

3. In addition, as Chairman of First Cash's Board, Powell was required to promptly report the change in his holdings of First Cash stock caused by his purchase. Yet, even after being warned by his broker to file the required Form 4 to report his change in holdings, he refused. And he later lied to First Cash's chief executive officer when he asked Powell about the issue. Once again, Powell falsely claimed that his family members purchased the securities. In fact, Powell did not file the required Form 4 until April 30, 2009, well after he became aware of the SEC's investigation and over thirteen months after the filing was required.

4. Finally, when Commission investigative attorneys first asked him about the purchases, he tried to mislead them. For example, Powell stated that he knew an entity he controlled had purchased First Cash shares but he did not know when. He also claimed that he did not know who had placed the trade for that purchase. Contrary to his representations, Powell knew he had placed trades in order to buy First Cash stock through the entity's account.

5. By reason of the activities detailed in this Complaint, Powell violated Sections 10(b) [15 U.S.C. § 78j(b)] and 16(a) [15 U.S.C. § 78p(a)] of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 [17 C.F.R. § 240.10b-5] and Rule 16a-3 [17 C.F.R. § 240.16a-3] thereunder. Unless enjoined, Powell is likely to commit such violations again in the future.

6. Accordingly, the Commission seeks a judgment from the Court: (i) enjoining Powell from engaging in further violations of Sections 10(b) and 16(a) and Rules 10b-5 and 16a-3; (ii) ordering Powell to disgorge the ill-gotten gain he obtained from his insider trading, plus prejudgment interest; (iii) ordering Powell to pay a civil monetary penalty of up to three times the profits from Powell's insider trading; and (iv) barring Powell from serving as an officer or director of a public company.

JURISDICTION AND VENUE

7. The Commission brings this action under Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)]. The Commission seeks the imposition of civil penalties under Section 21A of the Exchange Act [15 U.S.C. § 78u-1].

8. This Court has jurisdiction over this action under Sections 21(d), 21A and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u-1 and 78aa]. Defendant, directly and indirectly, made use of the mails and of the means and instrumentalities of interstate commerce in connection with the acts, practices and course of business described in this Complaint.

9. Venue is proper in this Court under Section 27 of the Exchange Act [15 U.S.C. § 78aa] because Defendant resides, is found, inhabits, and transacts business in the Western District of Texas.

DEFENDANT

10. Phillip E. (Rick) Powell, 60, resides in Belton, Texas. Powell co-founded First Cash. In 1991, while serving as president, he helped take the company public. From 1992 to 2004, Powell served as First Cash's Chief Executive Officer and Chairman of the company's board. In late 2004, Powell resigned as CEO but maintained his position as Chairman of the board. At that time, he entered a formal agreement to provide consulting services to the company. On October 19, 2010, Powell resigned as Chairman, after he had received a Wells notification that Commission staff planned to recommend charges against him.

RELEVANT ENTITIES

11. First Cash Financial Services, Inc. is a Delaware corporation headquartered in Arlington, Texas. It is a "leading specialty retailer and provider of consumer financial services." First Cash operates pawn shops in the United States and Mexico. First Cash's securities are

registered with the Commission pursuant to Section 12(b) of the Exchange Act, and trades on the Nasdaq Global Select Market under the symbol “FCFS.”

12. Myloe Max, L.P. is a Texas limited partnership with its registered office in Belton, Texas. During the relevant period, Powell served as Investment Manager of Myloe Max, L.P. and had authority to manage the day-to-day operations of Myloe Max, L.P., including, “without limitation, the sale and purchase of publically-traded stocks and bonds.” Powell also owned a 48.5% limited partnership interest in Myloe Max, L.P.

STATEMENT OF FACTS

The Repurchase Program

13. On November 6, 2007, First Cash announced that the company’s board had authorized a new program for the company to repurchase up to 1,000,000 additional shares of First Cash’s stock. The announcement also stated that, under the share repurchase program, the company could “purchase common stock on the open market or in privately negotiated transactions with independent parties.”

