



Group”). Poteroba misappropriated the material, nonpublic information from his employer and its clients in breach of a duty of confidentiality that he owed them.

3. During the insider trading scheme, Poteroba tipped his friend, Koval, who in turn tipped his friend, Vorobiev. Poteroba, Koval, and Vorobiev have connections through, among other things, the schools that they attended and residences or mailing addresses that they shared going back to at least 1992.

4. The scheme began in at least July 2005 when Koval and Vorobiev traded in advance of the acquisition of Guilford Pharmaceuticals Inc. by MGI Pharma. Using, among other means of communication, coded email messages that referred to securities as “frequent flier miles” and “bonus miles,” Poteroba urged Koval to purchase Guilford securities prior to the public announcement of the Guilford acquisition.

5. With respect to subsequent transactions, Poteroba also supplied information to Koval using coded email messages that referred to securities or money as Macy’s wedding registry gifts or “potatoes.” For example, in discussing the need to purchase Molecular Devices Corporation securities prior to the imminent public announcement of its merger, Poteroba wrote to Koval, “Let me know if you’ve started your wedding registry at Macy’s” and “Happy to talk about sales items and etc. . . . sale ends soon . . . so hurry up.”

6. During the course of the scheme, Koval used his home computer or cell phone to access and to trade in Vorobiev’s on-line brokerage account. Koval also used a linked banking account to make cash withdrawals from automated teller machines in Pasadena, California and Chicago, Illinois. In addition, Koval and Vorobiev conducted insider trading through brokerage accounts held in their own names.

7. Certain of the insider trading was conducted through brokerage accounts held in the names of Tatiana Vorobieva, Vorobiev's wife, and Anjali Walter, Koval's wife, and portions of the proceeds from the illicit trading were received by Vorobieva and Walter. Accordingly, Vorobieva and Walter are named as relief defendants in this action.

8. Each of the Defendants violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder and Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3] thereunder. The Commission requests that the Court enjoin each Defendant from violating the foregoing securities laws, order each Defendant to disgorge their unlawful profits with prejudgment interest, impose civil monetary penalties on each Defendant and order such other relief as the Court may deem appropriate.

9. Unless temporarily restrained and preliminarily enjoined, the Defendants will continue to violate the federal securities laws and attempt to hide and dissipate assets and monies generated by the illegal trading.

### **JURISDICTION AND VENUE**

10. This Court has jurisdiction of this action pursuant to Sections 21(d), 21(e), 21A, and 27 of the Exchange Act [15 U.S.C. §§ 78u(d)(1), 78u(e), 78u-1, and 78aa]. The Defendants, directly or indirectly, singly or in concert with others, made use of the means or instruments of transportation and communication of interstate commerce, or of the mails, or the facilities of a national securities exchange in connection with the transactions, acts, practices, and courses of business alleged in this Complaint.

11. Venue is proper in this district pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa] because certain acts and transactions constituting the violations occurred in the Southern District of New York.

12. Defendants will, unless restrained and enjoined, continue to engage in the acts, practices, transactions, and courses of business alleged in this Complaint, or in acts, practices, transactions, and courses of business of similar purport and object.

### **DEFENDANTS AND RELIEF DEFENDANTS**

13. **Igor Poteroba**, age 36, is a resident of Darien, Connecticut. He was born in Moscow, Russia, is a Russian citizen, and has green card immigration status. During the relevant period, Poteroba has been an investment banker in the Healthcare Group of UBS, where he has been employed since 1999.

14. **Aleksey Koval (a/k/a Alexei Koval)**, age 36, was a resident of Pasadena, California from mid-2006 through mid-2009. He was born in Kemerovo, Russia, is a Russian citizen, and has green card immigration status. From June 2000 until January 2006, he was employed by Citigroup Asset Management, a registered broker-dealer and investment adviser. From January 2006 until his termination in March 2009, Koval was employed by Western Asset Management, a registered investment adviser and a wholly-owned subsidiary of Legg Mason, Inc. Upon information and belief, Koval is currently employed with Northern Trust Bank in Chicago, Illinois.

15. **Alexander Vorobiev**, age 34, is believed currently to reside in Russia and is a Russian citizen. From April 2001 through May 2008, Vorobiev resided in Toronto, Ontario, Canada.

16. **Anjali Walter (“Walter”)**, age 35, is the wife of Koval and her last known address was in Pasadena, California.

17. **Tatiana Vorobieva**, age 33, is the wife of Vorobiev. Her last known address was in Toronto, Ontario, but she is believed to currently reside in Russia. She is a Russian citizen.

### **RELEVANT ENTITY**

18. **UBS Securities LLC (“UBS”)** is a Delaware limited liability company with its principal place of business in Stamford, Connecticut. It is a broker-dealer registered with the Commission pursuant to Section 15(b) of the Exchange Act and a subsidiary of UBS AG. UBS AG, a financial institution that provides wealth management, investment banking, and asset management services, maintains its headquarters in Zurich, Switzerland, and operates in over fifty countries, including the United States. UBS’s Healthcare Group provides advice to healthcare companies and venture capital firms involved in the healthcare sector concerning origination, structuring, and execution of, among other things, merger and acquisition transactions.

### **STATEMENT OF FACTS**

#### **UBS’s Insider Trading and Confidentiality Policies**

19. From at least 2005, UBS has maintained policies that prohibit UBS employees from using confidential information received during their work on behalf of UBS clients to trade in any security or to advise other people to trade in securities based on such nonpublic information. Those internal policies also prohibit UBS employees from disclosing confidential client information to anyone outside of the firm.

20. UBS's compliance group maintains a "Grey List" of UBS clients involved in business transactions where UBS is providing investment banking services. The Grey List is a highly confidential list of clients, issuers and other relevant parties (collectively "Issuers") in relation to which UBS has sensitive information. Sensitive information is defined by UBS as "knowledge of a prospective transaction, project or event, such as a merger, acquisition, corporate restructuring, capital market or similar type of transaction." Once an Issuer is placed on UBS's Grey List, UBS staff members affiliated with the Issuer transaction are advised that the Issuer has been added to the Grey List and that they are prohibited from trading in the Issuer's securities. In addition, the staff is prohibited from communicating any sensitive information about the Issuer to *anyone*, except other members of UBS who are subject to the same confidentiality requirement regarding the Issuer.

21. At all relevant times, Poteroba was a registered representative with UBS and was aware of these confidentiality and insider trading policies. Upon information and belief, Poteroba understood the purpose of the Grey List and its restrictions.

22. Poteroba knew, or was reckless in not knowing, that he owed a fiduciary duty to his employer UBS, and to UBS's clients to keep confidential and not disclose, personally use, or misappropriate the material, nonpublic information that he learned about UBS's clients and their business transactions in the course of his work.

**Poteroba's Access to Material, Nonpublic Information Regarding  
the Business Combinations**

23. Poteroba has been employed by UBS in its Healthcare Group since April 1999. During his employment with UBS, he has been steadily promoted within the Healthcare Group. Since 2006, Poteroba has served as an Executive Director of the UBS

Healthcare Group. In that capacity, his responsibilities included advising issuers and venture capital firms involved in the healthcare sector on the origination, structuring, and execution of, among other things, merger and acquisition transactions.

24. UBS's Healthcare Group was retained by one of the parties as a financial adviser in ten of the eleven Business Combinations identified below.

25. With regard to the eleventh Business Combination, UBS sought, but ultimately failed, to be retained as an adviser to one of the participating entities.

26. As a member of the Healthcare Group, Poteroba was aware of, or had access to, highly confidential material information concerning each of the Business Combinations before the public disclosure of the Business Combinations.

27. In breach of his fiduciary duties, Poteroba misappropriated that information by tipping Koval.

#### **Connections between Poteroba, Koval, and Vorobiev**

28. Upon information and belief, Poteroba, Koval, and Vorobiev have known each other for more than ten years. Poteroba, Koval, and Vorobiev were born in Russia; Koval and Vorobiev were both born in the city of Kemerovo.

29. Between 1992 and 1997, Poteroba, Koval, and Vorobiev attended the University of New Haven, in New Haven, Connecticut as undergraduates. Poteroba graduated in 1995, Koval left in 1996, and Vorobiev graduated in 1997. Upon information and belief, Poteroba and Koval shared a common residence address during part of this time. Between 1995 and 1998, Poteroba and Koval were enrolled in the MBA program at Baruch College in New York City. Poteroba received his MBA degree in 1997, and Koval received his the following year.

30. At various times between 1997 through 2008, Vorobiev has used as his mailing address a number of the residences in New York and New Jersey where Poteroba and Koval resided, together or separately.

31. During the relevant period, Poteroba and Koval have maintained regular contact and communications. Their communications have consisted of frequent telephone calls and emails. Additionally, during the periods when they both were located in New York, they socialized with each other. After Koval left New York, they continued to socialize together when visiting the other's city of employment.

32. During the relevant period, Vorobiev and Koval communicated by telephone and email.

33. From at least 2005 to the present, Koval traded in the tipped securities in an on-line brokerage account maintained in Vorobiev's name. This account was initially maintained at RushTrade Securities. RushTrade acquired Terra Nova Financial, LLC in 2006, and named the combined entity Terra Nova Financial (hereinafter, both RushTrade and Terra Nova are collectively referred to as "Terra Nova"). The account records for Vorobiev's brokerage account at Terra Nova (the "Terra Nova Account") show that Koval has never been formally authorized to trade in Vorobiev's Terra Nova Account. Despite this, on numerous occasions over a period of at least four years, Koval has accessed the Terra Nova Account and executed trades in the tipped securities. Since 2005, both Vorobiev and Koval have transferred funds into and out of the Terra Nova Account. Further, from January 2008 to the present, Koval has withdrawn a total of nearly \$125,000 in regular monthly withdrawals from Vorobiev's Terra Nova Account.

