

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

**UNITED STATES SECURITIES AND
EXCHANGE COMMISSION,**

Plaintiff,

v.

**CHRISTOPHER SALIS,
DOUGLAS MILLER,
EDWARD MILLER, and
BARRETT BIEHL,**

Defendants.

Civil No. 16-cv-

COMPLAINT

Plaintiff United States Securities and Exchange Commission (the “Commission”), for its Complaint against Defendants Christopher Salis (“Salis”), Douglas Miller, Edward Miller, and Barrett Biehl (“Biehl”) (collectively, the “Defendants”), alleges as follows:

SUMMARY

1. This action involves unlawful, coordinated insider trading in the securities of Concur Technologies, Inc. (“Concur”) during 2014, and similar, prior insider trading in the securities of Business Objects S.A. (“Business Objects”) during 2007. In both schemes, a company insider (Salis) tipped his close friend (Douglas Miller) with material, nonpublic information about an upcoming corporate transaction, and Douglas Miller bought call options in the target company that generated profits after the transactions became public. In the Concur scheme, Douglas Miller passed Salis’s tip to his brother (Edward Miller) and another friend (Biehl). Douglas Miller also tipped his parents and a second friend and, with their knowledge and consent, placed trades in their accounts. Salis ensured the success of both schemes, and in

the Business Objects scheme actually placed the trades, by accessing Douglas Miller's brokerage account with Douglas Miller's knowledge and consent, as alleged below. These tips yielded illicit trading profits of more than \$545,000 for Douglas Miller, Douglas Miller's family, and their two mutual friends. The Millers, their parents, and Biehl later paid Salis and his wholly owned limited liability company for the Concur tip.

2. In the summer of 2014, Salis learned in the course of his employment at SAP America, Inc. ("SAP") of SAP's confidential and nonpublic plans to acquire Concur. Salis then tipped Douglas Miller, a close friend and former college classmate who lived in the Indiana suburbs of Chicago, about the planned acquisition with the understanding that Douglas Miller would use the information to trade. Douglas Miller then immediately passed on Salis's tip of material, nonpublic information to his brother, Edward Miller, and his parents, all of whom were also close friends with Salis.

3. Douglas and Edward Miller then rushed to open brokerage accounts and to fund those accounts so that they could quickly begin trading in securities of Concur based on the tip. After learning that electronic transfers to their accounts would take several days to clear and that the brokerage firm would not accept cash, the Millers drove approximately 30 minutes to the nearest branch office of their brokerage firm to present cashier's checks for deposit into their accounts in amounts ranging from \$6,000 to \$9,800. The Millers' mother also acted quickly to reactivate a dormant account that she jointly held with her husband and likewise funded it with a cashier's check.

4. To Douglas and Edward Miller, the amounts deposited into their brokerage accounts were substantial. Douglas and Edward Miller owned a car wash, and the two were struggling to keep the business afloat due to its poor financial performance and mounting debt.

Douglas Miller viewed the Concur trading as their “possible savior.” At the same time, the Millers chose the amounts of their brokerage deposits carefully; they each deposited under \$10,000 in the belief that their subsequent options trading would escape detection. As Douglas Miller later recalled in a text message to Edward Miller, “We all tried to fly under the radar of investing under 10k bro.”

5. Salis and Douglas Miller subsequently expanded their illegal insider trading scheme by tipping their two mutual college friends, Biehl and Friend 1, both of whom also lived in the Chicago metropolitan area. Biehl and Friend 1 opened brokerage accounts and deposited \$7,000 and \$7,500, respectively.

6. Douglas Miller, Edward Miller, and Biehl (collectively, the “Trading Defendants”), as well as Friend 1 and the Millers’ parents, used their funds to purchase risky and aggressive Concur call option contracts. Most of these option contracts would expire in weeks, if not days, unless Concur’s stock price increased substantially. The options purchases included two September contracts that would expire worthless *in just three days* if Concur’s stock price did not increase by \$12 per share (over 10% of its share price) during that time.

7. During August and September, because Salis stood to—and later did—profit from the scheme, he repeatedly accessed the online brokerage accounts of Douglas and Edward Miller from his home in California and from a nearby donut shop. Likewise, during this time, Douglas Miller frequently accessed the online brokerage accounts of his other friends and family who traded. As alleged below, Douglas Miller placed nearly all of the trades in their accounts with their knowledge and consent. These trades were placed on the basis of the material, nonpublic information regarding the SAP-Concur merger provided by Salis. Douglas Miller and the Trading Defendants each knew, consciously avoided knowing, were reckless in not knowing, or

should have known that Salis had disclosed the material, nonpublic information in breach of a duty. They each further knew, consciously avoided knowing, were reckless in not knowing, or should have known that Salis had done so for a personal benefit or to make a gift of confidential information.

8. On the afternoon on September 18, 2014, just hours before the public announcement of the SAP-Concur merger, Douglas Miller called his brokerage firm and asked how to sell his options positions because he was “trying to prepare myself if something happened.” As he knew from Salis’s tip, “something” was about to happen, namely, the public announcement of SAP’s acquisition. Soon after the close of the markets that day, the two companies jointly announced their \$8.3 billion merger.

9. After news of the merger became public—less than one month after the Millers’ initial option trades, and just one week after Biehl and Friend 1 purchased Concur call options—Douglas Miller, Edward Miller, their parents, Biehl, and Friend 1 sold their Concur options for profits of approximately \$119,003, \$149,117, \$147,021, \$52,208, and \$37,983, respectively. In total, the Millers, their parents, Biehl, and Friend 1 reaped illegal trading profits of over \$505,000 from their initial deposits of less than \$45,000.

10. The Trading Defendants paid Salis for his tip of material, nonpublic information through a series of convoluted transactions. These payments included more than \$10,400 in cash given to Salis just weeks after the announcement, while Salis was in Indiana visiting Douglas Miller. Concerned about detection, Salis deposited some of this money while he was still in Indiana and carried the rest home with him on the airplane. As Salis told Douglas Miller in an email sent from the airport, he split the cash “[h]alf in my bag, half in my pockets.” The Trading Defendants and the Millers’ parents later funneled additional payments to Salis, including during

other in-person meetings and by writing checks totaling approximately \$80,000 to EndowCloud, LLC, a startup company owned by Salis.

11. Salis and Douglas Miller previously engaged in insider trading under strikingly similar circumstances. In October 2007, Salis tipped Douglas Miller with material, nonpublic information about a tender offer for Salis's then-employer, Business Objects. Just five days before the public announcement of SAP's tender offer for Business Objects, Douglas Miller reactivated a dormant brokerage account. With Douglas Miller's knowledge and consent, Salis logged into this account and purchased aggressive Business Objects call options on the basis of his material, nonpublic information about the tender offer for his company. This trading generated over \$42,000 in illegal profits when the price of Business Objects increased after the tender offer was announced publicly.

12. By engaging in the conduct described in this Complaint, Defendants Salis, Douglas Miller, Edward Miller, and Biehl violated, and unless restrained and enjoined will continue to violate, 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.

13. By engaging in the conduct described in this Complaint, Douglas Miller and Salis violated, and unless restrained and enjoined will continue to violate, 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.

