

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

MARK W. BAGGETT,

Defendant.

Civil Action No.

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

The plaintiff Securities and Exchange Commission (“Commission”) files this Complaint and alleges as follows:

1. This matter involves insider trading in the common stock of Mercer Insurance Group, Inc. (“Mercer”) by Defendant Mark W. Baggett (“Defendant Baggett”) based on material, non-public information about Mercer’s acquisition provided to him by a then board member of Mercer (the “Board Member”) who was a friend and business associate of Defendant Baggett.

2. Based upon the inside information provided by the Board Member in breach of his fiduciary duty to Mercer and its shareholders, Defendant Baggett purchased 4,426 shares of Mercer between October 7, 2010 and November 24,

2010, shortly before the public announcement on November 30, 2010 that Mercer was to be acquired by United Fire & Casualty Company (“United Fire”).

3. On December 1, 2010, the trading day immediately following the public announcement of the merger, shares of Mercer Insurance closed at \$27.89, an increase of \$9.03 over the prior day’s close and representing a 48% increase in price. Volume on December 1, 2010 was 710,900 shares, compared to the average daily trading volume in November 2010 of 18,426 shares.

4. Defendant Baggett sold all of his Mercer shares on December 1, 2010, thereby obtaining \$41,584.55 in ill-gotten, insider trading profits.

5. Defendant Baggett also tipped a friend, who had previously helped Defendant Baggett in his trading of securities (the “Remote Tippee”), with the information provided to him by the Board Member. The Remote Tippee purchased 4,500 shares of Mercer between October 20, 2010 and November 26, 2010, all of which the Remote Tippee also sold on December 1, 2010, generating \$42,521.55 in ill-gotten, insider trading profits.

6. Defendant Baggett has engaged in, and unless restrained and enjoined by this Court, will continue to engage in acts and practices which constitute or will constitute violations of Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5].

7. The Commission brings this action pursuant to Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(e)] to enjoin Defendant Baggett from engaging in transactions, acts, practices and courses of business alleged in this Complaint, and transactions, acts, practices, and courses of business of similar purport and object, for disgorgement of illegally obtained funds and prejudgment interest thereon, for civil monetary penalties against both Defendant Baggett, for an officer and director bar against the Board Member, and other equitable relief.

JURISDICTION AND VENUE

8. This Court has jurisdiction of this action pursuant to Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa].

9. Defendant Baggett, directly and indirectly, has made use of the mails and the means and instrumentalities of interstate commerce in connection with the transactions, practices and courses of business alleged in this Complaint.

10. Venue lies in this Court pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa] because residents of the Northern District of Georgia were trading in shares of Mercer contrary to Defendant Baggett at the time in which Defendant Baggett was trading in shares of Mercer on the basis of material, non-public information.

DEFENDANT AND OTHER PERSONS OR ENTITIES

11. Defendant Mark W. Baggett is a resident of Wilmington, North Carolina and, following United Fire's acquisition of Mercer, became an agent of Preferred Property Insurance Agency.

12. Mercer Insurance Group, Inc., formerly (formerly NASDAQ: MIGP), was a publicly-traded corporation headquartered in Pennington, New Jersey that offered for sale property and casualty insurance.

13. United Fire & Casualty Company (NASDAQ: UFCS) is a property and casualty carrier headquartered in Cedar Rapids, Iowa. On November 30, 2010, it reached an agreement to acquire Mercer by purchasing in cash Mercer's shares at \$28.25 per share, and, following the close of the trading markets on November 30, 2010, jointly announced publicly with Mercer their respective boards' unanimous approval of the merger and acquisition agreement.

**DEFENDANTS BAGGETT'S RELATIONSHIP
WITH THE BOARD MEMBER**

14. Beginning in or about 2009, Defendant Baggett became an acquaintance of the Board Member when Defendant Baggett expressed an interest in affiliating with a North Carolina insurance agency offering property and casualty insurance. Defendant Baggett solicited advice from the Board Member during this timeframe, which the Board Member routinely provided, concerning the prospect of selling

property and casualty insurance and affiliating with an insurance agency for that purpose.