34. Upon information and belief, Vorobiev has not attempted to stop Koval's trading in, or cash withdrawals from, the Terra Nova Account.

35. On at least one occasion, in February 2008, Koval used his personal credit card to pay for airline tickets for Vorobiev, his wife, and their child to travel from Canada to the Dominican Republic.

### **The Insider Tipping and Trading**

36. From at least July 2005 through February 2009, Poteroba knowingly or recklessly tipped Koval, and Koval knowingly or recklessly tipped Vorobiev with material, nonpublic information concerning the eleven Business Combinations that Poteroba misappropriated from UBS.

37. By providing the inside information to Koval, Poteroba conferred a benefit upon his friend. By providing the inside information to Vorobiev, Koval conferred a benefit upon his friend.

38. Koval, a securities industry professional, knew that Poteroba was employed by UBS as an investment banker, and knew or should have known that the information that Poteroba provided to him regarding the impending Business Combinations had been obtained in breach of Poteroba's duty of trust or confidence to UBS and its clients.

39. Vorobiev knew or should have known that the information that Koval provided to him regarding the impending Business Combinations had been obtained in breach of a duty of trust or confidence.

### **Guilford Pharmaceuticals, Inc.**

40. On March 16, 2005, representatives of Guilford Pharmaceuticals, Inc. (“Guilford”), a Delaware corporation, met with UBS to discuss selling Guilford to a third party.

41. At all relevant times, Guilford’s common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was traded on NASDAQ.

42. The information that Guilford provided to UBS regarding the contemplated transaction was highly confidential and was not intended to be disclosed before the transaction was completed and publicly announced.

43. After the initial meeting with Guilford’s representatives, UBS’s Investment Banking Department had internal discussions regarding the contemplated transaction. Poteroba participated in those discussions and was assigned to the Guilford deal team. On March 16, 2005, Guilford was added to UBS’s Grey List. On March 21, 2005, Guilford retained UBS as its financial adviser regarding the sale of the company.

44. On June 10, 2005, MGI Pharma advised Guilford that it would pay \$3.75 per share to acquire Guilford and circulated a draft Merger Agreement. Thereafter, the parties began their respective due diligence reviews. On July 7, 2005, UBS conducted due diligence on MGI Pharma. On Friday, July 8, UBS bankers participated in a meeting with the Guilford Board of Directors and discussed their due diligence findings.

45. By July 12, 2005, Poteroba, in his capacity as a UBS employee and a member of the Guilford deal team, had learned material, nonpublic information regarding the Guilford acquisition.

46. On Tuesday, July 12, 2005, at 9:16 p.m. (all times used in this Complaint are Eastern Standard Time), Poteroba sent an email from his UBS corporate email account to Koval at his Citigroup corporate email address, stating:

Call me tomorrow. . . if I'm on the line, have me interrupted. . . One of your friends from US called and said she would like to get together with you again. . .

Let me know how much time you want to spend with her. . . We should arrange this meeting ASAP. . . . I recall you had some things put away on my behalf. . . let me know what's left. . . .

47. Upon information and belief, the above email was a coded message that Poteroba sent to Koval to indicate there was an insider trading opportunity, and that Poteroba had previously given money to Koval and wanted to use those funds in this transaction.

48. On July 12, 2005, at 9:36 p.m., fifteen minutes after sending the email to Koval, Poteroba sent a separate email to a member of the UBS Healthcare Group team advising Guilford asking, “[W]hat’s the deal with G?” Poteroba received an immediate response stating, “We’ll find out Sunday night [July 17<sup>th</sup>]. . . board call[.]”

49. On the next day, Wednesday, July 13, 2005, at 1:20 p.m., Poteroba sent a second email to Koval, stating: “[C]an you pls give me a call. . . I tied [sic] you a couple of times and the call is not going through. . . .”

50. Poteroba tipped Koval with material, nonpublic information regarding the Guilford acquisition. In doing so, Poteroba misappropriated from UBS material, nonpublic information concerning Guilford’s plans to be acquired. Koval, in turn, tipped Vorobiev with material, nonpublic information regarding the Guilford acquisition.

51. On July 13, 2005, between 2:00 and 4:00 p.m., on the basis of material, nonpublic information obtained from Koval, Vorobiev bought 2,400 shares of Guilford stock in his TD Ameritrade brokerage account at a cost of \$5,435. During the same day, Vorobiev bought an additional 7,000 shares of Guilford stock in one of his Royal Bank of Canada brokerage accounts (“RBC account”) at a cost of \$15,992 (C\$19,809).

52. Also on July 13, 2005, Tatiana Vorobieva’s TD Ameritrade brokerage account bought 3,450 shares of Guilford stock at a cost of \$7,967 and 150 Guilford Sept. 2.5 “call option” contracts at a cost of \$6,123.

53. A “call option” contract is the right, but not the obligation, to buy 100 shares of a specific stock at a specified price (the “strike price”) on or before a specified date, typically the third Friday of every month. For example, a “Sept. 2.5” call option is one that may be exercised at a price of \$2.50 per share of the underlying stock on or before the third Friday of September 2005. Call options become profitable when the market price of the underlying stock exceeds the strike price of the call option.

54. On Thursday, July 13, 2005, at 8:37 p.m., Poteroba sent Koval an email stating:

Subject: Keep me posted as to how

\* \* \*

[m]any frequent flier miles you’ve got this far and how many you plan to get by Friday [.] Will be in Boston tomorrow [.] Plans for a trip look fine so far [.] Worst case we can get a refund by Monday, hopefully we do not[.]

55. On July 14, 2005, at 6:52 a.m., Koval emailed Poteroba responding:

As I mentioned, I just got into this frequent flyer program. I got five thousand of sign-in bonus miles but thinking maybe if I fly often, I will get additional three to five K miles. . . .

56. A half-hour later, at 7:32 a.m., Poteroba responded to Koval stating:

On the frequent flyer program topic you mentioned, I think you should sign up for another flight, if you can, since they are providing bonus mileage soon[.]

57. Upon information and belief, the above emails represent coded messages between Poteroba and Koval relating to trading that Koval had, or planned to, execute in Guilford stock.

58. On Friday, July 14, 2005, Koval wired \$5,000 into Vorobiev's Terra Nova Account from Koval's personal Citibank checking account. The Terra Nova Account had been inactive for nearly six months.

59. On July 15, 2005, upon information and belief, Koval bought 2,100 shares of Guilford stock in the Terra Nova Account at a total cost of \$4,983. The amount wired into Vorobiev's Terra Nova Account and used to buy the Guilford stock – approximately \$5,000 – is consistent with the amount of “sign-in bonus miles” – 5,000 – referred to in the coded email sent by Koval to Poteroba on July 14, 2005.

60. On July 15, 2005, Vorobiev bought 1,040 shares of Guilford stock at a cost of \$2,453 (C\$3,071) in his RBC account.

61. Also on July 15, 2005, Tatiana Vorobieva's TD Ameritrade brokerage account: (i) bought forty-eight Guilford Sept. 2.5 call option contracts at a cost of \$2,218; and (ii) sold 450 shares of Guilford stock at \$2.38 per share for proceeds of \$1,058. The sale of 450 shares and the purchase of forty-eight call options effectively exchanged a 450 share position for the equivalent of a 4,800 share position, thereby increasing by over tenfold the ability to profit from a rise in the price of Guilford stock.

62. On July 15, 2005, in the evening, Guilford's board and representatives of UBS discussed the MGI Pharma offer during a telephone conference.

63. On Monday, July 18, 2005, Vorobiev increased his position in Guilford by purchasing 9,900 shares of Guilford stock at a cost of \$23,760 (C\$29,645) in his RBC account.

64. Also on July 18, Koval wired \$4,800 into Vorobiev's Terra Nova Account from his Citibank checking account.

65. That evening, Guilford's board met to consider the MGI Pharma offer. UBS bankers attended the board meeting, at which the Guilford board approved the transaction with MGI Pharma.

66. On July 19, 2005, upon information and belief, Koval bought 2,030 shares of Guilford stock at a cost of \$4,780 in the Terra Nova Account. This money transfer and the subsequent stock purchases are consistent with Koval's coded statement in the July 14 email that he "will get additional three to five K miles. . . ."

67. On July 20, 2005, Guilford's Board of Directors met and approved the final merger agreement, which was executed by Guilford and MGI Pharma later the same evening.

68. On Thursday, July 21, 2005, prior to the opening of trading, Guilford publicly announced that it would be acquired by MGI Pharma for \$3.75 per share in cash and stock. Guilford's stock closed at \$3.40, a forty-one percent increase over the prior day's closing price of \$2.41 per share.

69. Following the announcement, on July 21, 2005, upon information and belief, Koval sold all of the Guilford stock in the Terra Nova Account for a profit of \$4,543.

70. Also on July 21, 2005, Vorobiev sold 10,000 shares of Guilford stock from his RBC account for a profit of approximately \$10,030. On the same day, Vorobiev also sold all of the 2,400 shares of Guilford in his TD Ameritrade account for a profit of \$2,884.

71. Also on July 21, 2005, Tatiana Vorobieva's TD Ameritrade account sold ninety-eight Guilford call option contracts and 3,000 shares of Guilford stock for profits of \$5,557 on the options and \$3,393 on the stock.

72. On July 27, 2005, Tatiana Vorobieva's TD Ameritrade account: (1) sold thirty of the remaining call options; and (2) took delivery of and then sold 7,000 shares of Guilford stock after exercising the final seventy options, for a profit of approximately \$5670.