NATURE OF PROCEEDING AND RELIEF SOUGHT

14. The Commission brings this action pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1] to enjoin the transactions, acts, practices, and courses of business alleged in this Complaint and to seek orders of disgorgement, along with prejudgment interest, civil penalties, and such other and further relief that the Court may deem appropriate.

JURISDICTION AND VENUE

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

16. Venue is proper in this district under Section 27 of the Exchange Act [*15 U.S.C. § 78aa*]. Douglas Miller and Edward Miller are residents of Lake County, Indiana, which is within the Northern District of Indiana, and certain of the transactions, acts, practices, or courses of business constituting the violations alleged herein occurred within this district.

17. Defendants, directly and indirectly, made use of the mails or of the means or instrumentalities of interstate commerce in connection with the transactions, acts, practices, and courses of business described in this Complaint.

THE DEFENDANTS

18. **Defendant Christopher Salis**, age 39, is a resident of San Mateo, California. Salis attended Purdue University with Douglas Miller, Edward Miller, Biehl, and Friend 1. Salis served as the best man at Douglas Miller's wedding and was a groomsman at Edward Miller's wedding. Douglas and Edward Miller sometimes referred to Salis by the nickname "Cali." Salis was employed as a marketing director at Business Objects in San Jose, California, before it was acquired by SAP in January 2008, at which point Salis became an employee of SAP. Until September 2015, Salis was employed as Global Vice President and General Manager for Procurement at SAP in Palo Alto, California. At all relevant times while employed at SAP, Salis's supervisor worked in the headquarters office of SAP's parent company, SAP SE, in Walldorf, Germany. Most of Salis's team members also worked out of the Walldorf office.

19. **Defendant Douglas Miller**, age 40, is a resident of Dyer, Indiana. Douglas Miller co-owns and operates a car wash in St. John, Indiana with his brother, Edward Miller. Douglas Miller is friends with Salis, Biehl, and Friend 1, all of whom attended Purdue University

together. Douglas Miller's accounts generated approximately \$119,003 in profits from the Concur trading and approximately \$42,997 in profits from the Business Objects trading.

20. **Defendant Edward Miller**, age 43, is a resident of Munster, Indiana. Edward Miller, Douglas Miller's older brother, co-owns and operates the car wash in St. John, Indiana. Edward Miller also attended Purdue University and is friends with Salis, Biehl, and Friend 1. Edward Miller's account generated approximately \$149,117 in profits from the Concur trading. The Miller family sometimes uses the nickname "Mells" to refer to Edward Miller.

21. **Defendant Barret Biehl**, age 37, is a resident of Chicago, Illinois. Biehl is Douglas Miller's friend and was his college roommate at Purdue University. Biehl is friends with Salis, Edward Miller, and Friend 1. Biehl is employed as a regional manager for the central United States at a beverage company. Biehl's account generated approximately \$52,208 in profits from the Concur trading.

RELEVANT ENTITIES

22. **Concur Technologies, Inc. ("Concur")** was a Delaware corporation headquartered in Bellevue, Washington, until it was acquired by SAP in December 2014. Concur developed software applications for travel and expense management. Until the closing of the merger with SAP on December 4, 2014, Concur's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act [15 U.S.C. § 78l(b)] and traded on the NASDAQ Global Select Market under ticker symbol CNQR. On September 18, 2014, Concur and SAP SE jointly announced that they had entered into a definitive agreement whereby SAP agreed to acquire all of Concur's outstanding common stock in an \$8.3 billion transaction at a price of \$129.00 per share, which was a 28% premium over the closing price of \$100.46 for Concur's stock on August 22, 2014. Concur is now a wholly owned subsidiary of SAP SE.

23. **SAP SE** is a European corporation headquartered in Walldorf, Germany. Its United States subsidiary, SAP America, Inc. (“SAP”), is headquartered in Newtown Square, Pennsylvania. SAP maintains branch offices throughout the United States, including the Palo Alto, California office where Salis was employed. The company provides enterprise analytics and enterprise management software. At all relevant times, American Depositary Receipts, each representing an American Depositary Share (“ADS”) of SAP SE’s common stock, were registered with the Commission pursuant to Section 12(b) of the Exchange Act [*15 U.S.C. § 78l(b)*] and traded on the New York Stock Exchange under ticker symbol SAP. On September 18, 2014, SAP SE and Concur jointly announced that they had entered into a definitive agreement whereby SAP would acquire all of the outstanding shares of common stock of Concur. On December 4, 2014, SAP’s acquisition of Concur was completed.

24. **EndowCloud LLC** is a California limited liability company established by Christopher Salis in May 2015. EndowCloud’s initial funding included at least \$80,000 from Douglas Miller, Edward Miller, and their parents.

25. **Business Objects S.A.** was a French software company that developed business intelligence applications. The company maintained dual headquarters in Levallois-Perret, France and in San Jose, California, where Salis was employed. Until February 19, 2008, American Depositary Receipts representing ADSs of Business Objects’s common stock were registered with the Commission pursuant to Section 12(b) of the Exchange Act [*15 U.S.C. § 78l(b)*] and traded on the NASDAQ Global Select Market under the ticker symbol BOBJ. On October 7, 2007, Business Objects and SAP SE, then known as SAP AG, jointly announced that they had entered into a tender offer agreement whereby SAP AG would offer €42 per ordinary share and

the United States dollar-equivalent amount per ADS (\$59.35) in a total transaction for slightly above €4.8 million (\$6.8 billion).

TRADING TERMINOLOGY

26. An option contract gives the purchaser the right to buy or sell 100 shares of the underlying stock before a specified deadline, known as the expiration date, for a predetermined price per share, known as the strike price.

27. A call option gives an investor the right, but not the obligation, to buy stock. Therefore, a call option generally will increase in value as the value of the underlying stock increases. Unlike stock, which retains some value even if the price falls, a call option loses all value once it expires. A call option with a strike price that is greater than the stock's market price is referred to as being "out-of-the-money" because there is little to no value in the right to buy a stock at a price greater than its current market price.

28. A purchase of call options with expiration dates in the near future is an expression of confidence that the underlying stock price will increase quickly.

STATEMENT OF FACTS

SAP-Concur Merger Negotiations and Announcement

29. On May 20, 2014, a senior executive at SAP contacted Concur's chief executive officer to discuss Concur's business and to explore a possible business combination. Merger discussions between SAP and Concur personnel and their legal and financial advisors continued, on and off, into July 2014.

30. On July 23, 2014, SAP SE and Concur executed a mutual non-disclosure agreement. That same day, SAP proposed an all-cash acquisition of Concur for \$110 per share, when Concur's stock was trading at approximately \$90.98 per share. Concur's board of directors rejected this offer.

31. After this rejection, SAP and Concur executives met in San Francisco. The parties' financial advisors then held a follow-up meeting, also in San Francisco.

32. After these meetings, on August 6, 2014, SAP increased its offer to \$120 per share, which Concur again rejected. At the time, Concur's stock was trading at approximately \$93.65 per share. The parties returned to negotiations. On August 14, 2014, SAP asked Concur to provide additional financial information.

33. On August 19, 2014, SAP presented its final offer to purchase all outstanding Concur shares for \$129 per share. At the time, Concur's stock was trading at approximately \$100.46 per share.

34. On August 23, 2014, Concur's board of directors determined to accept SAP's offer and directed Concur's executives to try to negotiate an agreement at a price of \$129 per share.

