having the credit department report to the IOC manager constituted poor internal accounting controls. Also, the credit managers' compensation was significantly based on bonuses, and bonus payments were determined based on UAP's profitability. Consequently, UAP's credit reporting and compensation structure discouraged UAP credit managers from addressing UAP's bad debt problems.

51. The VP of Credit proposed a restructuring whereby the credit personnel in each IOC would report to newly hired Regional Credit Managers ("RCMs"). The RCMs, in turn, would report to the VP of Credit. In the fourth quarter of fiscal 1999, Cook had a memorandum distributed under his signature which revised the structure of the credit department; however, he did not transfer full authority of the credit personnel to the VP of Credit. Instead, Blue retained authority over compensation for the RCMs, and the IOC sales managers retained authority over compensation for the IOC credit personnel. Also, Cook's approval was needed to fire credit personnel.

52. Prior to the close of fiscal year 1999, Cook learned that UAP personnel had expressed concerns about the reorganization of UAP's credit department, and he admitted that

credit losses had become a major hurdle in meeting UAP's PBT goals. Nevertheless, Cook still did nothing to rectify UAP's bad debt problems.

53. Cook's decision to leave himself, Blue and the IOC sales managers with authority over compensation and termination of credit personnel adversely affected UAP's ability to make appropriate credit decisions because Blue and Cook were also interested in maximizing PBT which had the effect of increasing bonus compensation. Under the reorganization, credit personnel continued to have an incentive to help promote sales by extending credit inappropriately. As a result, Blue and Cook knew, or were reckless in not knowing, that the new credit structure would not enable UAP to correct the past bad debt problem or to record adequate bad debt expense in the future.

54. From late 1998 until about February 1999, Blue had several conversations with UAP's VP of Credit in which Blue was informed of substantial bad debt problems and that the bad debt for UAP Northwest and UAP Midsouth could be as high as \$30 to \$40 million. Blue told the UAP VP of Credit that they were about to report UAP's profit number to ConAgra and UAP would not be able to write-off that amount of bad debt. Blue further stated that such a write-off would cause them to lose their jobs. Subsequently, as detailed herein, Blue directed and approved means by which UAP did not fully recognize its bad debt expense in the period it became delinquent thereby allowing UAP to improperly and fraudulently inflate its revenues.

55. In January or February 1999, following a review of the accounts receivables in UAP Northwest, a senior UAP official told Blue that the bad debt problem for that region was \$32 to \$34 million. Blue failed to address the problem.

56. On or about February 8, 1999, Blue and Cook received a memorandum outlining a plan to deal with non-performing accounts, including writing them off over a three-year period. This proposed plan itself did not conform to GAAP. Accordingly, Blue and Cook knew, or were reckless in not knowing, that during fiscal year 1999 UAP had failed to record its bad debt expenses accurately, in that contrary to the requirements of GAAP, the bad debt expense had not been recorded as it was realized.

57. On or about June 10, 1999, the second quarter of fiscal year 2000, UAP's VP of Credit sent a memorandum advising Cook that a review of the UAP Northwest region found bad debt of approximately \$32 million which had not been properly recorded as an expense in the period in which it had become uncollectible. The VP of Credit described the findings as "disturbing," and he pointedly requested Cook's assistance in resolving the bad debt problem.

58. Cook had knowledge of UAP's credit operation and he understood the implications of substantial bad debt expense. Despite that knowledge and Cook's involvement with the VP of Credit in the operation of UAP's credit department during fiscal years 1999 and 2000, Cook did nothing to correct this improper accounting.

59. During fiscal year 2000, the UAP VP of Credit told Blue and Campbell that UAP would have to record additional bad debt expense of \$50 million, consisting of the \$32 million from UAP Northwest and approximately \$20 million from the Midsouth IOC. Cook also attended some meetings in fiscal year 2000 when the need to record additional bad debt expense was discussed.

60. In response to the bad debt problem in fiscal year 2000, Blue told the UAP VP of Credit that it was impossible for UAP to write off \$50 million of prior bad debt. Blue agreed to a

five-year write off plan of the prior bad debt amount even though he knew that it would be questioned by Internal Audit and was reckless in not knowing that it did not conform with GAAP.