73. On July 27, 2005, Vorobiev transferred the remaining 7,940 shares of Guilford stock in his RBC account to Tatiana Vorobieva's RBC account. On July 29 and August 1, 2005, Tatiana Vorobieva's RBC account sold the 7,940 Guilford shares for a profit of approximately \$8,760.

74. Illicit profits from trading in the Guilford securities described above are divided as follows: accounts in the name of Tatiana Vorobieva generated approximately \$23,381 in total profits; Alex Vorobiev's trading in his own accounts generated \$12,914 in total profits; and, upon information and belief, Koval's trading in Vorobiev's Terra Nova Account generated \$4,543 in total profits.

### **ID Biomedical Corp.**

75. On June 17, 2005, ID Biomedical Corp. (“ID Biomedical”) and GlaxoSmithKline PLC (“GSK”) executed a confidentiality agreement and thereafter shared confidential information regarding a possible business combination.

76. At all relevant times, ID Biomedical’s common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was traded on NASDAQ. ID Biomedical was a Canadian company.

77. On or about July 8, 2005, the UBS Healthcare Group assembled a deal team to advise ID Biomedical. Poteroba was a member of the UBS deal team for the ID Biomedical transaction. At that time, UBS placed ID Biomedical on the UBS Grey List.

78. On July 15, 2005, ID Biomedical’s Board of Directors authorized the company’s management to begin negotiations with GSK regarding a possible acquisition of ID Biomedical by GSK.

79. On July 20, 2005, ID Biomedical engaged UBS as its exclusive adviser with regard to a possible acquisition.

80. The information that the ID Biomedical representatives provided to UBS regarding the contemplated transaction was highly confidential and was not intended to be disclosed before the transaction was complete and publicly announced.

81. On or before July 29, 2005, Poteroba, in his capacity as a UBS employee, had learned material, nonpublic information regarding the ID Biomedical acquisition.

82. On or before July 29, 2005, Poteroba tipped Koval with material, nonpublic information regarding the ID Biomedical acquisition. In doing so, Poteroba misappropriated from UBS material, nonpublic information concerning ID Biomedical’s

plans to be acquired. Koval, in turn, tipped Vorobiev with material, nonpublic information regarding the ID Biomedical acquisition.

83. On Friday, July 29, 2005, on information and belief, Koval purchased 1,400 shares of ID Biomedical stock in Vorobiev's Terra Nova Account at a cost of \$28,127.

84. On the same day, Vorobiev purchased a total of 310 ID Biomedical August 20 call option contracts in his TD Ameritrade and RBC brokerage accounts at a cost of \$34,909.

85. Also on January 29, Tatiana Vorobieva's TD Ameritrade account purchased 319 ID Biomedical August 20 call options at a cost of \$29,656. On the same day, two separate RBC accounts in her name purchased 2,960 shares of ID Biomedical stock at a cost of \$59,569.

86. On Monday, August 1, 2005, upon information and belief, Koval bought an additional 310 shares of ID Biomedical stock in Vorobiev's Terra Nova Account. On Wednesday, August 3, upon information and belief, he sold those shares and bought twelve ID Biomedical Sept. 20 call option contracts, which effectively gave him a 1,200 share position in ID Biomedical stock.

87. Also on August 3, Vorobiev purchased fifty-eight ID Biomedical Sept. 20 call option contracts in his Firsttrade Securities account.

88. On Thursday, August 4, 2005, Koval sold 1,400 shares of ID Biomedical stock from the Terra Nova Account and purchased forty-nine ID Biomedical Sept. 20 call option contracts in the same account. By selling the 1,400 shares of ID Biomedical stock and replacing them with the forty-nine call options, Koval increased his ability to benefit

from a rise in the price of ID Biomedical stock by obtaining the right to purchase an additional 3,500 shares of ID Biomedical stock.

89. Also on August 4, Vorobiev bought 490 shares of ID Biomedical stock in his Firstrade Securities account. Vorobiev sold those shares on August 5.

90. On Monday, August 8, 2005, upon information and belief, Koval bought an additional thirty-three ID Biomedical Sept. 20 call option contracts in the Terra Nova Account.

91. On August 8, Vorobiev sold 195 ID Biomedical call option contracts in his RBC account at a loss of \$17,569.

92. In summary, by the close of trading on August 8, 2005, defendants had established the following positions in ID Biomedical securities: (1) upon information and belief, Koval -- trading in Vorobiev's Terra Nova Account -- held a total of ninety-four ID Biomedical call option contracts; (2) Vorobiev held 173 ID Biomedical call option contracts; and (3) accounts in the name of Tatiana Vorobieva held 319 ID Biomedical call options and 2,960 shares of ID Biomedical stock.

93. On Tuesday, August 9, 2005, GSK asked for an approximately one month delay in the negotiations with ID Biomedical. In response, ID Biomedical called off all discussions with GSK.

94. Upon information and belief, on or before August 9, 2005, Poteroba learned that the negotiations between ID Biomedical and GSK had been terminated and conveyed this information to Koval. Koval, in turn, conveyed this information to Vorobiev.

95. Beginning on August 9, 2005 and continuing through August 12, all of the ID Biomedical stock and call option contracts held in Tatiana Vorobieva's RBC and TD Ameritrade accounts were sold, realizing a profit of approximately \$700 in the ID Biomedical stock and a loss of approximately \$5,620 on the call option contracts.

96. Also on August 9, Vorobiev sold four ID Biomedical call option contracts held in his TD Ameritrade account.

97. On Thursday, August 11, 2005, Poteroba sent an email from his UBS corporate email account to Koval at his Citigroup email address. In the email, titled "Canadian Trip," Poteroba stated:

Hope all is well. As we talked we should cancel our canadian [sic] trip. . . hope you got all our deposit back. There are other travel bargains I'm looking into. . . some 70% discounts to what soon will become a full price. Canada trip was overpriced as we all realized. . . .

98. Upon information and belief, the August 11 email was a coded message from Poteroba to Koval regarding the sale of ID Biomedical securities in light of the breakdown in negotiations between the parties. As noted above, at that time, ID Biomedical was located in Canada.

99. From August 12, 2005 through August 17, 2005, Vorobiev sold the remaining 179 ID Biomedical call option contracts held in his TD Ameritrade account and Firstrate Securities account, realizing a loss of approximately \$11,290.

100. Upon information and belief, on August 22, 2005, Koval sold all 94 of the ID Biomedical call option contracts held in the Terra Nova Account. Koval's trading in the Vorobiev Terra Nova Account generated a profit of approximately \$16,000.

101. On August 31, 2005, ID Biomedical and GSK resumed negotiations.

102. On September 7, 2005, ID Biomedical and GSK publicly announced their merger agreement. ID Biomedical's stock closed at \$29.49, a thirteen percent increase over the prior day's closing price of \$26 per share.

103. On Friday, September 2, 2005, \$7,000 was wired from the Terra Nova Account to an account in Vorobiev's name at a Russian bank. The wire was returned to the Terra Nova Account four days later.

104. On Tuesday, September 13, 2005, at 2:07 p.m., Poteroba sent a message from his UBS email account to Koval at his Citigroup email address containing, upon information and belief, a coded inquiry about the transfer of the profits from the insider trading. In the email, which had the subject line, "Potatoes," Poteroba asked Koval:

Let me know if you finished your recent harvest arrangements and how many kilos are available for my parents. They are in Turkey now and could use some once they are back.

105. Approximately two hours later on September 13, 2005, Koval responded:

This year the potato yield was not as high as the last one. Whatever is collected is now being transported in the warehouse, with special climate conditions, from where it is going to be available for delivery. My estimates are about 6.8 kilo per square yard. . . .Of course, some potato [sic] need to be left for the next year [sic] seeds [sic] but it should not be a concern since I have a vendor who will provide enough once the spring comes.

106. Upon information and belief, the "6.8 kilo" figure is an approximate reference to the \$7,000 that had been wired out of the Terra Nova Account two weeks earlier and subsequently returned.

107. Subsequently, on October 20, 2005, a wire in the amount of \$11,000 was sent from the Terra Nova Account. These funds ultimately were deposited into a brokerage account maintained by Vorobiev at Firstrate Securities Inc.

### **Molecular Devices Corp.**

108. On November 7, 2006, the Board of Directors of Molecular Devices Corp. (“Molecular”), a Delaware corporation, authorized UBS to conduct a controlled auction process for the sale of Molecular.

109. At all relevant times, Molecular’s common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was traded on NASDAQ.

110. The information that the Molecular representatives provided to UBS regarding the contemplated transaction was highly confidential and was not intended to be disclosed before the transaction was completed and publicly announced.

111. From early November 2006 through mid-December 2006, UBS contacted potential purchasers on behalf of Molecular and Molecular executed confidentiality agreements with twelve companies, including MDS, Inc. (“MDS”). Each of the twelve companies, including MDS, was invited to submit a preliminary, non-binding indication of interest by or before December 8, 2006.

112. Between November 16, 2006 and December 8, 2006, members of Molecular’s management and representatives of UBS met or had telephone conferences with ten of the twelve companies that had been invited to submit indications of interest, including MDS.

113. After receiving indications of interest from five companies, Molecular’s board met on December 11, 2006, with representatives of UBS in attendance, and authorized Molecular’s management and UBS to continue discussions with the three companies that had the highest offer prices, including MDS.

114. Beginning on December 15, 2006, Molecular allowed MDS and the other two companies to confidentially conduct due diligence on Molecular.

115. On December 22, 2006, UBS sent letters to the three prospective acquirers inviting them to submit “best and final” offers for the acquisition of Molecular.

116. On January 17, 2007, MDS and the other two potential purchasers submitted revised bids to Molecular and UBS.

117. On January 20, 2007, UBS reviewed the bids with Molecular’s Board of Directors and the Board agreed to an exclusivity agreement with MDS.