35. On August 25, 2014, SAP began its due diligence process, *i.e.*, its evaluation of Concur's business and financial condition, for the potential transaction. That day, Concur granted SAP representatives and SAP's legal and financial advisors access to Concur's online data room.

36. On September 3, 2014, at approximately 4:07 p.m. EDT, Bloomberg News published an online report that Concur was exploring a possible sale of the company. The article mentioned SAP and another company as possible purchasers, but it did not specifically report on SAP's negotiations with Concur or suggest a price or possible timeline for any acquisition. Other news outlets republished the Bloomberg report. Concur's stock price increased 7.1% in after-hours trading that day and an additional 1.4% the following day. The closing price on September 3, 2014, was \$109.60.

37. Due diligence by Concur and SAP continued through September 17, 2014. On September 18, 2014, SAP, SAP SE, and Concur executed a merger agreement and then announced the transaction at 5:09 p.m. EDT after the markets closed. Until this public announcement, all information regarding the transaction, including the fact that negotiations with SAP were ongoing, was nonpublic and confidential.

38. After the public announcement, Concur's stock price rose over 18% in after-hours trading and opened at \$127.53 on September 19. Trading volume on September 19 rose 4,197% from the prior day and 4,199% over Concur's average daily volume for the prior month, with Concur's stock price reaching an intra-day high of \$127.55 before closing at \$126.82. The closing price on September 19, 2014 represented a 17.6% gain from the prior day's close.

**Salis's Access and Responsibilities with Regard to
Material, Nonpublic Information**

39. At all relevant times while at SAP, Salis worked in the Palo Alto, California office as the Global Vice President and General Manager for Procurement. His supervisor and most of his team members worked at SAP SE's headquarters in Walldorf, Germany.

40. Upon information and belief, as alleged in more detail below, Salis obtained material, nonpublic information about SAP's intended acquisition of Concur through conversations with colleagues and/or by viewing documents located in SAP's or SAP SE's offices or stored on SAP's or SAP SE's computer network systems, including email servers and network drives containing shared folders. Salis obtained this confidential information as early as August 15, 2014.

41. Negotiations concerning the Concur acquisition took place in and around the Palo Alto office where Salis worked. For instance, during May 2014, SAP and Concur executives held their first meeting about a possible transaction in Palo Alto.

42. In addition, work surrounding and preparations for the nonpublic merger involved personnel in both SAP's Palo Alto office, where Salis was located, and SAP SE's headquarters in Walldorf, where most of Salis's team members worked. SAP SE policy required personnel involved in nonpublic merger negotiations to sign agreements prohibiting the disclosure of any transaction-related information to any third party, entity, or individual. At least 75 SAP SE employees in Walldorf signed such agreements, and many of these employees became aware of the potential merger weeks or even months before it was announced.

43. Employees who did not participate in the SAP-Concur negotiations nevertheless learned about the negotiations without having signed non-disclosure agreements. These employees included (1) Salis's direct supervisor and (2) another employee who reported to the same supervisor. Specifically, at some time before August 30, 2014, an SAP executive told Salis's supervisor about the nonpublic negotiations to prepare her group for the anticipated merger. The supervisor then told one of her subordinates, whom she tasked with gathering information internally so that her group would be prepared. Neither Salis's supervisor nor Salis's fellow subordinate signed a non-disclosure agreement.

44. Within SAP's Walldorf headquarters office, rumors of the Concur acquisition circulated. Upon information and belief, employees not otherwise involved in the transaction learned of it in this manner. Salis communicated regularly with employees in Walldorf throughout the nonpublic merger negotiations. Specifically, Salis traveled to Walldorf in July 2014, and he had at least 17 telephone calls or text messages with multiple employees there from August 1 through August 25, 2014.

45. While negotiations remained nonpublic and confidential, Salis sought information about the merger from his direct supervisor. Specifically, he revealed to his direct supervisor at a

time when the negotiations were nonpublic and confidential that he had heard SAP was going to acquire Concur and asked her to confirm this information. The supervisor declined to do so.

46. Salis's workstation in the Palo Alto office was located in the same building as at least six SAP employees and executives who knew of the pending merger. Four of these individuals sat in offices on the same floor as Salis.

47. An SAP executive in Palo Alto, who had been informed of the nonpublic merger negotiations no later than August 7, 2014, as well as his assistant, sat steps away from Salis's cubicle and shared a common printer and mailroom with him.

48. Salis had access to over 30 shared folders on SAP network drives located in Walldorf, Palo Alto, and Newtown Square. Other SAP employees and executives who knew of the pending merger before it was announced publicly, including other members of Salis's group, also had access to many of these shared folders.

49. As an employee of SAP who gained access to confidential information, Salis owed a duty to SAP to maintain the confidentiality of such information. Salis, moreover, was well aware of this duty. Salis's group had prior experience with and certain responsibilities for the integration of personnel and other resources obtained through acquisitions. Furthermore, through Salis's experience with one particular acquisition, he knew that insider trading around the time of such a transaction would be subject to close scrutiny.

50. During October 2013, Salis certified that he had received SAP's Code of Business Conduct for Employees and SAP's Insider Regulations Global Policy prohibiting disclosure of inside information and trading or recommending trading based upon such information. SAP's Code of Business Conduct contained four pages addressing insider trading alone, including a Q&A section relating to the insider trading policy. The Code states that "It is the policy of SAP

that an . . . employee who has material, nonpublic information relating to SAP may not . . . engage in any . . . action to take advantage of, or pass on to others, that information. This policy also applies to non-public information about any other company that is obtained in the course of your employment.”

**Salis’s Tip of Material, Nonpublic Information to
Douglas Miller and the Millers’ Trades**

51. Salis and Douglas Miller have been friends since at least 1999, when they attended college together in Indiana. Since college, Salis and the Miller family have remained close. Salis served as the best man at Douglas Miller’s wedding and as a groomsman at Edward Miller’s wedding. Douglas and Edward Miller’s mother referred to Salis as a “son.” Salis and Douglas Miller communicated through periodic telephone calls, emails, and text messages.

52. The frequency of these contacts increased dramatically in the days preceding the Millers’ initial purchases of Concur options and continued through the September 18, 2014 merger announcement. Indeed, whereas Salis and Douglas Miller spoke by telephone six times during the 14-week period from May 1 to August 14, 2014, they exchanged over 60 calls during the five weeks between August 15 and September 26, 2014.

53. During these calls in August and September 2014, Salis shared material, nonpublic information with Douglas Miller regarding SAP’s acquisition of Concur. Salis disclosed this information to Douglas Miller with the understanding and expectation that Douglas Miller would use it to trade Concur securities.

54. Douglas Miller then tipped other longtime friends of Salis, namely, Edward Miller, his parents, Biehl, and Friend 1, each of whom quickly joined the scheme to profit from Salis’s inside information.

55. During the evening on Friday, August 15, 2014, Salis called Douglas Miller. By this time, as alleged above, Concur had rejected SAP's \$120 per share offer, which represented a 28% premium over Concur's share price, and SAP had asked Concur to provide additional financial information.

56. That night, Douglas Miller sent his father a text message suggesting that Douglas Miller was aware he had just received nonpublic information from Salis in breach of a duty. Douglas Miller wrote, "I usually tell nobody Dad . . . But I figured you and Mells [Edward Miller] could use a little taste but you'll know nothing about the name . . . to keep in dark."