61. In fiscal year 2000, the UAP VP of Credit informed Campbell of the five-year write off plan. Campbell knew, or was reckless in not knowing, that the plan to write off bad debt over a five-year period was contrary to GAAP.

62. Although the five year plan was never implemented, in discussions with the UAP VP of Credit, Campbell indicated that it was reasonable to exclude from bad debt those customer accounts paying only a minimal amount on the debt or those matters in litigation. As UAP's Controller, Campbell knew, or was reckless in not knowing, that this was an overly broad interpretation of what constituted a current receivable and that utilization of such criteria for the determination of the delinquency of a debt would have the effect of forestalling increases in UAP's bad debt expense.

63. On or about February 22, 2000, at a meeting concerning bad debt, Blue told the UAP VP of Credit, in the presence of Cook and Campbell, that UAP could not afford to write off its outstanding bad debt even over a five-year period as it would prevent UAP from making the PBT goal promised by him to ConAgra and ConAgra's Chief Executive Officer. During that meeting Blue and Cook also asked whether any amount of the bad debt reserve could be used to increase UAP's PBT.

64. On or about February 23, 2000, at a subsequent meeting on bad debt, Blue, in Campbell's presence, among others, ordered that UAP's bad debt reserve be reduced by \$7 million in order to increase UAP's PBT and to assist UAP in meeting its PBT target for the fiscal

year. In addition, Blue recommended that the RCMs be told to increase the number and value of accounts that had been exempted from the bad debt reserve calculation in order to increase UAP's PBT for fiscal year 2000. Within days of the February 23rd meeting, Cook learned of the \$7 million reduction of the bad debt reserve to increase PBT, but did nothing to correct the improper adjustment. The defendants knew, or were reckless in not knowing, that UAP's bad debt reserves were already millions of dollars understated and that this additional reduction of the reserves was done to meet UAP's PBT target in fiscal year 2000.

65. At the end of UAP's fiscal years 1999 and 2000, Blue, Cook and Campbell reported financial results to ConAgra which they knew, or were reckless in not knowing, materially overstated UAP's results of operations because UAP had failed to record sufficient bad debt expense. The misconduct with respect to bad debt expense caused ConAgra to fraudulently overstate its income before income taxes by \$28 million, or 4.41%, in fiscal year 1999, and by \$7 million, or 1.13%, in fiscal year 2000. At the Agricultural Products' segment level, the misconduct caused that segment's reported operating profit to be overstated by 10.46% in fiscal year 1999 and by 5.05% in fiscal year 2000.

**D. BLUE, COOK AND CAMPBELL KNEW, OR WERE RECKLESS
IN NOT KNOWING, THAT UAP PREMATURELY
RECORDED VENDOR REBATES TO OVERSTATE INCOME**

66. As more fully described below, Blue, Cook and Campbell caused UAP to improperly recognize revenue from rebate payments received in advance of sales to increase UAP's operating results. Among other things, Blue and Cook directed another UAP employee to misapply advance vendor rebates. Campbell failed to address questions concerning the appropriate recording of advance vendor rebates that had been raised by his accounting staff.

Blue, Cook and Campbell failed to ensure that revenue from advance vendor rebates was properly reported in UAP's operating results.

67. In fiscal year 1999 and 2000, Blue and Cook negotiated for UAP to receive rebate payments in advance of the sale of its suppliers' products. During these fiscal years, Blue and Cook caused and directed UAP personnel to improperly record such vendor payments as income in the period they were received in contravention of GAAP. Blue and Cook knew, or were reckless in not knowing, that such rebates had not yet been earned because UAP had not yet purchased or resold the suppliers' products and, therefore, it was improper to record the rebate payments as revenue.

68. In the fourth quarter of fiscal year 1999, Campbell spoke with Blue to determine when the revenue from the advance rebate program could be recorded. As an example, Blue informed Campbell that, under a confidential and undocumented rebate arrangement, a \$5 million rebate received from one of UAP's suppliers was earned income. Campbell caused the rebate to be recorded as income even though he knew, or was reckless in not knowing, that without proper support, recording the rebate as earned income was, at least, questionable.