118. On January 21, 2007, Molecular’s outside counsel sent a draft merger agreement to MDS’s legal counsel.

119. On or before January 21, 2007, Poteroba, in his capacity as a UBS employee, had learned material, nonpublic information regarding the impending Molecular acquisition.

120. On Sunday, January 21, 2007, at 8:48 p.m., Koval called Poteroba and the call lasted approximately six minutes. The following Monday, January 22, 2007, at 11:36 a.m., Koval again called Poteroba and the duration of the call was four minutes.

121. Upon information and belief, during these or other communications between Poteroba and Koval, Poteroba tipped Koval with material, nonpublic information regarding the Molecular acquisition. In doing so, Poteroba misappropriated material, nonpublic information from UBS concerning Molecular’s impending acquisition.

122. On Monday, January 22, 2007, at 2:10 p.m., upon information and belief, Koval purchased 300 shares of Molecular stock, five Molecular Feb. 22.5 call option

contracts, and ten Molecular March 25 call options in Vorobiev's Terra Nova Account at a cost of \$8,606. Also on January 22, upon information and belief, Koval sold three Molecular April 25 call option contracts in the Terra Nova Account.

123. Later that day, at approximately 4:44 p.m., Poteroba sent an email from his UBS email account to Koval at his Citigroup email address with the subject line: "Let me know if you've started your wedding registry at Macy's." The body of the email states, "Happy to talk about sales items and etc. . . .sale ends soon. . .so hurry up." Upon information and belief, Poteroba sent this coded message to ask Koval whether he had begun purchasing shares of Molecular stock.

124. A half hour later, at 5:20 p.m., Koval responded to Poteroba's earlier email, stating:

Yep, I have set it up. Better do it now when they have [a] sale. I could not believe how many things one needs once engaged. Single life was much easier if you ask me. It is always [a] good idea to know about coupons available. I try to follow up on the rebates programs currently in place but often miss many due to lack of time. Thanks for pointing it out to me. Although wedding day is not yet announced, I hope to get all the important items ahead of time: I even started buying small things that [are] usually not important until you need them.

125. Two minutes later, at 5:22 p.m., Poteroba responded:

Good points. . .sale ends on Friday. . .see if you can get registered for as many items as possible...more you get now. . .more you save. . .We should start tracking these events more actively. . . .

126. Upon information and belief, Poteroba and Koval, through these coded messages, signaled that: (i) Koval should purchase Molecular securities ("get registered for as many items as possible"); and (ii) that the opportunity to buy Molecular securities prior to the public announcement would last until Friday, January 26, 2007 (*i.e.*, "sale ends on Friday").

127. During the week of January 22, 2007, Molecular's counsel and MDS's internal and outside counsel continued to negotiate the terms of, and exchanged drafts of, the merger agreement, and Molecular's management continued to respond to due diligence requests and questions from MDS.

128. On January 26, 2007, at a special meeting, the MDS Board of Directors approved the merger agreement with Molecular. On January 27, 2007, at a special meeting, the Molecular board approved the merger agreement with MDS.

129. From Tuesday, January 22, 2007 through Friday, January 26, upon information and belief, Koval bought 200 shares of Molecular stock and ten Molecular Feb. 25 call option contracts in Vorobiev's Terra Nova Account.

130. On Monday, January 29, 2007, Molecular publicly announced its acquisition by tender offer by MDS. Molecular's stock closed at \$35.07, a forty-seven percent increase over the prior day's closing price of \$23.88 per share.

131. Upon information and belief, on January 29 and 30, 2007, Koval sold 300 shares of Molecular stock and 25 call option contracts purchased in the Terra Nova Account. Upon information and belief, on February 8, 2007, Koval sold the remaining 200 shares of Molecular stock. In sum, Koval's trading in the Vorobiev Terra Nova Account generated approximately \$24,100 in profits from the Molecular options and \$6,100 in profits from the Molecular stock, for a total of \$30,200.

#### **ViaCell, Inc.**

132. Beginning in late May 2007, and continuing through June 2007, ViaCell, Inc. ("ViaCell") and Perkin Elmer, Inc. ("PKI") engaged in preliminary discussions regarding a possible business combination between the two companies. During this

period, representatives of UBS participated in internal discussions at ViaCell regarding the merits of a potential business combination with PKI.

133. At all relevant times, ViaCell's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was traded on NASDAQ.

134. On June 28, 2007, PKI made a proposal to ViaCell to acquire ViaCell. On the same day, ViaCell informed UBS of the PKI proposal and asked UBS to participate in telephonic meeting of ViaCell's Board of Directors on June 29, 2007. UBS participated in that the telephonic board meeting on June 29 and was directed by ViaCell's board to continue discussions with PKI regarding a possible sale of ViaCell.

135. On July 5, 2007, ViaCell formally retained UBS as its financial adviser regarding the potential sale of the company to PKI. On or about this same day, UBS listed ViaCell and PKI on its Grey List.

136. The information that the ViaCell representatives provided to UBS regarding the contemplated transaction was highly confidential and was not intended to be disclosed before the transaction was completed and publicly announced.

137. On July 10, 2007, a special committee of the ViaCell Board of Directors instructed UBS to communicate to PKI's financial adviser that ViaCell wanted a higher offer than had previously been submitted by PKI.

138. On July 13, 2007, PKI provided ViaCell with a non-binding proposal that contained a higher purchase price.

139. From mid-July, 2007, through September 29, 2007, ViaCell and PKI continued to engage in highly confidential negotiations and due diligence reviews. UBS

was actively involved in these negotiations and due diligence reviews in its capacity as ViaCell's financial adviser.

140. On or before September 19, 2007, Poteroba, in his capacity as a UBS employee, learned material, nonpublic information regarding the potential ViaCell acquisition.

141. On Wednesday, September 19, 2007, Koval called Poteroba at 8:27 p.m. and the call lasted for two minutes. A few minutes later, around 8:56 p.m., Poteroba called Koval and the called lasted for nine minutes.

142. Upon information and belief, during these or other communications between Poteroba and Koval, Poteroba tipped Koval with material, nonpublic information regarding the ViaCell acquisition. In doing so, Poteroba misappropriated from UBS material, nonpublic information concerning ViaCell's plans to be acquired.

143. Upon information and belief, between September 20, 2007 and September 26, 2007, Koval bought 6,800 shares of ViaCell stock in Vorobiev's Terra Nova Account. In addition, on September 20 and 21, Koval bought 2,000 shares of ViaCell stock in his Citigroup brokerage account at a cost of \$9,410.

144. On Monday, October 1, 2007, after the close of the market, ViaCell and PKI publicly announced that ViaCell would be acquired by PKI by a tender offer. On October 2, ViaCell's stock closed at \$7.18, a fifty-one percent increase over the prior day's closing price of \$4.77 per share.

145. Upon information and belief, on October 2, 2007, Koval sold all 6,800 shares of ViaCell stock in the Terra Nova Account generating profits of approximately \$16,700. On the same day, Koval sold all 2,000 shares of ViaCell stock in his Citigroup

brokerage account realizing illicit trading profits of \$5,045. The illegal profits from the trading in both accounts totaled approximately \$21,750.

**Radiation Therapy Services, Inc.**

146. On March 27, 2007, Radiation Therapy Services, Inc. (“Radiation Therapy”), a Florida corporation, through its financial adviser, confidentially contacted over a dozen potential purchasers concerning a possible transaction, including the purchase of the company. Vestar Capital Partners, L.P. (“Vestar”) was one of the parties contacted by Radiation Therapy.

147. At all relevant times, Radiation Therapy’s common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was traded on the NASDAQ.

148. In late July 2007, Vestar requested that UBS provide fully committed financing for a leveraged buyout acquisition of Radiation Therapy by Vestar.

149. The information that the Vestar representatives subsequently provided to UBS regarding the contemplated transaction was highly confidential and was not intended to be disclosed before the transaction was completed and publicly announced.

150. On July 26, 2007, Poteroba sent an email to UBS’s internal compliance department (“UBS Compliance”) in which he identified himself as a member of the UBS “Deal team” that was working on a “Debt financing” project for Vestar with regard to a leveraged buyout of Radiation Therapy that was expected to be announced in “mid august [sic]” and close “at the end of September.”

151. Also on July 26, UBS placed Radiation Therapy on the UBS Grey List.

152. On July 27, 2007, several UBS representatives, including Poteroba, took part in a conference call with Vestar. Poteroba arranged the call, the purpose of which was “to discuss UBS initial views on the [Radiation Therapy] leverage, structure/pricing and timing of the LBO.”

153. On or about August 5, 2007, UBS representatives, including Poteroba, met in New York with Radiation Therapy’s chief executive officer.

154. From late July through early October, 2007, Poteroba and others at UBS continued to work on Vestar’s request for debt financing from UBS for a leveraged buyout of Radiation Therapy.

155. On Friday, September 7, 2007, UBS Compliance sent an email to Poteroba inquiring about the status of the Vestar bid for Radiation Therapy. Poteroba responded by email that “(t)he process just got restarted – Vestar is alive and working – I expect bids (final) at the end of the month.”

156. On October 3, 2007, UBS informed Vestar that it would not participate in the financing of an acquisition of Radiation Therapy. Negotiations between Vestar and Radiation Therapy regarding a merger continued through October 18, 2007.

157. By October 8, 2007, Poteroba, in his capacity as a UBS employee, had learned material, nonpublic information regarding the impending sale of Radiation Therapy.

158. On Monday, October 8, 2007, Poteroba and Koval exchanged three phone calls each lasting between one and two minutes.

159. Upon information and belief, during these or other communications between Poteroba and Koval, Poteroba tipped Koval with material, nonpublic

information regarding the impending Radiation Therapy acquisition. In doing so, Poteroba misappropriated from UBS material, nonpublic information concerning Vestar's plans to acquire Radiation Therapy.