57. The very next business day, Monday, August 18, 2014, Douglas and Edward Miller each opened new Scottrade brokerage accounts.

58. Two days later, on August 20, 2014, the Millers' mother reactivated an existing but long-dormant Scottrade account she held jointly with her husband (Douglas and Edward Miller's father).

59. On the evening of August 24, 2014, after Concur's board of directors had directed Concur's executives to try to negotiate an agreement at a price of \$129 per share, Salis again telephoned Douglas Miller. The two spoke for approximately 22 minutes. Immediately afterward, Douglas Miller called Edward Miller, spoke to him for more than 17 minutes, and then called his mother and spoke to her for more than nine minutes.

60. The next morning, August 25, 2014, Douglas Miller attempted an electronic funds transfer from his checking account into his Scottrade account and requested authorization from Scottrade to trade options. He then placed telephone calls to Edward Miller and his mother, who both then also called Scottrade to request authorization to trade options in their accounts.

61. Between the two calls placed to Edward Miller and his mother, Douglas Miller called Salis, notwithstanding that it was before 6:30 a.m. for Salis. Later that morning, Salis placed numerous telephone calls to Douglas Miller, each lasting less than three minutes.

62. Although Douglas Miller had attempted to transfer funds into his Scottrade account, the funds were not yet available for options trades. After a telephone conversation with Salis, Douglas Miller called Scottrade and learned that he would be unable to trade options until his deposit cleared, which would take three business days. Douglas Miller again called Salis and immediately thereafter called Edward Miller and then his mother.

63. Meanwhile, Salis logged into Douglas Miller's Scottrade account from a donut shop in Palo Alto, California, just three miles from the SAP office where Salis worked. Upon information and belief, Salis was monitoring Douglas Miller's account because of his personal financial interest in the success of Douglas Miller's trades.

64. Neither the Millers nor their parents had traded securities for years. Upon information and belief, Edward Miller had never had a brokerage account. Douglas Miller's Scottrade account had been closed since 2011 for lack of activity. Their parents' account had been dormant since at least 2006 and had a value of only \$0.01 in cash.

65. Concerned that they would miss the opportunity to profit from Salis's tip, within three days, the Millers and their parents sought alternate ways to fund their accounts. On August 25, 2014, the Millers and their mother spoke by telephone with Scottrade representatives at least eleven times. Douglas Miller urgently explained to a Scottrade representative on a recorded line that his family wanted to trade that day: "I have me and a couple of people. . . . Me, my brother, and my mom opened up Scottrade accounts. We were trying to do options. We got approved for options. . . . We were trying to do something today." Douglas and Edward Miller spoke with

multiple Scottrade representatives about the fastest way to fund their accounts. Douglas Miller stated that he was willing to bring cash to his local Scottrade branch office, but was informed that cash could not be accepted.

66. Having learned that Scottrade would not accept cash, Douglas and Edward Miller and their mother drove approximately 30 minutes to their nearest Scottrade branch office and presented cashier's checks for deposit, which they had purchased earlier that day in amounts of \$9,800, \$6,000 and \$8,000, respectively. They chose these amounts in an attempt to avoid detection of their scheme. As Douglas Miller later recalled in a text message to Edward Miller in which they discussed their Concur trades, "We all tried to fly under the radar of investing under 10k bro."

67. Ultimately, the Millers' checks did not clear until after the markets closed on August 25, 2014. That evening, Salis called Douglas Miller, and they spoke for approximately 21 minutes, at which point they dialed Edward Miller into the call. The call lasted for approximately 14 more minutes with Salis, Douglas Miller, and Edward Miller all on the line together. By the end of the call, Douglas Miller had logged into his Scottrade account at least 14 times that day.

68. Shortly after the call with Salis and Edward Miller, Douglas Miller logged into his Scottrade account again and placed an order to purchase 69 Concur call options with a strike price of \$110 and an expiration date of October 18, 2014 for \$9,660. He also placed an order purchase eight Concur call options with a strike price of \$115 and an expiration date of September 20, 2014, for \$56.

69. Douglas Miller placed these trades on the basis of material, nonpublic information about SAP's acquisition of Concur, which Salis disclosed to Douglas Miller in breach of a duty.

70. Salis knew or was reckless in not knowing that Douglas Miller would trade on the basis of the material, nonpublic information disclosed by Salis.

71. Douglas Miller knew, consciously avoided knowing, was reckless in not knowing, or should have known that Salis had disclosed material, nonpublic information about the Concur acquisition in breach of a duty. Douglas Miller further knew, consciously avoided knowing, was reckless in not knowing, or should have known that Salis had done so for a personal benefit or to make a gift of confidential information.

72. Immediately thereafter, Douglas Miller entered a similar order for Concur call options costing \$5,703 in Edward Miller's account. Upon information and belief, Douglas Miller placed the trades in Edward Miller's account with Edward Miller's knowledge and consent. The order occurred just seconds after Edward Miller had signed out of the account. Upon information and belief, Edward Miller had logged out of his account so that his brother could place the trade.

73. The trades in Edward Miller's account were made on the basis of material, nonpublic information about SAP's acquisition of Concur, which Salis disclosed to Douglas Miller in breach of a duty and which Douglas Miller in turn disclosed to Edward Miller. Douglas and Edward Miller knew, consciously avoided knowing, were reckless in not knowing, or should have known that Salis had disclosed the material, nonpublic information in breach of a duty. Douglas and Edward Miller further knew, consciously avoided knowing, were reckless in not knowing, or should have known that Salis had done so for a personal benefit or to make a gift of confidential information.

74. The next day, on August 26, 2014, Douglas Miller telephoned his mother. Then, Douglas Miller placed orders in his parents' account to purchase 79 call options in the same

October series as those purchased in Douglas Miller's own account. These purchases cost \$7,867.

75. Upon information and belief, Douglas Miller placed these trades in his parents' account with at least his mother's knowledge and consent. These trades were made on the basis of material, nonpublic information about SAP's acquisition of Concur, which Salis provided to Douglas Miller in breach of a duty. Douglas Miller knew, consciously avoided knowing, was reckless in not knowing, or should have known that Salis had disclosed the material, nonpublic information in breach of a duty. He further knew, consciously avoided knowing, was reckless in not knowing, or should have known that Salis had done so for a personal benefit or to make a gift of confidential information. Also on August 26, 2014, Edward Miller deposited a second cashier's check for \$3,700 into his Scottrade account.

76. The following day, on August 27, 2014, Douglas Miller placed orders in Edward Miller's account to purchase 40 call options in the same October series and 12 call options in the same September series as those purchased in Douglas Miller's own account. These purchases cost \$3,847. Upon information and belief, Douglas Miller placed these trades in Edward Miller's account with Edward Miller's knowledge and consent. These trades were made on the basis of material, nonpublic information about SAP's acquisition of Concur, which Salis provided to Douglas Miller in breach of a duty and which Douglas Miller in turn disclosed to Edward Miller. Douglas and Edward Miller knew, consciously avoided knowing, were reckless in not knowing, or should have known that Salis had disclosed the material, nonpublic information in breach of a duty. They further knew, consciously avoided knowing, were reckless in not knowing, or should have known that Salis had done so for a personal benefit or to make a gift of confidential information.