14. The company’s November 6th announcement did not disclose when that authority would be exercised or even whether management would actually exercise the authority it had been granted. The announcement also did not disclose the number of shares, if any, that management believed should be repurchased.

15. Instead, the announcement merely stated that the number of shares that could be repurchased and that the timing of any repurchase would be based on the level of cash balances, general business conditions and other factors, including alternative investment opportunities. It also stated that no time limit had been set for completion of the repurchase.

Powell Learns Material, Non-Public Information

16. Between January and March 2008, Powell and other First Cash directors and executive management discussed retaining a brokerage firm to actually begin buying back shares under the repurchase plan.

17. On March 7, 2008, First Cash's Board of Directors approved a Consent to Action relating to the repurchase plan authorization. The Consent confirmed that management desired to begin the repurchase on March 12, 2008. Additionally, it said that the Board of Directors and management agreed that no insiders would buy or sell any company common stock during the repurchase. Finally, the Consent noted that the board authorized, instructed, and directed management to effect the Repurchase and to retain J.P. Morgan Securities, Inc. ("JP Morgan Securities") to act as agent on behalf of the Company in connection with the Repurchase. A corporate resolution authorizing First Cash's Chief Financial Officer and its Chief Executive Officer, as officers of the company, to instruct J.P. Morgan Securities was attached as an exhibit to the consent.

18. Later on March 7, 2008, Powell and others received by e-mail a copy of the minutes of the meeting, and Powell was aware of and executed the Consent described in paragraph 17.

19. On March 11, 2008, First Cash entered into a stock-repurchase plan with J.P. Morgan Securities. Under the agreement, First Cash, through JP Morgan Securities, would repurchase up to 1 million shares of its common stock. The only restrictions were that the purchases comply with certain safe harbors associated with company repurchases and that the purchases not exceed \$10 per share.

Powell Is Warned Against Purchasing Shares in Advance of the Buyback

20. In early March 2008, before First Cash began repurchasing shares, Powell told a First Cash board member that his son-in-law planned to purchase 100,000 shares of First Cash stock. The board member instructed Powell to prevent the purchase given that First Cash was soon to begin its share repurchase. Powell replied that he could not control his relative's behavior. But Powell failed to disclose that he (not his relative) intended to make the purchase.

Powell Buys First Cash Stock

21. Despite being warned against it, on March 11, 2008, the day First Cash entered into the repurchase plan with JP Morgan Securities, Powell telephoned his broker and told her he wanted to buy 100,000 shares of First Cash stock. He insisted that the trade needed to be done that day (*i.e.*, on March 11, 2008).

22. Initially, he planned for the purchase to be made through a personal account he had at Bank of America. This, however, would have required his broker to wire money to Bank of America. Instead, Powell then decided to use funds from a brokerage account opened under Myloe Max L.P.'s name. Powell controlled the day-to-day operations and investment decisions of Myloe Max, L.P.

23. Powell's purchase of the 100,000 shares was completed on March 11, 2008. Powell paid \$807,000, which equated to \$8.07 per share.

24. At the time of his purchase, Powell knew, for example, that: (i) First Cash had decided to exercise its previously granted and announced repurchase authority; (ii) First Cash's commencement of the repurchase was imminent and, in fact, that management desired the buyback to commence by March 12, 2008; (iii) First Cash had decided to exercise fully its authority by repurchasing the shares it was authorized to buyback, 1 million shares; and (iv) the

company was retaining JP Morgan Securities to facilitate its repurchases. This information was non-public, and not available or known to anyone outside First Cash or JP Morgan Securities. It was also material.

25. This transaction was Powell's only market purchase of First Cash stock in any account—personal or Myloe Max, LP—and was the only securities transaction executed through Myloe Max, LP. All of Powell's previous First Cash securities transactions consisted of exercising First Cash options.