160. From October 9, 2007 through October 12, 2007, upon information and belief, Koval bought 1,500 shares of Radiation Therapy stock and four Radiation Therapy Feb. 25 call option contracts in Vorobiev's Terra Nova Account at a cost of \$34,441.

161. On Friday, October 12, 2007, UBS Compliance sent another email to Poteroba inquiring about the status of "[UBS] advising/financing Vestar Capital for the acquisition of Radiation Therapy Services" and Poteroba responded by email, "We lost – process is dead." Although UBS was not retained as an adviser to Vestar, the contemplated transaction between Vestar and Radiation Therapy moved forward.

162. On Monday, October 15, 2007, upon information and belief, Koval purchased an additional three Radiation Therapy call option contracts in the Terra Nova Account.

163. On Friday, October 19, 2007, Radiation Therapy and Vestar publicly announced after the market closed that Radiation Therapy was being acquired by Vestar. On Monday, October 22, Radiation's stock closed at \$30.96, a forty-four percent increase over the prior day's closing price of \$21.56 per share.

164. Between October 22 and 25, 2007, upon information and belief, Koval sold all 1,550 shares of Radiation Therapy stock and the seven call option contracts held in the Terra Nova Account, netting illicit trading profits of approximately \$16,200.

### **Datascope Corp.**

165. By January 2008, representatives of Mindray Medical International Ltd. (“Mindray”), a Chinese corporation, had retained UBS as its financial adviser in connection with its proposed acquisition of the patient monitoring business of Datascope Corp. (“Datascope”), a Delaware corporation.

166. At all relevant times, Datascope’s common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was traded on the NASDAQ.

167. The information that Mindray provided to UBS regarding the contemplated transaction was highly confidential and was not intended to be disclosed before the transaction was completed and publicly announced.

168. On January 16, 2008, UBS placed Mindray and Datascope on the UBS Grey List. In UBS’s internal records, Poteroba was listed as a member of the UBS team advising Mindray.

169. By January 30, 2008, Poteroba, in his capacity as a UBS employee, learned material, nonpublic information regarding the Datascope business line acquisition.

170. On Thursday, January 31, 2008, Poteroba called Koval around 9:33 p.m., and the call lasted approximately twenty-seven minutes.

171. Upon information and belief, during these or other communications between Poteroba and Koval, Poteroba tipped Koval with material, nonpublic information regarding the Datascope acquisition. In doing so, Poteroba misappropriated from UBS material, nonpublic information concerning Mindray’s plans to acquire the patient monitoring business of Datascope.

172. On Friday, February 1, 2008, Koval logged into Vorobiev's Terra Nova Account from his home computer and bought 300 shares of Datascope stock. From February 4, 2008 through February 14, 2008, Koval purchased an additional 1,100 shares of Datascope stock in the Terra Nova Account. The total cost of these purchases was \$47,932.

173. Between February 20, 2008 and March 10, 2008, Koval sold 900 shares of Datascope stock.

174. On Tuesday, March 11, 2008, Mindray publicly announced that it was acquiring Datascope's patient monitoring line-of business. Datascope's stock closed at \$38.28, a fourteen percent increase over the prior day's closing price of \$33.53 per share.

175. On March 11, 2008, Koval logged into Vorobiev's Terra Nova Account from his home computer and sold the remaining 500 shares of Datascope stock. Koval's trading in the Vorobiev Terra Nova Account generated illicit trading profits of approximately \$1,100.

#### **Millennium Pharmaceuticals, Inc.**

176. On January 23, 2008, representatives of Takeda Pharmaceuticals Co. Ltd. ("Takeda") met in Copenhagen with members of UBS's investment banking department to discuss, among other things, Takeda's contemplated acquisition of Millennium Pharmaceuticals, Inc. ("Millennium") and the formulation of a plan to acquire Millennium for a preliminary bid of \$23.00 per share. On the same date, Takeda and UBS executed a confidentiality agreement.

177. At all relevant times, Millennium's common stock was registered with the Commission pursuant to Section 12(g) of the Exchange Act and was traded on NASDAQ.

178. On January 24, 2008, Takeda emailed to UBS a draft non-binding proposal that Takeda planned to send to Millennium proposing an acquisition. Also on this date, UBS placed Millennium on its Grey List.

179. On February 1, 2008, Takeda sent to Millennium the non-binding proposal to acquire Millennium for \$23.00 per share.

180. On February 15, 2008, Millennium's Board of Directors agreed to allow Takeda to conduct limited due diligence. Also on that date, UBS participated in a conference call with Millennium's financial advisers to discuss the offer and process.

181. From February 21, 2008 through mid-March 2008, Takeda and Millennium conducted due diligence.

182. On February 25, 2008, UBS representatives attended meetings at which Millennium management provided an overview of the company to representatives of Takeda. Between February 25 and 29, 2005, UBS and Takeda representatives attended additional meetings with Millennium.

183. On March 5, 2008, representatives of UBS and Takeda met to discuss the process and preliminary due diligence findings regarding Millennium, and to formulate an approach for submitting a revised non-binding proposal to Millennium.

184. On March 18 and 20, 2008, Takeda submitted to Millennium revised non-binding proposals to acquire Millennium.

185. On March 21, 2008, UBS sent to Takeda a presentation outlining potential investor reaction to merger of Millennium with Takeda.

186. On March 25, 2008, Takeda and Millennium entered into an exclusivity agreement.

187. On March 26, 2008, UBS held an internal Fairness Committee meeting regarding the preparation of a fairness opinion for Takeda's Board of Directors.

188. From March 31 to April 4, representatives of Takeda, UBS, Takeda's outside legal counsel, Millennium, and Millennium's financial and legal advisers met to discuss the terms of the merger agreement.

189. On April 9, 2008, Millennium's Board of Directors approved the terms of the merger agreement.

190. The information that Takeda provided to UBS regarding the contemplated transaction was highly confidential and was not intended to be disclosed before the transaction was completed and publicly announced.

191. Upon information and belief, by March 3, 2008, Poteroba, in his capacity as a UBS employee, had learned material, nonpublic information regarding the Millennium acquisition.

192. At 8:28 a.m. on March 3, 2008, Poteroba sent an email to Koval with a subject line: "Can you pls give a call this morning." At 12:03 p.m., Koval called Poteroba for one minute. Then, at 12:46 p.m., Poteroba called Koval and the call lasted approximately four minutes. Poteroba called Koval again at approximately 8:31 p.m., and they spoke for seven minutes.

193. Upon information and belief, during these or other communications between Poteroba and Koval, Poteroba tipped Koval with material, nonpublic information regarding the Millennium acquisition. In doing so, Poteroba misappropriated from UBS material, nonpublic information concerning Millennium's plans to be acquired.

194. On March 3, 2008, Koval logged into Vorobiev's Terra Nova Account from Koval's home computer and bought ten Millennium April 15 call option contracts. On March 5, Koval purchased ten Millennium May 15 call options and 300 shares of Millennium stock in the Terra Nova Account. On March 7, Koval purchased 700 shares of Millennium stock in the Terra Nova Account. On March 10, Koval purchased five more Millennium April 15 call options, five more Millennium May 15 call options, and 800 more shares of Millennium stock in the Terra Nova Account. On March 11, Koval purchased 700 shares of Millennium shares.

195. From Monday, March 10, 2008 through March 18, 2008, Koval also bought 2,000 shares of Millennium stock in his TD Ameritrade brokerage account at a cost of \$27,260.

196. From March 26, 2008 through April 8, 2008, Koval bought an additional 800 shares of Millennium stock and five Millennium May 17.5 call options in the Terra Nova Account. Koval's total cost in purchasing all of the Millennium securities in the Terra Nova Account was \$47,136.

197. On Thursday, April 10, 2008, Millennium and Takeda executed the merger agreement and jointly publicly announced the merger and tender offer for

Millennium. Millennium's stock closed at \$24.34, a forty-nine percent increase over the prior day's closing price of \$16.35 per share.

198. On April 10, 2008 and April 14, 2008, Koval logged into Vorobiev's Terra Nova Account and sold all 3,300 shares of Millennium stock and the thirty-five call option contracts. Koval's trading in Vorobiev's Terra Nova Account generated approximately \$65,200 in illegal profits.

199. Also on April 10, Koval sold all 2000 shares of Millennium stock in his TD Ameritrade brokerage account for a profit of \$21,745. In sum, Koval realized illicit trading profits of approximately \$86,966.

#### **Sciele Pharma, Inc.**

200. In May 2008, a UBS investment banker spoke to representatives of Sciele Pharma, Inc. ("Sciele"), a Delaware corporation, regarding a potential acquisition of Sciele by Shionogi & Co., Ltd. ("Shionogi").

201. At all relevant times, Sciele's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was traded on the NASDAQ.

202. The information that Sciele provided to UBS regarding the contemplated transaction was highly confidential and was not intended to be disclosed before the transaction was completed and publicly announced.

203. By May 15, 2008, both Sciele and Shionogi were placed on the UBS Grey List. From mid-May 2008 through June 2008, Sciele and Shionogi conducted highly confidential due diligence and Sciele conducted a management presentation for Shionogi.

204. On June 30, Shionogi submitted a written purchase proposal to Sciele and requested an exclusivity agreement. On July 1, Sciele responded that the valuation contained in Shionogi's written proposal was low and declined Shionogi's exclusivity request.

205. On July 2, 2008, the Sciele Board of Directors held a special telephonic meeting to review, among other things, certain aspects of Shionogi's offer and instructed Sciele's CEO to continue discussions with Shionogi regarding a potential acquisition of Sciele.