77. That same day, Douglas Miller placed an additional order in his parents' account to purchase one more call option in the same October series as those purchased in Douglas Miller's own account. This purchase cost \$98. Upon information and belief, Douglas Miller placed this trade in his parents' account with at least his mother's knowledge and consent. This trade was made on the basis of material, nonpublic information about SAP's acquisition of Concur, which Salis provided to Douglas Miller in breach of a duty. Douglas Miller knew, consciously avoided knowing, was reckless in not knowing, or should have known that Salis had disclosed the material, nonpublic information in breach of a duty. He further knew, consciously avoided knowing, was reckless in not knowing, or should have known that Salis had done so for a personal benefit or to make a gift of confidential information.

78. The Millers' options purchases were extremely aggressive and risky. Moreover, the Millers used the entirety of their available funds in their accounts to purchase these options. As alleged above, the September 20, 2014 contracts had a strike price of \$115, and the October 18, 2014 contracts had a strike price of \$110. When the Millers made their purchases, Concur's stock was trading at approximately \$99.86 per share. Therefore, if Concur's share price failed to increase by more than \$15 in the next 26 days or more than \$10 in the next 54 days, the options would expire worthless, and each of them would lose almost \$10,000.

79. The trading also was aberrant for the Millers. Upon information and belief, none of them had placed any securities trades recently. Indeed, to place their trades, they needed to open new accounts or, in the case of the Millers' parents, to activate a dormant account. They also did not have a history of trading options, other than the Business Objects trades by Douglas Miller described below. Moreover, as further alleged below, Douglas Miller lacked a basic

understanding of options trading and options terminology as shown by his conversation with a Scottrade representative on September 18, 2014.

80. At the time the Millers purchased these Concur call options, they were facing financial hardships caused by the poor performance of their car wash business.

81. In a September 2014 email to Edward Miller, Douglas Miller lamented the recent performance of their business. Douglas Miller stated that business had been “absolutely Terrible for a Year now since Last Oct[ober].” Douglas Miller explained to his brother that “[o]ur Bills have increased . . . \$1,000 a Month,” “Moms loaned burred [sic] us for the Past 18 months at \$4,100,” and

if that happens again it will FINISH all our reserves! Thats not a joke.... If it happens again it will Finish our reserves!!! . . . We pray at this pt we can make it through winter with breaking even or at least not suffering Massive Loses [sic]... If same as last year I’m not sure what we can do... It would be me borrowing on my personal Credit Cards at that pt...

82. Douglas Miller further explained that “The Stock Market is at an All Time High . . . IF, the DOW takes affect (Which it Will) and Drops 25% then its all over.”

83. Despite their strained financial circumstances and Douglas Miller’s prediction of a stock market decline, Douglas and Edward Miller together bet over \$19,330 on risky short-term Concur call options, which Douglas Miller referred to as “Our Possible Savior: Cali’s Stock.”

84. Referring to their Concur trades, Douglas Miller added,

This is what we all need to weather any storm and put us on top bro! Just make sure your [sic] a squirrel and sock it away... 1 thing I’m sure of is this business will be taking MASSIVE losses to Cancel out Allot [sic] of Capital Gains... Thats [sic] the Accountants [sic] Job but the [car] Wash is WAY upside down besides all the basic Deductions... I hope were [sic] dancing in the streets in the next 4 – 5 Weeks!

Biehl and Friend 1 Join the Insider Trading Scheme

85. On August 27, 2014, the insider trading scheme expanded. After having purchased Concur options in the prior days and after multiple calls with Salis that day, Douglas Miller spoke to Biehl by telephone for more than 10 minutes. Upon information and belief, Douglas Miller told Biehl about SAP's impending, nonpublic acquisition of Concur.

86. Douglas Miller again spoke to Biehl and Friend 1 multiple times on September 9, 2014. Following those calls, Biehl and Friend 1 both opened Scottrade brokerage accounts, which they funded with cashier's checks for \$7,000 and \$7,500, respectively. Upon information and belief, this was a substantial amount of money for Biehl and Friend 1. Biehl did not have \$7,000 in his bank account at the time he purchased his cashier's check, and the \$7,500 that Friend 1 used for his cashier's check amounted to more than 78% of the available funds in his account. Between September 11 and 16, 2014, these funds in Biehl's and Friend 1's accounts were used to purchase risky, short-term, out-of-the-money Concur call options with strike prices ranging from \$115 to \$125 and expiration dates of September 20 and October 18, 2014.

87. The trades in Biehl's and Friend 1's accounts were made on the basis of material, nonpublic information about SAP's acquisition of Concur, which Salis disclosed to Douglas Miller in breach of a duty and which Douglas Miller in turn disclosed to Biehl and Friend 1. Biehl knew, consciously avoided knowing, was reckless in not knowing, or should have known that the information received from Douglas Miller about the Concur acquisition constituted material, nonpublic information that Salis had disclosed in breach of a duty. Biehl further knew, consciously avoided knowing, was reckless in not knowing, or should have known that Salis had done so for a personal benefit or to make a gift of confidential information.

88. All of the trades in Biehl's account, and all but one set of trades in Friend 1's account, were made online by Douglas Miller. Upon information and belief, Douglas Miller

placed these trades with the knowledge and consent of Biehl and Friend 1. These trades often occurred during or shortly after telephone calls between Douglas Miller and the respective account holders. Biehl and Friend 1 also frequently accessed their own accounts.

89. Biehl's and Friend 1's positions in Concur call options were risky and aggressive. Their trades implied that they anticipated a share price increase from approximately \$110 to \$115 within the next week and from \$110 to \$120 within the next month. Biehl and Friend 1 would lose approximately \$1,150 and \$530, respectively, if a \$5 price increase did not occur by September 20, 2014. Moreover, they stood to lose the remaining value of their options positions if Concur's share price did not increase by more than \$10 by October 18, 2014.

90. Demonstrating Salis's continued interest in Douglas and Edward Miller's trades, Salis logged into their brokerage accounts multiple times during this same approximate time period, both from his home and from a donut shop near his office in Palo Alto. Upon information and belief, Salis was monitoring the Millers' options trades. Salis checked the account balances and obtained details on the accounts' trading activities and open positions. Salis also spoke to Douglas Miller at least once on each of these days, including one conversation lasting more than 43 minutes.

91. Over the next several days, Edward Miller and his parents added to their aggressive Concur options positions. On September 12, 15, and 17, Douglas Miller purchased additional September and October call options with strike prices of \$115 and \$120 in Edward Miller's and his parents' account. Upon information and belief, Douglas Miller placed these trades in Edward Miller's and his parents' accounts with Edward Miller's and his mother's knowledge and consent. Concur's stock was trading between \$107 and \$108 per share. Each purchase was preceded by a call from Salis to Douglas Miller. Each trade was made on the basis

of material, nonpublic information about SAP's acquisition of Concur, which Salis disclosed to Douglas Miller and which Douglas Miller in turn disclosed to Edward Miller. Douglas and Edward Miller knew, consciously avoided knowing, were reckless in not knowing, or should have known that Salis had disclosed the material, nonpublic information in breach of a duty. They each further knew, consciously avoided knowing, were reckless in not knowing, or should have known that Salis had done so for a personal benefit or to make a gift of confidential information.

