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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

JCS

C 07

2537

13 SECURITIES AND EXCHANGE COMMISSION,

Case No. _____

14 Plaintiff,

15 v.

COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER RELIEF

16 CHRISTOPHER M. BALKENHOL

17 Defendant.

18
19 Plaintiff Securities and Exchange Commission (the "Commission") alleges:

20 **SUMMARY OF THE ACTION**

21 1. This insider trading case involves the misappropriation of confidential information
22 from Oracle Corporation regarding its potential acquisitions. Defendant Christopher M. Balkenhol,
23 whose wife served as the supervising executive assistant to Oracle's top three executives, netted
24 nearly \$100,000 through his illicit purchases of stock in Oracle acquisition targets.

25 2. From November 2004 to September 2005, defendant Balkenhol – himself an Oracle
26 vice president – made increasingly sizeable investments in public companies that were the subject of
27 highly confidential merger discussions at Oracle. In each instance, Balkenhol's trades coincided with
28 important high-level meetings involving senior Oracle executives – meetings known to Balkenhol's

1 wife, who had access to the highest level of information at the company. Balkenhol invested in two
2 companies – Retek, Inc. and Siebel Systems, Inc. – shortly before they were acquired by Oracle. The
3 public announcements of the acquisitions significantly increased the stock prices of Retek and Siebel,
4 allowing Balkenhol to reap \$97,283 in illegal trading profits.

5 3. Balkenhol owed a duty of trust to his wife, and violated this duty by using information
6 he obtained from her in confidence for personal profit. By trading Retek and Siebel securities based
7 on misappropriated material nonpublic information, defendant Balkenhol violated Section 10(b) of
8 the Securities Exchange Act (“Exchange Act”) of 1934 [15 U.S.C. §78j(b)] and Rule 10b-5 [17
9 C.F.R. 240.10b-5] thereunder. Additionally, because the material nonpublic information relating to
10 Retek involved a tender offer, defendant Balkenhol’s trading in Retek securities also violated Section
11 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3] thereunder.
12 The Commission seeks a court order requiring that defendant Balkenhol disgorge his ill-gotten gains
13 plus prejudgment interest, imposing civil money penalties, and enjoining defendant Balkenhol from
14 future violations of these provisions of the securities laws.

15 JURISDICTION AND VENUE

16 4. The Commission brings this action pursuant to Sections 21(d), 21(e), and 21A of the
17 Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78u-1(c)].

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

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

23 7. Venue in this District is proper pursuant to Section 27 of the Exchange Act [15 U.S.C.
24 § 78aa] because defendant Balkenhol resides within the Northern District of California and acts and
25 transactions constituting the violations alleged in the Complaint occurred within the Northern District
26 of California.

1 8. Intradistrict assignment to the San Francisco Division is proper pursuant to Civil L.R.
2 3-2(c) because a substantial part of the events or omissions which give rise to this claim occurred in
3 the County of San Mateo.

4 **DEFENDANT**

5 9. Defendant Christopher M. Balkenhol, age 40, resides in San Mateo, California. At all
6 relevant times, Balkenhol was employed as a vice president at Oracle Corporation.

7 **RELEVANT ENTITIES**

8 10. Oracle Corporation is a Delaware enterprise software company with its principal
9 offices in Redwood City, California. Oracle's securities are registered with the Commission pursuant
10 to Section 12(g) of the Exchange Act and listed on the NASDAQ National Market System under the
11 symbol "ORCL."

12 11. Retek, Inc., prior to being acquired by Oracle in 2005, was a Delaware corporation
13 with its principal executive offices in Minneapolis, Minnesota. During the relevant time period,
14 Retek's securities were registered with the Commission pursuant to Section 12(g) of the Exchange
15 Act and listed on the NASDAQ National Market System under the symbol "RETK."

16 12. Siebel Systems, Inc., prior to being acquired by Oracle in 2006, was a Delaware
17 corporation headquartered in San Mateo, California. During the relevant time period, Siebel's
18 securities were registered with the Commission pursuant to Section 12(g) of the Exchange Act and
19 listed on the NASDAQ National Market System under the symbol "SEBL."

20 **STATEMENT OF FACTS**

21 **A. Balkenhol's Wife, The Top Executive Assistant At Oracle, Shared A Relationship Of**
22 **Trust And Confidence With Balkenhol.**

23 13. Balkenhol and his wife have been married since 1993 and they live together in San
24 Mateo, California.

25 14. From 2000 to 2006, both Balkenhol and his wife worked at Oracle. Balkenhol's wife
26 worked as the supervising executive assistant in Oracle's "Office of the Chief Executive Officer,"
27 consisting of Oracle's CEO and two co-Presidents. In this position, Balkenhol's wife had access to
28 the highest level of information at Oracle, including information regarding virtually all meetings

1 attended by the three executives, as well as virtually all potential acquisitions in which those
2 executives were involved.

3 15. From Fall 2004 to September 2005, Balkenhol was a vice president in Oracle's
4 Application Development group, specializing in, among other things, Customer Relationship
5 Management applications ("CRM"), which help businesses track their customers. Retek and Siebel
6 specialized in technologies that relate directly to the CRM field, and Siebel was absorbed by Oracle's
7 Application Development group following its acquisition.

8 16. During the relevant period, the couple communicated every day, sharing confidences
9 about their lives and work. Among other things, they talked about various topics related to Oracle's
10 business activities, including Balkenhol's career development at Oracle or elsewhere in the same
11 field. For instance, in early June 2005, he and his wife discussed the possibility that he might want to
12 leave Oracle to work at Siebel; days later, his wife learned that Oracle executives were planning to
13 acquire Siebel (after which Balkenhol bought \$270,000 of Siebel stock). In these conversations with
14 his wife, Balkenhol learned information about the potential acquisitions described herein.

15 **B. Balkenhol's Trading In Confidential Oracle Acquisition Targets Contrasts With His**
16 **Previous Trading History.**

17 17. Balkenhol's trading in Oracle acquisition targets between November 2004 and
18 September 2005 sharply diverged from his previous securities trading history. Balkenhol had
19 previously conducted highly diverse trading in much smaller share and dollar amounts. From 2001
20 through October 2004, Balkenhol's typical purchase of any single stock averaged only \$15,000.
21 Moreover, from 2003 through October 2004, Balkenhol bought stock in 22 different companies.

22 18. In contrast, between November 2004 and September 2005, Balkenhol invested in only
23 Retek, Siebel, and a third public company – each of which was an Oracle acquisition target. These
24 trades were far in excess of his prior trading history; by September, Balkenhol had invested nearly
25 \$450,000 in Siebel alone.
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III.

Order Defendant to disgorge ill-gotten gains derived from the unlawful trading alleged herein,
plus prejudgment interest;

IV.

Order Defendant to pay civil penalties pursuant to Section 21A of the Exchange Act [15
U.S.C. § 78u-1]; and

V.

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

Respectfully submitted,

Dated: May 11, 2007


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