206. On July 7, 2008, UBS acting on behalf of Sciele, informed Shionogi's financial advisers that any revised bid should be submitted by Shionogi prior to a meeting of Sciele's board that was scheduled to begin on July 31, 2008.

207. By or before July 7, 2008, Poteroba, in his capacity as a UBS employee, had learned material, nonpublic information regarding the Sciele acquisition.

208. On July 7, 2008, at 4:36 p.m., Poteroba called Koval and the call lasted one minute. Koval called Poteroba that evening at 9:11 p.m. and the call lasted nine minutes.

209. From July 9, 2008 through August 15, 2008, Sciele participated in due diligence reviews with several potential acquirers, including Shionogi, and conducted management presentations for four other potential acquirers.

210. On July 10, 2008, Koval emailed Poteroba proposing that they meet for lunch during the following week, when Koval was going to be in New York.

211. On July 11, 2008, Sciele conducted a management presentation for one potential acquirer.

212. On Friday, July 11, 2008, Poteroba called Koval and the call lasted one minute.

213. On July 18, 2008, a “transaction committee” of Sciele’s Board of Directors authorized Sciele’s management to conclude due diligence, negotiate definitive acquisition agreements, and announce a transaction by no later than September 1, 2008.

214. On Monday, July 28, 2008, Shionogi submitted to Sciele a revised bid to acquire Sciele. The bid was reviewed by UBS.

215. At 1:43 p.m. on July 28, Poteroba called Koval from work and the called lasted approximately 12 minutes.

216. Upon information and belief, during these or other communications between Poteroba and Koval, Poteroba tipped Koval with material, nonpublic information regarding the Sciele acquisition. In doing so, Poteroba misappropriated from UBS material, nonpublic information concerning Sciele’s plans to be acquired.

217. Later on July 28, at approximately 3:15 p.m., Koval logged into Vorobiev’s Terra Nova Account and bought 2,000 shares of Sciele stock, 10 Sciele Sept. 22.5 call option contracts, and 10 Sciele Oct. 22.5 call options. On the same day, Koval sold 1,300 shares of Sciele stock from the Terra Nova Account.

218. On July 29, 2008, Koval bought 1,300 shares of Sciele stock and 10 Sciele Sept. 17.5 call option contracts in the Terra Nova Account.

219. On July 30, Sciele received preliminary written indications of interest from two prospective acquirers. During the meeting of Sciele’s Board of Directors on July 31 and August 1, the board received and considered a preliminary written indication of interest from a fourth prospective acquirer.

220. On August 4, 2008, UBS informed Shionogi's financial adviser that Shionogi's acquisition proposal had been positively received by Sciele, but that Shionogi would need to increase its proposed acquisition price.

221. On August 7, 2008, a fifth prospective acquirer submitted a preliminary written indication of interest to Sciele.

222. Between August 11 and August 15, 2008, Shionogi representatives conducted due diligence on Sciele and interviewed Sciele management.

223. On August 18, 2008, the Transaction Committee of Sciele's board held a telephonic conference in which UBS participated. During this conference, UBS advised that three of the prospective acquirers were not interested in pursuing a transaction unless Sciele had concluded discussions with Shionogi. Also during this conference, the Transaction Committee authorized Sciele management to conclude due diligence, negotiate definitive merger agreements, and announce a transaction by no later than September 1, 2008.

224. Between July 31 and August 19, 2008, Koval bought an additional 1,300 shares of Sciele stock in the Terra Nova Account.

225. On August 25, 2008, Koval sold 200 shares of Sciele stock held in the Terra Nova Account.

226. On August 26, 2008, Sciele and Shionogi commenced final negotiations. From August 26 through August 29, Sciele and Shionogi concluded their negotiations and reached a final agreement. On August 29, 2008, UBS issued a fairness opinion regarding the proposed transaction.

227. On September 1, 2008, Sciele publicly announced its acquisition by Shionogi by tender offer. On September 2, Sciele's stock closed at \$21, a fifty-nine percent increase over the prior day's closing price of \$13.26 per share.

228. On September 2, 2008, Koval logged into the Terra Nova Account and sold 3,100 shares of Sciele stock and twenty Sciele call option contracts. On September 5, Koval sold the remaining ten call option contracts held in the Terra Nova Account. Koval's trading in Vorobiev's Terra Nova Account generated illicit trading profits of approximately \$56,700.

### **Indevus Pharmaceuticals, Inc.**

229. On September 19, 2008, the chief executive officers of Indevus Pharmaceuticals, Inc. ("Indevus") and Endo Pharmaceuticals Holdings Inc. ("Endo") met and discussed a potential combination of their respective companies. Indevus's CEO informed UBS of that discussion.

230. At all relevant times, Indevus's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was traded on NASDAQ.

231. On September 30, 2008, UBS, in its capacity as financial adviser to Indevus, sent a confidentiality agreement to Endo regarding a potential business combination and Endo executed the agreement.

232. On October 1, 2008, UBS placed Indevus on its Grey List.

233. The information that Indevus provided to UBS regarding the contemplated transaction was highly confidential and was not intended to be disclosed before the transaction was completed and publicly announced.

234. On October 21, 2008, the CEOs of Indevus and Endo discussed the nature of Endo's interest in Indevus and its valuation. Indevus's CEO informed UBS of this discussion.

235. From October 31, 2008 through November 21, 2008, Indevus and Endo conducted due diligence and negotiated the terms of a purchase agreement.

236. On November 20, 2008, Poteroba called Koval at 8:23 p.m. and the call lasted five minutes.

237. On November 21, 2008, Vorobiev called Koval from Russia at 10:26 p.m. and the call lasted one minute. Vorobiev called Koval again the following day at 1:11 p.m. and the call lasted one minute. On the same day, November 22, 2008, Koval called Vorobiev in Russia at 1:22 p.m. and the call lasted seventeen minutes.

238. On November 25, the CEOs of Indevus and Endo met to discuss the status of the potential transaction and Indevus's CEO requested that Endo increase the per share consideration that it was offering to acquire Indevus. Indevus's CEO informed UBS of the discussion.

239. On December 3, 2008, Indevus provided UBS with a revised financial model and UBS discussed the model with Indevus during a conference call. Also on this date, Endo continued its review of Indevus's non-public information and Endo representatives visited Indevus's manufacturing facilities.

240. By December 3, 2008, Poteroba, in his capacity as a UBS employee, learned material, nonpublic information regarding the negotiations between Indevus and Endo.

241. On December 3, 2008, Poteroba called Koval two times. The first call was at 9:20 a.m. and lasted approximately one minute; the second call was at 12:25 p.m. and lasted approximately two minutes.

242. Upon information and belief, during these and other communications between Poteroba and Koval, Poteroba tipped Koval with material, nonpublic information regarding the Indevus acquisition. In doing so, Poteroba misappropriated from UBS material, nonpublic information concerning Indevus's negotiations with Endo. Koval, in turn, tipped Vorobiev with material, nonpublic information regarding the Indevus acquisition.

243. On December 4, 2008, UBS participated by telephone conference in a meeting of Indevus's Board of Directors during which the board discussed the valuation of Indevus as a stand-alone entity and considered several financing alternatives.

244. On December 4, 2008, at 9:35 a.m. from his home computer, Koval logged into Vorobiev's Terra Nova Account and began buying Indevus stock. On December 4 and December 5, 2008, Koval purchased 2,500 shares of Indevus stock and ten Indevus Jan. 2.5 call option contracts at a cost of \$6,263.

245. Also on December 4 and December 5, 2008, the TD Ameritrade brokerage account held in the name of Koval's wife, relief defendant Anjali Walter, purchased 4,000 shares of Indevus stock at a cost of \$9,530.

246. On December 8 and December 11, 2008, Koval purchased an additional 800 shares of Indevus stock.

247. On December 10, 2008, Endo's CEO conveyed to Indevus's CEO an increased offer to acquire Indevus.

248. Beginning on December 10, 2008 through December 12, 2008, Vorobiev purchased 6,980 shares of Indevus stock in his TD Ameritrade account at a cost of \$18,852. From December 17, 2008 through December 19, 2008, Vorobiev purchased an additional 3,750 shares of Indevus stock, for a total position of 10,730 Indevus shares.

249. On December 10, 2008 through December 18, 2008, Tatiana Vorobieva's TD Ameritrade account purchased 6,020 shares of Indevus stock at a cost of \$16,512.

250. Beginning on December 10, 2008 and running through December 16, 2008, Tatiana Vorobieva's RBC account purchased 14,400 shares of Indevus stock at a cost of \$38,894.

251. On December 12, 2008, Endo's CEO sent a letter to Indevus's CEO, reiterating the increased offering price. Also on that date, Endo sent a draft merger agreement to Indevus and UBS participated in a conference call with Indevus to discuss Endo's revised offer and related considerations.

252. On December 14, 2008, Indevus's Board of Directors authorized Indevus senior management to proceed to finalize a sale of the company to Endo.

253. On December 16 and 17, 2008, UBS participated in a meeting between Indevus and Endo where the merger agreement was negotiated and the potential integration of the two companies was discussed. From December 17, 2008, through January 5, 2009, UBS participated in merger agreement negotiations between Indevus and Endo and the drafting of transaction documentation.

254. On December 24, Vorobiev sold 350 shares of Indevus stock from his TD Ameritrade brokerage account.

255. On Monday, January 5, 2009, the respective boards of directors of Indevus and Endo approved the merger agreement and Indevus and Endo both issued press releases publicly announcing Indevus's acquisition by Endo by tender offer. On January 6, Indevus's stock closed at \$5.38, a seventy-four percent increase over the prior day's closing price of \$3.10 per share.

256. On January 6, 2009, Koval logged into Vorobiev's Terra Nova Account from Koval's home computer and sold all 3,300 shares of Indevus stock and ten call options. Koval's trading in Vorobiev's Terra Nova Account generated profits of \$12,084.