92. On September 17, 2014, the day on which SAP and Concur executed a final merger agreement, Salis called Douglas Miller. Salis placed the call from Germany at approximately 2:12 p.m. CDT (9:12 p.m. local Germany time), and the two spoke for approximately six minutes. At 2:19 p.m. CDT, Douglas Miller called his mother, and they spoke for approximately eight minutes. At 2:35 p.m. CDT, Douglas Miller called Edward Miller, and they spoke for approximately 11 minutes and 30 seconds. Over the next hour, Douglas Miller accessed both his parents' and Edward Miller's online brokerage accounts and purchased Concur call options set to expire in three days, including one \$120 call option that would expire worthless unless Concur's share price rose more than \$12. Upon information and belief, Douglas Miller placed these trades in Edward Miller's and his parents' accounts with Edward Miller's and his mother's knowledge and consent. These trades were made on the basis of material, nonpublic information about SAP's acquisition of Concur, which Salis disclosed to Douglas Miller and which Douglas Miller in turn disclosed to Edward Miller and his parents. Douglas and Edward Miller each knew, consciously avoided knowing, were reckless in not knowing, or should have known that Salis had disclosed the material, nonpublic information in breach of a duty. They each further knew, consciously avoided knowing, were reckless in not

knowing, or should have known that Salis had done so for a personal benefit or to make a gift of confidential information.

The Public Announcement and the Defendants' Acts of Concealment

93. On Thursday, September 18, 2014, SAP and Concur executed the final merger agreement. At 5:09 p.m. EDT that day, the companies publicly announced the merger.

94. Hours *before* the announcement, revealing his knowledge of the upcoming but still secret merger announcement, Douglas Miller called Scottrade on a recorded line and asked for advice on how to sell his options positions. He asked, "I was just trying to prepare myself *if something happened*, how you would actually sell [options] in your account, like how you would actually go about doing that?" (Emphasis added.) He asked the Scottrade representative to explain certain options terminology, such as "sell to open" and "sell to close."

95. After the call to Scottrade and before the merger announcement, Douglas Miller and Salis spoke at least four more times.

96. Before the merger announcement, Concur's stock closed at \$107.08 per share. After the announcement, Concur's stock price rose over 18% in after-hours trading. On September 19, 2014, the opening price was \$127.53, and trading volume rose 4,197% from the prior day. The price reached an intra-day high of \$127.55 and closed at \$126.82, which was an 18.4% gain from the prior day's close.

97. Immediately after the merger announcement, Salis, who was still in Germany, called the Millers at their carwash. Douglas Miller then called his mother, Biehl, and Friend 1, as he had done numerous times after previous calls with Salis.

98. On September 20, 2014, Salis logged into Edward Miller's brokerage account twice and spoke to Douglas Miller in between those two logins.

99. Within the next few days, each of the Trading Defendants, the Millers' parents, and Friend 1 closed their Concur positions, collectively realizing approximately \$505,332 in illegal trading profits.

100. Each of the traders then began to withdraw their illegal proceeds. Douglas Miller, Edward Miller, Biehl, and Friend 1 initially withdrew amounts ranging from \$7,500 to \$9,985 via checks or wire transfers and then withdrew the remaining proceeds in lump sums. The Millers' parents withdrew \$156,814.48, the entirety of their proceeds, by check dated September 22, 2014. By the end of the day on October 16, 2014, the Trading Defendants had withdrawn all of their proceeds.

101. Upon information and belief, from September 26, 2014, through the filing of this Complaint, the Trading Defendants have not placed any additional trades in their brokerage accounts. Indeed, the Concur trades were the only trades ever placed in these brokerage accounts.

Salis's Payoff

102. Through Salis's breach of duty to SAP, he enriched himself and his friends. As discussed below, Salis shared in their profits through a convoluted series of cash and noncash transactions made by and with the Trading Defendants and the Millers' parents.

103. On September 25, 2014, Douglas Miller, Friend 1, and Biehl traveled to San Francisco, less than 25 miles from Salis's home in San Mateo. That day, Douglas Miller telephoned Salis, who had returned from Germany.

104. While in San Francisco, Biehl withdrew \$1,200, and Friend 1 withdrew \$800, from ATMs. On September 26, while his friends were still in town, Salis made three ATM cash deposits totaling \$4,900 at his Wells Fargo Bank branch in San Mateo. Upon information and

belief, Douglas Miller and Biehl compensated Salis during that trip for the illicit tip about the Concur acquisition.

105. Before returning to Indiana on September 29, 2014, from his trip to San Francisco, Douglas Miller sent a text message to his father stating that “Chris [Salis] is coming to my house in Indiana in 3 weeks for some money and to go over more... Chris is excited... Very... Almost half of his time is spent on this not his job... I’ll know allot [sic] more by the time I get home.” Upon information and belief, Salis’s “time” was being spent on his early-stage start-up company, EndowCloud.

106. Consistent with Douglas Miller’s text message to his father, Salis travelled to Dyer, Indiana on October 19, 2014.

107. During or in connection with Salis’s trip to Indiana, Douglas Miller, his mother, and Biehl engaged in a series of financial transactions that, upon information and belief, were designed wholly or partially for Salis’s benefit. Specifically:

- a. Douglas Miller signed a \$9,700 check he had received from Scottrade over to his wife, and then his wife deposited the check into a bank account held in her name on October 14, 2014. Douglas Miller’s wife then withdrew \$6,000 cash in \$100 bills.
- b. Biehl withdrew from his personal checking account \$4,700 in cash and also purchased two \$9,500 cashier’s checks, one payable to Douglas Miller and the other payable to Douglas Miller’s wife, on October 15, 2014.
- c. Douglas Miller took one of the cashier’s checks from Biehl, deposited it the same day, and then withdrew \$9,300 in \$100 bills.

- d. Biehl also withdrew \$7,800 in cash from his personal checking account on October 20, 2014.
- e. Douglas Miller's mother withdrew \$9,200 in cash from her personal checking account on October 18, 2014.

108. Upon information and belief, Salis received some or all of this cash as a payoff for the illicit Concur stock tip. Salis later told representatives of SAP that while he was in Indiana, Douglas Miller handed him \$10,000 in cash and Salis understood this money to serve as a thank you.

109. At the end of his visit to Indiana, on the way to Chicago O'Hare International Airport for his return flight to California on October 21, Salis stopped at a branch office of his bank. Salis deposited approximately \$10,400 into his personal checking account, which, upon information and belief, represented funds received from Douglas Miller, Douglas Miller's mother, and Biehl.

110. Salis's deposit of \$10,400 consisted of \$7,500 in cash and \$2,900 in United States Postal Service money orders. The money orders deposited by Salis were purchased the day before by two men at the post office in Munster, Indiana. The men first sought to purchase \$6,000 worth of money orders using cash but, when told that any amount over \$3,000 would require the completion of forms that would make a record of the transaction, they changed their request to an amount less than the \$3,000 documentation threshold, specifically, \$2,900. The two men told the postal clerk that the money represented gambling winnings from a riverboat. Upon information and belief, this was false, and the cash was derived from the illegal insider trading scheme described in this Complaint.