69. In fiscal year 1999, Campbell failed to act on questions raised by his staff regarding the recording of certain rebate payments and failed to take steps to ensure that such payments were recorded in the appropriate accounting periods. As a result of the questions raised by his staff in 1999, and knowing about the \$5 million rebate Blue had instructed him to record without documentation, Campbell was at least reckless in not ensuring that payments received in fiscal year 2000 through the advanced rebate program were properly recorded.

70. In fiscal year 2000, Cook directed UAP's Vice President of Supply Chain Management to improperly allocate at least one company's advanced rebate payments, in the amount of \$4 million, in the year such rebate payment was received rather than when the rebate was actually earned. Cook knew, or was reckless in not knowing, that this would boost revenue and cause UAP to improperly record the rebate as revenue.

71. At the end of UAP's fiscal years 1999 and 2000, Blue, Cook and Campbell reported financial results to ConAgra which they knew, or were reckless in not knowing, materially overstated UAP's results of operations because they contained improperly recognized revenue from advance vendor rebates. The misconduct with respect to advance vendor rebates caused ConAgra to fraudulently overstate its income before income taxes by \$12.1 million, or 1.90%, in fiscal year 1999, and by \$12 million, or 1.94%, in fiscal year 2000. At the Agricultural Products' segment level, the misconduct caused that segment's reported operating profit to be overstated by 4.52% in fiscal year 1999 and by 8.65% in fiscal year 2000.

E. UAP REPORTS IMPROPER FINANCIAL RESULTS TO CONAGRA

72. UAP's financial results, as a wholly owned subsidiary of ConAgra, were incorporated into and reported with ConAgra's consolidated financial statements. The defendants' improper and fraudulent conduct, described above, resulted in inflated operating results for UAP and consequently false and misleading consolidated financial statements for ConAgra.

73. Due to the defendants' improper and fraudulent conduct, ConAgra's 1999 and 2000 annual reports on forms 10-K filed with the Commission contained materially false and misleading financial statements.

74. Moreover, the defendants' improper conduct resulted in ConAgra's books and records inaccurately reflecting the company's transactions and dispositions of assets.

F. BLUE, COOK AND CAMPBELL EACH PROFITED FROM THE FRAUD

75. Blue, Cook and Campbell profited from the fraud by receiving incentive compensation in fiscal 1999 and 2000 in the form of performance bonuses based on UAP's inflated operating results.

76. Moreover, in 1999 and 2000, Cook received stock awards, dividends on the stock awards and stock options as a result of UAP's inflated operating results.

CLAIMS FOR RELIEF

FIRST CLAIM

Blue, Cook and Campbell Violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5

77. Paragraphs 1 through 76 above are re-alleged and incorporated herein by reference.

78. Defendants Blue, Cook and Campbell directly or indirectly, by use of the means or instruments of interstate commerce, or of the mails, or of a facility of a national securities exchange, knowingly or recklessly (a) employed devices, schemes and 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, transactions, practices, and courses of business which operated or would operate as a fraud or deceit upon the purchasers of securities and upon other persons, in connection with the purchase or sale of a security.

79. Defendants Blue, Cook and Campbell knew, or were reckless in not knowing, that as a result of their conduct, acts, statements and omissions described above, ConAgra's Annual Reports filed on Forms 10-K for FY1999 and FY 2000, including the financial statements contained therein, as filed with the Commission, contained material misstatements and omissions.

80. By reason of the foregoing, defendants Blue, Cook and Campbell violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

SECOND CLAIM

Cook Aided and Abetted Violations of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5

81. Paragraphs 1 through 80 above are re-alleged and incorporated herein by reference.

82. By reason of the foregoing, ConAgra, Blue and Campbell violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

83. By reason of the foregoing, Defendant Cook, pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t], knowingly and substantially assisted ConAgra's, Blue's and Campbell's violations of Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5.