Powell Was Aware of Insider Trading Prohibitions

26. As discussed above, before Powell purchased the First Cash shares, he falsely told another board member that his son-in-law planned to purchase 100,000 shares of First Cash stock. The board member instructed Powell to prevent the purchase because First Cash was about to begin its share repurchase. Powell replied that he could not control his relative's behavior. But Powell failed to disclose that he (not his relative) intended and, in fact, purchased the securities—a fact evidenced by, among other things, Powell's initial effort to execute the transaction in his personal account at Bank of America and decision to use the Myloe Max, LP brokerage account at JP Morgan only when he was unable to obtain wire instructions for his personal account at Bank of America.

27. At the time of Powell's purchase, First Cash's insider trading policy required that "all trades by directors, executive officers, corporate officers [and others] be *authorized in advance* by the Company's Chief Executive Officer, Chief Operating Officer, or Chief Financial Officer." Powell was aware of this policy, but he neither sought nor received approval for his purchase as required by the policy.

28. On March 12, 2008, the day after Powell's transaction, First Cash began repurchasing its shares.

The Market Learns that the Buyback Has Commenced

29. After the markets closed on March 14, 2008, First Cash announced that:

“it has increased the size of its current share repurchase plan. Under the newly amended plan, as authorized by the Board of Directors, the Company may now repurchase up to 3,000,000 shares of its common stock. The Board had initially authorized the repurchase of up to 1,000,000 shares in November 2007. First Cash began repurchasing shares under the previous authorization in March of this year. To date, First Cash has repurchased approximately 264,000 shares at an average price of \$8.37 per share. The Company anticipates funding the share repurchases from operating cash flows and its long-term bank credit facility.”

30. That day (before the announcement), the company's stock closed at \$8.22 per share on volume of 421,018 shares. The first trading day after the announcement, First Cash's stock price closed at \$9.31 per share (an increase of \$1.09, or 13%) on volume of 1,366,766 shares (an increase of 224%). As a result of his March 11, 2008, purchase, Powell profited in the amount of \$124,000.

31. First Cash repurchased its shares from March 12, 2008 through April 3, 2008. During this time, First Cash bought back 1,640,419 shares at a total cost of \$17,447,288.67. First Cash's stock price increased while the company was purchasing shares. Specifically, First Cash's stock price increased from \$8.12 per share to \$11.86, an increase of \$3.74 per share, or 46%.

Powell's Insider Trading Harms First Cash

32. On the day Powell bought the shares (March 11, 2008), First Cash's volume was 483,377, and Powell's purchase represented 21% of that volume. According to Powell's broker, it took about 2 hours to execute the order. And each time the broker-dealer bought shares for Powell, the price of the stock increased. While the registered representative filled Powell's

order, First Cash's stock price increased from \$7.81 per share to \$8.00 per share, a \$0.19 increase. Powell's transaction caused First Cash to overpay \$36,000 for its own securities between March 12 and March 14, 2008.

Powell Continues to Deny His Purchase

33. Powell's broker knew that Powell was the chairman of the board of First Cash. Approximately a week after he bought the 100,000 shares, the broker learned that Powell had failed to file a Form 4. Under Exchange Act Rule 16-3, officers and directors must report changes in their holdings on Form 4 "before the end of the second business day following the day on which the transaction was entered." On March 18, 2008, the broker advised Powell that he needed to file a Form 4 to report his purchase. Powell refused to do so.

34. When First Cash's chief executive officer learned there was an issue concerning whether Powell had purchased securities and needed to file a Form 4, he asked Powell about the trade. Once again, Powell tried to hide his purchase. He told the CEO that his relatives purchased the securities through a family limited partnership, Myloe Max, LP. Powell did not disclose that he placed the trade and controlled the limited partnership's trading activity.