111. Upon information and belief, Salis received additional cash from Douglas Miller, Douglas Miller's mother, and Biehl, and carried it with him when he returned to San Francisco on October 21, 2014. In an email to Douglas Miller from the airport, Salis wrote, "I am through security Ps. Half in my bag, half in my pockets...no problem." Upon information and belief, Salis's email referred to his possession of cash received from Douglas Miller. Douglas Miller replied, "Love it! I miss you already . . . Please, let me know how and when your [sic] using the money."

112. Upon information and belief, Salis deposited a portion of this cash and other funds that he received from the Trading Defendants and the Millers' mother into his bank account. Specifically, between November 25, 2014, and March 9, 2015, Salis deposited \$32,500 in cash into his personal checking account via a series of ATM and counter deposits ranging in size from \$200 to \$6,800.

113. In March 2015, in a series of text messages, Douglas Miller and Edward Miller discussed their Concur trading and their resulting tax liabilities from the illegal profits. Douglas Miller wrote, "I'll explain to Salis and we'll cover the difference . . . You still made like 45k after all this take home . . . We just wanted to get greedy and not give to govt . . . It's still a massive win for all." Douglas Miller later added, "Our parents find out they pay nothing and your acct with us owes 40k . . . Which effects [sic] you but also Salis and me . . . Then again we all were trying to make 20 – 30k each not the craziness that happened."

114. Douglas Miller then described a conversation that he had with Salis about the payments to Salis in exchange for the Concur tip, writing: "I told Salis about taxes . . . He didn't even bat an eye . . . He said take it out of our money and pay eddie . . . I said figured and already done."

115. Following these texts, Douglas Miller and Biehl traveled to California again, upon information and belief, at least in part to give Salis more cash. On April 7, 2015, Douglas Miller checked into a hotel in San Francisco. On April 10, 2015, Douglas Miller texted his brother, “Saying goodbye [sic] to Salis now.” Four days later, on April 14, 2015, Salis deposited \$8,900 in cash into an ATM.

116. Including this \$8,900 deposit, Salis deposited a total of \$56,700 cash into his personal checking account from September 26, 2014, through April 14, 2015, via a series of 22 ATM and counter deposits ranging in size from \$200 to \$8,900, sometimes making up to five separate deposits in a single day. During the same period, the Trading Defendants and the Millers’ mother withdrew more than \$70,000 in cash from their respective bank accounts. Upon information and belief, some or all of the cash deposits made by Salis represented funds received from the Trading Defendants and the Millers’ mother in connection with the illegal insider trading scheme.

117. Shortly after these deposits, on April 17, 2015, Salis recertified that he had read and understood SAP’s Code of Business Conduct, which included SAP’s Insider Regulations Global Policy, and would comply with the same.

118. In addition to the cash payments to Salis, the Millers and their mother each made substantial payments to Salis’s early-stage startup company, EndowCloud. In May 2015, Douglas Miller wrote a \$45,000 check, and his parents wrote a \$35,000 check to EndowCloud. Salis deposited these funds into EndowCloud’s bank account, which Salis opened on June 5, 2015. Edward Miller subsequently paid Douglas Miller two separate cashier’s checks totaling \$8,000, both of which included the notation, “Endow Cloud Investment.” That same day, Edward Miller also obtained a cashier’s check for \$7,000 payable to Douglas Miller’s wife, with

the notation that it was for Edward Miller and his wife's "investment." Upon information and belief, these payments in whole or in part were compensation to Salis in exchange for the Concur tip.

Deception when Confronted about the Trading

119. On September 18, 2014, while discussing the withdrawal of his illegal profits with a Scottrade representative, Douglas Miller stated:

I was following that forever; I thought I was going to lose that in September for sure. . . . It's kind of like a long shot that came in. I worked with EMC and all those companies for all these years and everything like that so I'm pretty familiar with all the technology world and everything like that. I worked at SAP, I even worked back in the day with WorldCom when it went under, you know, the bankruptcy 8 to 12 years ago. It was a good run, you know, it was fun. . . . My brother has an account with you too, he was a part of this too. We're looking at this tech startup with a few of our buddies out in California. This could be some funding toward that. . . . We're doing some more transactions over there and trying some other crazy stuff.

120. Upon information and belief, and contrary to the statements made to Scottrade, Douglas Miller never worked for SAP and had not previously followed Concur's stock performance. By this deception, Douglas Miller sought to prevent detection of the insider trading scheme.

121. On July 15, 2015, two U.S. Postal Inspectors confronted Douglas Miller and asked him about his Concur trades and his familiarity with Salis. Douglas Miller lied and said (1) he had independently been following Concur; (2) he bought the Concur options without Salis; (3) he only spoke to Salis a few times a year; (4) he did not know if he spoke to Salis when he purchased the Concur options in August 2014; and (5) he did not know that he, his family, and his friends had made over \$500,000 by trading Concur options. In truth, Douglas Miller learned of the Concur acquisition from Salis, spoke with Salis at least 10 times the day he placed his first

Concur trades, spoke with Salis more than 60 times in August and September 2014, met with Salis at least three times in-person in the eight months following the Concur trades, and exchanged over 3,500 text messages with Salis that year. Further, Douglas Miller placed nearly all of the trades of the Trading Defendants, his parents, and Friend 1 and sent text messages regarding their profits.

122. On July 29, 2015, SAP representatives asked Salis about an investigation by the Securities and Exchange Commission into insider trading. Salis falsely stated that he did not know whether Douglas Miller had traded. Salis also falsely told SAP representatives that he first learned that SAP intended to acquire Concur the day before the public announcement, when, in fact, before that date Salis had told his supervisor that he had heard that SAP was going to acquire Concur.

123. When SAP representatives again confronted Salis a few weeks later, Salis admitted that he had lied about his knowledge of Douglas Miller's trading in Concur securities. Salis stated that (1) he had in fact known Douglas Miller and his family and friends had traded in advance of the merger announcement, and (2) he had helped Douglas Miller to place the Concur trades by logging into Douglas Miller's account and counseling him regarding the trades.

Prior Insider Trading Involving Salis and Douglas Miller

124. Almost seven years before the scheme to profit from illegal trades in Concur call options, in October 2007, Salis and Douglas Miller carried out a similar scheme to profit from material, nonpublic information concerning Salis's then-employer.

125. Throughout 2007, Salis's employer was Business Objects, where he worked as a marketing director in the company's San Jose office. On July 17, 2007, SAP AG, now known as SAP SE, contacted Business Objects to explore a possible business combination between the two

companies. Discussions and negotiations between the two companies progressed throughout the summer, and Business Objects also pursued a possible combination with a second suitor.

126. During September 2007, substantial steps were taken to commence a tender offer for the securities of Business Objects. On September 8, 2007, Business Objects and SAP AG entered into a confidentiality agreement. On September 21, 2007, a special committee of Business Objects's board of directors instructed Business Objects's representatives to request that SAP AG and the other suitor submit final proposals no later than October 1, 2007. On September 23, 2007, two days after the special committee's instruction, Business Objects granted SAP AG access to an electronic data room to continue its due diligence of Business Objects.

127. By the time that SAP AG and Business Objects undertook these substantial steps toward a tender offer, Salis had moved his office to the same floor as the Business Objects executives involved in negotiating the deal. He sat just a few cubicles down from his supervisor's office, who herself sat a few offices away from the CEO. No later than September 9, 2007, one day after the date of the confidentiality agreement between SAP and Business Objects, Salis's supervisor learned of the advanced negotiations taking place.