15. Beginning in or about June 2010 and continuing through most of 2011, the Board Member and Defendant Baggett engaged in discussions and negotiations concerning the possibility of Baggett becoming affiliated with an insurance company controlled by the Board Member.

UNITED FIRE'S ACQUISITION OF MERCER

16. Beginning in June 2010, and continuing up until the public announcement on November 30, 2010, United Fire and Mercer conducted negotiations regarding Mercer's merging into and being acquired by United Fire.

17. The merger negotiations between United Fire and Mercer included multiple letters of interest and preliminary proposals, to which the Board Member had access and contemporaneously reviewed.

18. The merger negotiations also included multiple special meetings of the board of directors of Mercer, for which the Board Member was present, during which the potential merger with United Fire was discussed.

19. On October 15, 2010, United Fire submitted a preliminary proposal to Mercer to purchase Mercer for cash in a range of \$25.50 to \$27.50, subject to certain other terms and due diligence; and the parties entered a confidentiality agreement on October 20, 2010.

20. On November 15, 2010, United Fire submitted a formal acquisition proposal whereby United Fire would purchase Mercer in cash for \$27.50 per share.

21. At the November 17, 2010 Mercer board meeting, which the Board Member attended, Mercer's board considered United Fire's offer, and instructed Mercer's chief executive officer to request that United Fire increase its bid while the board of directors for Mercer recessed their meeting.

22. Following a discussion between Mercer's chief executive officer and United Fire while the Mercer board was in recess, United Fire indicated to Mercer that it would agree to a per share price offer of \$28.25, subject to certain conditions including a short exclusivity period.

23. On November 30, 2010, following further negotiation and due diligence, the boards of directors of United Fire and Mercer each unanimously approved the merger and acquisition agreement pursuant to which United Fire would acquire Mercer shares at a per share purchase price of \$28.25.

24. The merger and acquisition agreement was executed after the close of the trading markets on November 30, 2010, and a joint press release was issued by the parties on November 30, 2010 following the agreement's execution.

**THE BOARD MEMBER TIPS DEFENDANT BAGGETT AND
DEFENDANT BAGGETT TRADES ON THAT TIP**

25. Between October 1, 2010 and November 30, 2010, the Board Member and Defendant Baggett conducted more than 70 telephone conversations, exchanged more than 80 text messages, and met in person on multiple occasions.

26. During this time period, the Board Member breached his fiduciary duty to Mercer by discussing with Defendant Baggett that Mercer was conducting ongoing, advanced merger negotiations

27. The Board Member knew, or was severely reckless in not knowing, that information concerning ongoing, advanced merger negotiations involving Mercer was non-public and material.

28. The Board Member knew, or was severely reckless in not knowing, that he was breaching his fiduciary duty to Mercer and its shareholders by providing this non-public and material information to Defendant.

29. Defendant Baggett knew, or was severely reckless in not knowing, that the information provided to him by the Board Member concerning the Mercer merger was non-public and material.

30. Defendant Baggett knew, or was severely reckless in not knowing, that the information concerning the Mercer merger was provided to him by the Board Member in breach of the Board Member' fiduciary duty to Mercer and its shareholders.

31. Between October 7, 2010 and November 24, 2010, Defendant Baggett, based on the non-public, material information received from the Board Member, purchased 4,426 shares of Mercer common stock at a weighted average price per share of \$18.3493, for an aggregate investment of \$81,214.00.

32. At the close of trading on November 30, 2010, Mercer's share price was \$18.86.

33. Following the after-business hours announcement on November 30, 2010 of United Fire's intended acquisition of Mercer at a price of \$28.25 per share, Mercer's share price on December 1, 2010 moved sharply upward closing at \$27.89 per share, or approximately 48% over Mercer's November 30, 2010 closing share price.