THIRD CLAIM

Blue, Cook and Campbell Violated Section 13(b)(5) of the Exchange Act and Exchange Act Rule 13b2-1 and Aided and Abetted Violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act

84. Paragraphs 1 through 83 above are re-alleged and incorporated herein by reference.

85. Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1] prohibit, among other things, circumvention of internal accounting controls and falsification of corporate books, records and accounts.

86. Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] requires public companies to make and keep books, records and accounts, which, in reasonable detail, accurately and fairly reflect the company's transactions and dispositions of its assets. Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)] requires public companies, among other things, to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that the company's transactions were recorded as necessary to permit preparation of financial statements conforming with GAAP.

87. As a result of defendants' fraudulent and improper conduct described above, defendants Blue, Cook and Campbell violated Section 13(b)(5) of the Exchange Act [15 U.S.C. § 78m(b)(5)] and Exchange Act Rule 13b2-1 [17 C.F.R. § 240.13b2-1].

88. As described above, ConAgra violated the books and records and internal accounting controls provisions of the federal securities laws and the defendants knowingly and substantially assisted in the commission of those violations. In so doing, defendants Blue, Cook and Campbell, pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t], aided and

abetted ConAgra's violations of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§ 78m(b)(2)(A) and (B)].

FOURTH CLAIM

Blue, Cook and Campbell Aided and Abetted Violations of Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20 and 13a-1

89. Paragraphs 1 through 88 above are re-alleged and incorporated herein by reference.

90. Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rule 13a-1 [17 C.F.R. § 240.13a-1] require issuers of registered securities to file with the Commission factually accurate annual and quarterly reports. Exchange Act Rule 12b-20 [17 C.F.R. § 240.12b-20] provides that in addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading.

91. As described above, ConAgra violated the periodic reporting provisions of the federal securities laws. Each defendant knowingly and substantially assisted in ConAgra's inclusion of financial statements that were not presented in conformity with GAAP in ConAgra's 1999 and 2000 Annual Reports filed on Forms 10-K that were filed with the Commission, in violation of Exchange Act Section 13(a) [15 U.S.C. § 78m(a)] and Exchange Act Rules 13a-1 and 12b-20 [17 C.F.R. §§ 240.13a-1 and 240.12b-20].

92. By reason of the foregoing, defendants Blue, Cook and Campbell, pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t], aided and abetted violations of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 13a-1 and 12b-20 [17 C.F.R. §§ 240.13a-1 and 240.12b-20].

PRAYER FOR RELIEF

WHEREFORE, The Commission respectfully requests that this Court issue an Order that:

I.

Permanently restrains and enjoins defendants Blue, Cook and Campbell from directly or indirectly violating Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78m(b)(5)] and Exchange Act Rules 10b-5 and 13b2-1 [17 C.F.R. §§ 240.10b-5 and 240.13b2-1] and from aiding and abetting violations of Sections 13(a) and 13(b)(2)(A) and (B) of the Exchange Act [15 U.S.C. §§ 78m(a) and 78m(b)(2)(A) and (B)], and Exchange Act Rules 12b-20 and 13a-1 [17 C.F.R. §§ 240.12b-20 and 240.13a-1];

II.

Permanently restrains and enjoins Cook from aiding and abetting violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. § 240.10b-5].

III.

Orders Blue and Campbell to disgorge certain bonus compensation they received for FY 1999 and FY 2000, with prejudgment interest thereon;

IV.

Orders Cook to disgorge, with prejudgment interest, all ill-gotten gains he received, including but not limited to, bonus, stock, and dividends and orders Cook to divest all unexercised stock options;

V.

Orders Blue, Cook and Campbell to pay a civil monetary penalty for their unlawful acts pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)];

VI.

Pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)] permanently prohibits Cook from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15U.S.C. § 78l] or that is required to file reports pursuant to section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)].

VII.

Retains 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 the Court; and

VIII.

Grants such other and further relief as this Court may deem necessary and appropriate under the circumstances.

Dated: January 16, 2007.

Respectfully submitted,

s/ Arthur S. Lowry_____

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