128. Upon information and belief, Salis learned, through his employment at Business Objects, material, nonpublic information regarding the Business Objects tender offer negotiations. Salis had a duty to his employer and its shareholders to keep this information confidential, not to use this information for personal gain, not to trade on the basis of the information, and not to disclose it to anyone else in circumstances in which he could reasonably expect that the information would be used as the basis for securities transactions.

129. On October 1, 2007, Business Objects received nonbinding indications of interest from SAP AG and the other suitor to acquire Business Objects in a tender offer.

130. Also on October 1, 2007, Douglas Miller reopened a dormant Scottrade account, which had been closed earlier that year for lack of activity, and applied for authorization to trade options.

131. On October 2, 2007, Business Objects determined to pursue discussions exclusively with SAP AG.

132. Also on October 2, 2007, Douglas Miller deposited a \$9,900 check into his Scottrade account.

133. On October 3 and 4, 2007, Salis accessed Douglas Miller's online Scottrade account from California and used all of the available funds to purchase 52 Business Objects call options with strike prices of \$45 and \$50 and an October 20, 2007 expiration date. At the time, Business Objects was trading between \$46.77 and \$47.56 per share. Upon information and belief, Salis accessed Douglas Miller's account and executed the trades with Douglas Miller's knowledge and consent.

134. Douglas Miller knew, consciously avoided knowing, was reckless in not knowing, or should have known that Salis placed these trades on the basis of material, nonpublic information and in breach of a duty. Douglas Miller knew, consciously avoided knowing, was reckless in not knowing, or should have known that Salis had done so for a personal benefit or to make a gift of confidential information.

135. When Salis purchased the Business Objects call options in Douglas Miller's account, Salis knew of material, nonpublic information regarding the tender offer for Business Objects through his employment at Business Objects.

136. Salis communicated the material, nonpublic information to Douglas Miller with the understanding and expectation that it would be used as the basis for securities transactions.

137. Days after Salis executed the trades in Douglas Miller's brokerage account, from October 4 through October 6, 2007, representatives of SAP AG and Business Objects met in London to negotiate the tender offer agreement. These representatives flew to London in advance of these negotiations, and the representatives included Salis's supervisor and other Business Objects executives who had offices on the same floor as Salis.

138. On Sunday, October 7, 2007, SAP AG and Business Objects executed a Tender Offer Agreement and jointly announced SAP AG's \$6.8 billion tender offer to acquire Business Objects for approximately \$59 per share.

139. On Monday, October 8, 2007, Business Objects's share price increased on news of SAP AG's tender offer. During the afternoon that day, Salis again accessed Douglas Miller's Scottrade account and closed all of the open Business Objects options positions, realizing approximately \$42,296 in profits. The closing price of Business Objects shares was \$57.83.

140. Over the next month, Douglas Miller withdrew nearly all of the illicit profits via five separate checks in amounts between \$8,500 and \$9,900. Upon information and belief, Douglas Miller withdrew the profits using multiple checks under \$10,000 in an effort to avoid detection of his and Salis's insider trading scheme.

FIRST CLAIM FOR RELIEF

Violations of Exchange Act Section 10(b) and Rule 10b-5 Thereunder (Against All Defendants for Concur Technologies)

141. The Commission realleges and reincorporates paragraphs 1 through 140 as if fully set forth herein.

142. With respect to the Trading Defendants' trading preceding the SAP-Concur merger announcement described above, Defendants Salis, Douglas Miller, Edward Miller, and Biehl, with scienter, by use of the means or instrumentalities of interstate commerce or of the mails, in connection with the purchase or sale of securities:

- (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 light of the circumstances under which they were made, not misleading; and/or
- (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit.

143. By reason of the actions alleged herein, Defendants Salis, Douglas Miller, Edward Miller, and Biehl violated 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*] and unless restrained and enjoined will continue to do so.

SECOND CLAIM FOR RELIEF

Violations of Exchange Act Section 10(b) and Rule 10b-5 Thereunder (Against Salis and Douglas Miller for Business Objects)

144. The Commission realleges and reincorporates paragraphs 1 through 140 as if fully set forth herein.

145. With respect to trading preceding the Business Objects-SAP tender offer announcement described above, Defendants Salis and Douglas Miller, with scienter, by use of the means or instrumentalities of interstate commerce or of the mails, in connection with the purchase or sale of securities:

- (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 light of the circumstances under which they were made, not misleading; and/or
- (c) engaged in acts, practices or courses of business which operated or would operate as a fraud or deceit.

146. By reason of the actions alleged herein, Defendants Salis and Douglas Miller violated 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*] and unless restrained and enjoined will continue to do so.

THIRD CLAIM FOR RELIEF

Violations of Exchange Act Section 14(e) and Rule 14e-3 Thereunder (Against Salis and Douglas Miller for Business Objects)

147. The Commission realleges and reincorporates paragraphs 1 through 140 as if fully set forth herein.

148. Prior to the public announcement of the tender offer for Business Objects, and after a substantial step or steps to commence the tender offer had been taken, Salis, while in possession of material, nonpublic information relating to the tender offer, 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 or sold or caused to be purchased or sold securities of Business Objects.

149. Salis communicated material, nonpublic information relating to the Business Objects tender offer to Douglas Miller under circumstances in which it was reasonably foreseeable that the communication was likely to result in the purchase or sale of securities of Business Objects.

150. Prior to the public announcement of the tender offer for Business Objects, and after a substantial step or steps to commence the tender offer had been taken, Douglas Miller, while in possession of material information relating to the tender offer, 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, participated in the purchase of securities of Business Objects in his brokerage account.

151. By reason of the foregoing, Salis and Douglas Miller violated 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 and unless restrained and enjoined will continue to do so.

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that the Court enter a judgment:

- A. finding that Defendants Salis, Douglas Miller, Edward Miller, and Biehl violated the antifraud provisions of the federal securities laws as alleged herein;
- B. permanently enjoining each Defendant 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*];
- C. permanently enjoining Salis and Douglas Miller from violating Section 14(e) of the Exchange Act [*15 U.S.C. § 78n(e)*] and Rule 14e-3 thereunder [*17 C.F.R. § 240.14e-3*];
- D. ordering Salis and Douglas Miller to jointly and severally disgorge, with prejudgment interest, all illicit trading profits or other ill-gotten gains from trades in the securities of Concur Technologies, Inc., received by any person or entity, including but not limited to all direct and indirect tippees, as a result of the actions alleged herein;

E. ordering Salis and Douglas Miller to jointly and severally disgorge, with prejudgment interest, all of their direct and indirect illicit trading profits or other ill-gotten gains from trades in the securities of Business Objects;

F. ordering Edward Miller and Biehl to disgorge, with prejudgment interest, all illicit trading profits or other ill-gotten gains from their respective trades in the securities of Concur Technologies, Inc.;

G. ordering each Defendant to pay a civil monetary penalty under Section 21A of the Exchange Act on the basis of the Concur trades [*15 U.S.C. § 78u-1*]; and

H. ordering such other relief as this Court may deem just and proper.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Commission hereby requests a trial by jury.

Dated: June 16, 2016

Respectfully submitted,

UNITED STATES SECURITIES AND
EXCHANGE COMMISSION

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