34. On December 1, 2010, Defendant Baggett sold all 4,426 of his Mercer shares, realizing illicit profits of \$41,584.45.

**DEFENDANT BAGGETT'S RELATIONSHIP WITH AND
TIPPING OF INSIDER INFORMATION TO THE REMOTE TIPPEE**

35. In or about 2009 and 2010, Defendant Baggett and the Remote Tippee were personal friends and members of the same country club where they played golf together.

36. In or about 2009 and 2010, the Remote Tippee, a more sophisticated securities trader than Defendant Baggett, provided securities trading advice to Defendant Baggett on how Defendant Baggett should trade his securities.

37. During this time period, Defendant Baggett generally did not provide the Remote Tippee with securities trading advice as the Remote Tippee was a more sophisticated trader.

38. In October 2010, after his receipt of, non-public, material information from the Board Member, Defendant Baggett began providing this information to the Remote Tippee.

39. Between October and November 2010, Defendant Baggett informed the Remote Tippee that the information he was providing regarding Mercer's acquisition was confidential and that if the Remote Tippee disclosed the information to others, there could be significant negative consequences.

40. Between October and November 2010, Defendant Baggett informed the Remote Tippee that the information regarding Mercer's acquisition came from a board member of Mercer, and, although not identifying the Board Member by name, described the relationship between the Board Member and Mercer.

41. Between October and November 2010, Defendant Baggett provided the Remote Tippee with specific information, including the timing of the Mercer acquisition as well as the final purchase price offered by United Fire.

42. Defendant Baggett knew, or was severely reckless in not knowing, that the information he was providing to the Remote Tippee was material and non-public.

43. Defendant Baggett knew, or was severely reckless in not knowing, that the information he was providing to the Remote Tippee had been provided to him by the Board Member in breach of the Board Member's fiduciary duty to Mercer and its shareholders.

44. Between October 20, 2010 and November 26, 2010, based on the material and non-public information provided by Defendant Baggett, the Remote Tippee purchased 4,500 shares of Mercer common stock at a weighted average price per share of \$18.4407, for an aggregate investment of \$82,983.45.

45. On December 1, 2010, the Remote Tippee sold all 4,500 of the Remote Tippee's shares, realizing illicit profits of \$42,521.55.

COUNT I
FRAUD

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

46. Paragraphs 1 through 45 are hereby realleged and are incorporated herein by reference.

47. In connection with the purchase and sale of securities described herein, Defendant Baggett, by the use of the means and instrumentalities of interstate commerce and by use of the mails, directly and indirectly:

- 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 would and did operate as a fraud and deceit upon the purchasers of such securities, all as more particularly described above.

48. Defendant Baggett knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud, and engaged in fraudulent acts, practices and courses of business.

49. By reason of the foregoing, Defendant Baggett, directly and indirectly, has 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 thereunder [17 C.F.R. 240.10b-5].

PRAYER FOR RELIEF

WHEREFORE, the Commission, respectfully prays that the Court:

I.

Make findings of fact and conclusions of law in accordance with Rule 52 of the Federal Rules of Civil Procedure.

II.

Issue a permanent injunction enjoining Defendant Baggett and his agents, servants, employees, attorneys, and all persons in active concert or participation

with them who receive actual notice of the order by personal service or otherwise, and each of them from violating Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5].

III.

Issue an Order requiring Defendant Baggett to disgorge all ill-gotten gains arising from Defendant Baggett's trading in the securities of Mercer, as alleged in the Commission's Complaint, plus pay prejudgment interest thereon.

IV.

Issue an Order requiring Defendant Baggett, pursuant to Sections 21(d)(3) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d)(3) and 78u-1], to pay a civil monetary penalty.

V.

Grant such other and further relief as may be necessary and appropriate.

RESPECTFULLY SUBMITTED,

/s/ Paul Kim
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