257. On the same day, relief defendant Anjali Walter's TD Ameritrade account sold all 4,000 shares of Indevus stock for an illegal trading profit of \$11,750.

258. Also on January 6, 2009, Vorobiev sold all 10,380 shares of Indevus stock in his TD Ameritrade account, realizing illicit trading profits of \$25,748.

259. On the same day, Tatiana Vorobieva's accounts at RBC and TD Ameritrade sold all 6,020 and 7,020 shares of Indevus stock, respectively, for a total illegal trading profit of \$53,212.

#### **Advanced Medical Optics, Inc.**

260. In October 2008, Advanced Medical Optics, Inc. ("Advanced Medical") sought the assistance of UBS in exploring potential capital raising and corporate restructuring transactions. Also in October 2008, Advanced Medical, with the assistance of another financial adviser, contacted selected parties to discuss a possible acquisition of, or strategic transaction with, Advanced Medical.

261. At all relevant times, Advanced Medical's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was traded on the New York Stock Exchange.

262. On October 22, 2008, the chief executive officers of Advanced Medical and Abbott Laboratories ("Abbott") met for dinner to discuss the possibility of an acquisition or similar merger transaction between Advanced Medical and Abbott.

263. On October 26, 2008, senior management from both Advanced Medical and Abbott met to discuss, among other things, Abbott's interest in an acquisition of, or similar strategic transaction involving, Advanced Medical.

264. On November 3, 2008, a working group of Advanced Management directors and executive leadership met with UBS to discuss, among other things, possible strategic alternatives available to Advanced Medical with respect to a possible sale of the company.

265. On December 1, 2008, Abbott submitted to Advanced Medical a non-binding, preliminary proposal letter offering to acquire all of the outstanding shares of Advanced Medical common stock for cash in the price range from \$12.00 to \$23.00 per share.

266. On December 8, 2008, Abbott began conducting due diligence regarding Advanced Medical.

267. On December 16, 2008, Advanced Medical's CEO contacted UBS to schedule a conference call for December 17, 2008, regarding a merger and acquisition. Also on December 16, UBS executed a confidentiality agreement with Advanced Medical.

268. On December 17, 2008, UBS placed Advanced Medical on its Grey List. Also on that date, the CEO of Advanced Medical asked UBS to provide a fairness opinion with regard to Abbott's preliminary offer to acquire Advanced Medical for \$21 to \$23 per share.

269. The information that the Advanced Medical representatives provided to UBS regarding the contemplated transaction was highly confidential and was not intended to be disclosed before the transaction was completed and publicly announced.

270. From January 3, 2009 through January 5, 2009, UBS conducted due diligence on Advanced Medical and prepared and delivered issued a fairness opinion to Advanced Medical.

271. On January 5, 2009, UBS participated in a meeting of Advanced Medical's Board of Directors at which Advanced Medical's outside legal counsel summarized the terms and conditions of the draft merger agreement and plan of merger between Advanced Medical and Abbott. Also during that meeting, UBS and another financial adviser to Advanced Medical discussed certain financial matters pertaining to Advanced Medical and the proposed transaction.

272. By January 5, 2009, Poteroba, in his capacity as a UBS employee, had learned material, nonpublic information regarding the Advanced Medical acquisition.

273. On January 5, 2009, Poteroba called Koval at 2:45 p.m. and the call lasted six minutes. At 9:34 p.m. that same day, Poteroba called Koval and the call lasted three minutes.

274. Also on January 5, 2009, Vorobiev called Koval from Russia at 10:24 p.m. and the call lasted one minute.

275. From January 5 to January 11, 2009, Abbott completed its due diligence review and representatives of Advanced Medical and Abbott finalized the terms and conditions of the draft merger agreement, plan of merger, and related documents.

276. On Friday, January 9, 2009, Poteroba called Koval at 9:56 a.m. and the call lasted one minute. On the same day, Koval called Poteroba at 10:36 a.m. and the call lasted five minutes.

277. Upon information and belief, during this and other communications between Poteroba and Koval, Poteroba tipped Koval with material, nonpublic information regarding the Advanced Medical acquisition. In doing so, Poteroba misappropriated from UBS material, nonpublic information concerning Advanced Medical's plans to be acquired.

278. While Poteroba and Koval were still on the phone together or within a minute after the end of the second call, at 10:41 a.m. on January 9, Koval logged into Vorobiev's Terra Nova Account and placed an order to buy 1,000 shares of Advanced Medical stock.

279. Also on January 9, Koval bought an additional 970 shares of Advanced Medical stock in Vorobiev's Terra Nova Account. The cost of the total 1,970 shares of Advanced Medical stock he purchased was \$17,604. During that same day, Koval sold 170 shares of Advanced Medical stock from Vorobiev's Terra Nova Account.

280. On January 11, 2009, Advanced Medical's Board of Directors and executive leadership met with the company's legal and financial advisers, including UBS, to review the proposed transaction and related documents. During the meeting, the Board of Directors approved the sale of Advanced Medical to Abbott.

281. On January 12, 2009, prior to the opening of the market, Advanced Medical and Abbott jointly announced that Abbott would acquire Advanced Medical by tender offer. Advanced Medical's stock closed at \$21.50, a 143 percent increase over the prior day's closing price of \$15.03 per share.

282. On January 12, 2009, Koval sold 1,800 shares of Advanced Medical stock held in the Terra Nova Account. Koval's trading in Vorobiev's Terra Nova Account generated illicit trading profits of approximately \$22,600.

#### **PharmaNet Development Group, Inc.**

283. On November 26, 2008, the Board of Directors of PharmaNet Development Group, Inc. ("PharmaNet") met and authorized a competitive auction process that could result in the sale of the company. UBS participated in that meeting and was authorized by the PharmaNet board to, among other things, conduct a preliminary review of potential acquirers.

284. At all relevant times, PharmaNet's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was traded on NASDAQ.

285. On November 28, 2008, a "strategic alternative committee" ("SAC") of the PharmaNet board met telephonically with PharmaNet senior management, UBS, and PharmaNet's outside legal counsel participating. During the telephonic meeting, UBS provided an update regarding discussions that it had conducted with potential acquirers.

286. On December 5, 2008, the PharmaNet board met with the company's senior management, UBS, and outside legal counsel. During this meeting, UBS representatives

discussed potential acquirers and the PharmaNet board instructed UBS to contact potential acquirers to invite them to participate in a formal auction process.

287. On December 8, 2008, UBS delivered to each of the potential acquirers and several private equity investors a written invitation to submit written, preliminary, non-binding indications of interest by December 16, 2008.

288. On December 16, 2008, representatives of UBS participated in a telephonic conference with the SAC, PharmaNet senior management, and outside legal counsel. During the conference call, UBS summarized the six indications of interest that had been received.

289. On December 17, 2008, the PharmaNet board met with senior management, UBS, and others. During the meeting, UBS discussed the status of the sale process and the preliminary indications of interest that had been received. Also during this meeting, the PharmaNet board decided to proceed with a second round of bidding, with best and final bids to be due on January 28, 2009.

290. On December 18, 2008, PharmaNet publicly announced that it was working with UBS to pursue strategic alternatives, including a potential sale of the company.

291. From December 22, 2008 through January 13, 2009, PharmaNet and UBS communicated with a number of potential bidders regarding confidential due diligence reviews. On January 12 and January 13, 2009, UBS sent written invitations to potential acquirers of PharmaNet requesting that they submit “best and final” offers to acquire or make an alternative investment in PharmaNet no later than January 28, 2009.

292. The information that PharmaNet provided to UBS regarding the contemplated transaction was highly confidential and was not intended to be disclosed before the transaction was completed and publicly announced.

293. Although Poteroba was not a member of the deal team, he communicated with the head of UBS's Healthcare Group about the transaction and was copied on email messages regarding the deal. On Tuesday, January 13, 2009, at 10:35 p.m., Poteroba forwarded an email to the UBS Healthcare Group team leader for the PharmaNet deal indicating that a UBS client was interested in learning more about the PharmaNet opportunity. The team leader responded by email, stating: "Process is in 8<sup>th</sup> inning any way. No other buyers (certainly not sponsors) will be considered."

294. On Wednesday, January 21, 2009, at 11:22 a.m., Poteroba was copied on an email from a member of the UBS PharmaNet team, in which the team member stated: [W]e are receiving final bids on PharmaNet on Wednesday the 28<sup>th</sup> with an important Board meeting the morning of Friday the 30<sup>th</sup>.

295. On Friday, January 23, 2009, Poteroba went to meet with another UBS client and was accompanied by the UBS team leader for the PharmaNet transaction.

296. By January 23, 2009, Poteroba, in his capacity as a UBS employee, learned material, nonpublic information regarding the PharmaNet acquisition.

297. The same day, at 10:23 p.m., Poteroba called Koval and the call lasted twelve minutes. Less than five minutes after the initial call ended, Poteroba called Koval again and the call lasted for two minutes.

298. Upon information and belief, during these or other communications between Poteroba and Koval, Poteroba tipped Koval with material, nonpublic

information regarding the PharmaNet acquisition. In doing so, Poteroba misappropriated from UBS material, nonpublic information concerning PharmaNet's plans to be acquired. Koval, in turn, tipped Vorobiev with the material, nonpublic information he received from Poteroba.

299. On the following Monday, January 26, 2009, Koval bought 14,000 shares of PharmaNet stock in Vorobiev's Terra Nova Account at a cost of \$19,854.

300. On the next day, January 27, 2008, Vorobiev purchased a total of 11,900 shares of PharmaNet stock in his TD Ameritrade brokerage account at a cost of \$16,396.