35. In late 2008, Commission staff interviewed Powell about what appeared to be his trading in the securities of First Cash. In that interview, Powell stated that he knew Myloe Max, LP had purchased First Cash securities, but that he did not know the date. He also stated that he did not know who placed the trade for Myloe Max, LP to buy those shares. These statements were false. In fact, Powell himself placed the trade, which was the only trade made by Myloe Max, LP. Contrary to his representations to the Commission staff, Powell knew he had placed trades in order to buy First Cash stock through the Myloe Max, LP's account.

Powell Continues to Hide His Trading by Refusing to File a Form 4

36. As a First Cash director, Powell was required to file, before the end of the business day on March 13, 2008, a Form 4 reporting the change in his holdings caused by his March 11, 2008 First Cash stock purchase. The filing of a Form 4, among other things, ensures that investors in the public are aware of the trading activities of issuer directors and officers.

37. As noted above, on March 18, 2008, Powell's broker advised him that he should have filed, and would need to file, a Form 4 relating to his First Cash stock purchase.

38. Nevertheless, Powell chose to not file a Form 4. Instead, Powell did not file the Form 4 until April 30, 2009, long after the deadline and long after he knew that the SEC was investigating his trades.

39. Powell knew or was reckless in not knowing that he was in possession of material, non-public information and that he breached a duty of trust or confidence that he owed to First Cash and its shareholders when he purchased First Cash securities on the basis of that information.

CLAIMS

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder

40. Plaintiff Commission repeats and incorporates by reference paragraphs 1 through 39 of this Complaint as if set forth verbatim herein.

41. Defendant Powell, by engaging in the conduct described above, directly or indirectly, in connection with the purchase and sale of securities, by use of the means of instrumentalities of interstate commerce and by use of the mails has: (a) employed devices, schemes and artifices to defraud; (b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances

under which they were made, not misleading; and (c) engaged in acts, practices and courses of business which operate as a fraud and deceit upon purchasers, prospective purchasers and other persons.

42. Defendant Powell intentionally, knowingly, or recklessly made the untrue statements and omissions and engaged in the devices, schemes, artifices, transactions, acts, practices and course of business described above.

43. By reason of the foregoing acts and practices, Defendant Powell violated, and unless enjoined, will continue to violate Section 10(b) of the Exchange Act, [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

**Violations of Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)] and
Rule 16a-3 [17 C.F.R. § 240.16a-3] Thereunder**

44. Plaintiff Commission repeats and incorporates by reference paragraphs 1 through 39 of this Complaint as if set forth verbatim herein.

45. Defendant Powell purchased 100,000 shares of First Cash stock on March 11, 2008. Since Powell was a First Cash director, he was required to report this change in his holdings by filing a Form 4 before the end of the business day on March 13, 2008. But Powell did not file the form until April 30, 2009, over thirteen months later.

46. By reason of the foregoing acts and practices, Defendant Powell violated, and, unless enjoined, will continue to violate Section 16(a) of the Exchange Act, 15 U.S.C. § 78p(a)] and Rule 16a-3 [17 C.F.R. § 240.16a-3] thereunder.

REQUEST FOR RELIEF

The Commission respectfully requests that the Court enter a judgment:

- a. permanently enjoining Defendant Powell from violating Sections 10(b) and 16(a) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78p(a)] and Rules 10b-5 and 16a-3 [17 C.F.R. §§ 240.10b-5 and 240.16a-3] thereunder;
- b. ordering Defendant Powell to pay civil penalties under Section 21A of the Exchange Act [15 U.S.C. § 78u-1] for his violations of the federal securities laws alleged herein;
- c. ordering Defendant Powell to disgorge all ill-gotten gains from the conduct alleged herein, with prejudgment interest;
- d. prohibiting Defendant Powell from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports under Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)]; and
- e. granting such other relief as this Court may deem just and appropriate.

Dated this 10th day of June, 2011.

Respectfully submitted,



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