301. Also on January 27, 2008, Tatiana Vorobieva's RBC account purchased 54,000 shares of PharmaNet stock at a cost of \$76,087. On the same day, Tatiana Vorobieva's TD Ameritrade account purchased 14,300 shares of PharmaNet stock at a cost of \$19,338.

302. On January 28, 2009, Koval bought an additional 3,000 shares of PharmaNet stock in the Terra Nova Account.

303. On January 28, 2009, Vorobiev bought an additional 3,490 shares of PharmaNet stock in his TD Ameritrade account.

304. Also on January 28, 2009, Tatiana Vorobieva's RBC account bought an additional 6,000 shares of PharmaNet stock and her TD Ameritrade account bought an additional 2,740 shares of PharmaNet stock.

305. At 11:31 p.m. on the night of January 28, 2009, Poteroba placed a call to Koval and the call lasted one minute.

306. The next day, January 29, 2009, Koval bought 4,000 more shares of PharmaNet stock in the Terra Nova Account. At 3:27 p.m. on January 29, Koval placed a call to Poteroba that lasted two minutes.

307. On January 29, Vorobiev purchased 3,540 more shares of PharmaNet stock in his TD Ameritrade brokerage account.

308. Also on January 29, Tatiana Vorobieva's RBC account bought 6,000 more shares of PharmaNet stock and her TD Ameritrade account bought 3,550 more shares of PharmaNet stock.

309. On January 30, 2009, UBS representatives met with PharmaNet's Board of Directors and senior management to review the bids that had been received in the second round of the auction. PharmaNet's board decided to request that the two highest bidders in the second round of the auction submit 'best and final bids' by February 6, 2009.

310. On January 30, 2009, at 9:18 a.m. and 9:21 a.m., Koval placed orders to buy 3,000 and 5,000 shares of PharmaNet stock, respectively, in the Terra Nova Account. However, these orders were not executed. At 2:13 p.m. on the same day, Koval bought 5,000 shares of PharmaNet stock in the Terra Nova Account. At 6:28 p.m. that day, Poteroba placed a call to Koval which lasted one minute. Forty-five minutes later, at 7:18 p.m., Koval placed a call to Poteroba and the call lasted four minutes.

311. On February 1, 2009, after accelerated negotiations between PharmaNet and the remaining two bidders, the bidders submitted their final bids.

312. On February 2, 2009, after discussing the two proposals with UBS and other advisers, the PharmaNet board voted to accept a bid from JLL Partners and authorized management to finalize the merger agreement.

313. On February 2, 2009, at 9:26 a.m., Koval used his home computer to log into the Terra Nova Account and bought a final 4,000 shares of PharmaNet stock. Between 12:20 p.m. and 5:43 p.m. that day, Koval and Poteroba exchanged eight telephone calls, the longest of which lasted three minutes. From January 26, 2009 through February 2, 2009, Koval purchased a total of 30,000 shares of PharmaNet stock.

314. Also on February 2, 2009, Vorobiev bought a final 14,270 shares of PharmaNet stock in his TD Ameritrade brokerage accounts. From January 27, 2009 through February 2, 2009, Vorobiev purchased a total of 33,200 shares of PharmaNet stock.

315. Also on February 2, 2009, Tatiana Vorobieva's RBC account bought 18,100 shares of PharmaNet stock and her TD Ameritrade account bought 14,600 shares of PharmaNet stock. Between January 27, 2009 and February 2, 2009, accounts in the name of Tatiana Vorobieva purchased a total of 119,290 shares of PharmaNet stock.

316. On Tuesday, February 3, 2009, prior to the opening of trading, PharmaNet and JLL jointly publicly announced that PharmaNet would be acquired by JLL Partners for \$5.00 per share in a tender offer. The February 3 closing price of PharmaNet was \$4.64, an increase of \$3.30 from the prior day's closing price of \$1.34 per share.

317. On February 3, 2009 and February 4, 2009, Koval sold all 30,000 shares of his PharmaNet stock in the Terra Nova Account. Koval's trading in Vorobiev's Terra

Nova Account generated profits of \$97,888. As a result, Koval earned a return on investment of approximately 240 percent in seven trading days.

318. On February 3, 2009 and February 4, 2009, Vorobiev sold all of his PharmaNet stock in his TD Ameritrade account and realized profits of \$187,732.

319. On February 3, 2009 and February 4, 2009, Tatiana Vorobieva's TD Ameritrade account sold all of its PharmaNet stock and realized profits of \$115,756. Between February 4, 2009 and February 7, 2009, Tatiana Vorobieva's RBC account sold all of its PharmaNet stock and realized profits of \$289,953. The combined profits from illegal trading in accounts in the name of Tatiana Vorobieva were \$405,709.

#### **The Transfer of Funds**

320. In March 2009, \$356,720 was transferred from Tatiana Vorobieva's RBC account - the account in which PharmaNet trades were traded - to her TD Ameritrade brokerage account. The transfer left her RBC account with a zero balance.

321. Subsequently, approximately \$530,000 was transferred from the Vorobievs' respective TD Ameritrade brokerage accounts to accounts at several banks in Russia.

322. From January 2008 to the present, Koval regularly has withdrawn funds from Vorobiev's Terra Nova Account. The Terra Nova Account has a banking feature that links the brokerage account to an account maintained at another institution that provides, among other things, access to funds in the Terra Nova Account through automated teller machines ("ATMs"). Since January 2008, Koval has withdrawn funds in varying amounts from the Terra Nova account, ranging between \$800 and \$16,000 per month (except for the period October through December 2008, when there were no cash withdrawals) using

various bank ATMs located within blocks of Koval's places of employment in Pasadena, California and Chicago, Illinois. In total, from 2008 through the present, Koval has withdrawn approximately \$125,000 in cash from the Terra Nova Account.

323. Since May 2009, Koval also has transferred more than \$50,000 from his securities accounts to accounts held in the name of his wife, relief defendant Anjali Walter.

### **FIRST CLAIM**

#### **(Violations of Exchange Act Section 10(b) [15 U.S.C. §78j(b)] and Exchange Act Rule 10b-5 [17 C.F.R. §240.10b-5])**

324. Paragraphs 1 through 323 are hereby re-alleged and incorporated by reference.

325. As described above, Defendants Poteroba, Koval, and Vorobiev engaged in an illegal insider trading scheme in which each possessed and used material, nonpublic information which they knew, should have known, or were reckless in not knowing, was obtained in breach of a duty of trust or confidence, and/or tipped others who used that material, nonpublic information to purchase or sell securities.

326. By their conduct described above, Defendants Poteroba, Koval, and Vorobiev, in connection with the purchase or sale of securities, by the use of any means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange, directly or indirectly: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or course of business which operates or would operate as a fraud or deceit upon any persons, including purchasers or sellers of the securities.

327. By engaging in the conduct described above, Defendants Poteroba, Koval, and Vorobiev 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] thereunder.

### **SECOND CLAIM**

#### **(Violations of Exchange Act Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Exchange Act Rule 14e-3 thereunder [17 C.F.R. § 240.14e-3])**

328. Paragraphs 1 through 323 are hereby re-alleged and incorporated by reference.

329. Prior to the public announcement of the tender offers for Molecular Devices Corp.; ViaCell, Inc.; Millennium Pharmaceuticals, Inc.; Sciele Pharma, Inc.; Indevus Pharmaceuticals, Inc.; Advanced Medical Optics, Inc.; and PharmaNet Development Group, Inc., and after a substantial step or steps to commence each of the afore-mentioned tender offers had been taken, Poteroba, while in possession of material information relating to each of the tender offers, which information he knew or had reason to know was nonpublic and had been acquired directly or indirectly from the offering company, the issuer, or any officer, director, partner, or employee, or other person acting on behalf of the offering company or issuer, communicated material, nonpublic information relating to each of the tender offers to Koval under circumstances in which it was reasonably foreseeable that the communication was likely to result in the purchase and sale of the securities referenced above.

330. Prior to the public announcement of the tender offers for the companies and after a substantial step or steps to commence each of the tender offers had been taken, Koval, while in possession of material information relating to the tender offers, which information he knew or had reason to know was nonpublic and had been acquired

directly or indirectly from the offering company, the issuer, or any officer, director, partner, or employee, or other person acting on behalf of the offering company or issuer, purchased securities in each of the companies identified in paragraph 329 above.

331. Prior to the public announcement of the tender offers for the companies and after a substantial step or steps to commence each of the tender offers had been taken, Vorobiev, while in possession of material information relating to the tender offers, which information he knew or had reason to know was nonpublic and had been acquired directly or indirectly from the offering company, the issuer, or any officer, director, partner, or employee, or other person acting on behalf of the offering company or issuer, purchased securities in Indevus Pharmaceuticals, Inc. and PharmaNet Development Group, Inc., identified in paragraph 329 above.

332. By reason of the conduct described above, Defendants Poteroba, Koval, and Vorobiev violated Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Exchange Act Rule 14e-3 [17 C.F.R. § 240.14e-3] thereunder.

### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff respectfully requests that this Court enter a final judgment:

A. Permanently enjoining each defendant from violating, directly or indirectly, 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] thereunder and Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3] thereunder;

B. Ordering each defendant and relief defendant to disgorge, with prejudgment interest, all illicit trading profits or other ill-gotten gains received as a result

of the conduct alleged in this complaint, including, as to each defendant and relief defendant, their own illicit trading profits or other ill-gotten gains, and, as to each tipper, the illicit trading profits or other ill-gotten gains of their direct and indirect tippers;

C. Ordering each defendant to pay a civil monetary penalty pursuant to Exchange Act Section 21A [15 U.S.C. § 78u-1]; and

D. Granting such other and further relief as the Court deems just and appropriate.

Dated: Washington, D.C.  
March \_\_\_\_\_, 2010

Respectfully submitted,

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