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14 **UNITED STATES DISTRICT COURT**
 15 **CENTRAL DISTRICT OF CALIFORNIA**

17 **SECURITIES AND EXCHANGE**
 18 **COMMISSION,**

19 Plaintiff,

20 vs.

21 **ROBERT M. MUNAKASH,**
CARLOS A. RODRIGUEZ,
 22 **MARC WINTERS,**

23 Defendants.

Case No.:

**COMPLAINT ALLEGING
SECURITIES FRAUD**

DEMAND FOR JURY TRIAL

1 Plaintiff U.S. Securities and Exchange Commission (“SEC”) alleges the
2 following against Defendants Robert M. Munakash (“Munakash”), Carlos A.
3 Rodriguez (“Rodriguez”), and Marc Winters (“Winters”):

4 **JURISDICTION AND VENUE**

5 1. This Court has jurisdiction over this action pursuant to Sections 21(d)(1),
6 21(d)(3)(A), 21(e) and 27(a) of the Securities Exchange Act of 1934 (“Exchange
7 Act”), 15 U.S.C. §§ 78u(d)(1), 78u(d)(3)(A), 78u(e) & 78aa(a).

8 2. Venue is proper in this district under Section 27(a) of the Exchange Act,
9 15 U.S.C. §78aa(a), because the defendants reside in this judicial district and because
10 certain of the transactions, acts, practices and courses of conduct constituting
11 violations of the federal securities laws occurred within this district.

12 **SUMMARY**

13 3. This action concerns insider trading by Defendants Munakash, Rodriguez,
14 and Marc Winters in the securities of GSI Commerce Inc. (“GSIC”).

15 4. In the weeks leading up to the March 2011 public announcement that
16 eBay Inc. intended to buy GSIC, Munakash, Rodriguez and Winters purchased or
17 caused to be purchased more than \$600,000 of GSIC securities.

18 5. Having never invested in GSIC prior to February 2011, Defendants made
19 their purchases based on material nonpublic information that Munakash
20 misappropriated from his good friend, a GSIC executive (“Executive A”).

21 6. Shortly before the trading at issue, Executive A became the Executive
22 Vice President of Strategic Business Development (“EVP of Strategic Business
23 Development”) and was extremely busy traveling from coast to coast, meeting with
24 private equity firms and eBay about the possibility of either taking GSIC private or
25 having eBay acquire it.

26 7. While transitioning to this new role, Executive A confided in Munakash
27 about these new stresses at work.

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1 8. When Munakash and Executive A traveled together to the Super Bowl
2 during February 4-7, 2011, Executive A continued to confide in Munakash, and
3 discussed with Munakash his work on these potential transactions. In particular, he
4 told Munakash that he was excited about a meeting in New York City the following
5 Thursday, February 10, during which he expected a private equity firm to make an
6 offer to buy GSIC and take it private. Further, Executive A explained to Munakash that
7 even if a deal with a private equity firm did not work out, another company had
8 expressed interest in acquiring GSIC.

9 9. Munakash inquired about the deals that Executive A was working on and
10 asked what they would mean for Executive A's career.

11 10. The morning after returning from the Super Bowl, Munakash
12 misappropriated the material nonpublic information Executive A shared with him in
13 confidence, by both buying GSIC stock for himself and tipping Defendants Rodriguez
14 and Winters.

15 11. A few weeks after the Super Bowl trip, on February 28, Executive A and
16 his wife hosted Munakash, his wife, and a few other close friends for an intimate
17 dinner to celebrate Executive A's birthday.

18 12. During the dinner, Executive A shared information with Munakash on the
19 status of the deals to acquire GSIC. For instance, he confided in Munakash that the
20 GSIC Board of Directors would be taking over the negotiations with the company that
21 was interested in acquiring GSIC.

22 13. The following morning, March 1, Munakash again misappropriated
23 material nonpublic information which he learned from Executive A. Munakash tipped
24 his mentee, Rodriguez, who purchased another \$9,000 of GSIC that morning. Further,
25 Munakash used the information to buy nearly \$200,000 of GSIC on margin in his
26 parents' trading account.

27 14. On March 9, Rodriguez—using the material nonpublic information
28 Munakash shared with him—purchased more than \$14,000 of GSIC.

1 15. On the morning of March 28, eBay and GSIC publicly announced eBay's
2 agreement to buy GSIC for \$29.25 per share. Following the announcement, GSIC's
3 stock price jumped \$9.82 per share. Munakash immediately sold his shares, and the
4 shares held in his parents' account, realizing profits of more than \$178,000 between
5 the two accounts. Winters and his clients sold the shares in their respective accounts
6 for profits totaling more than \$31,000. Rodriguez sold his shares for profits of more
7 than \$17,000, and a close relative sold his shares for profits of more than \$24,000.

8 16. By engaging in this conduct, Defendants Munakash, Rodriguez, and
9 Winters violated Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), and Rule 10b-
10 5 thereunder, 17 C.F.R. §240.10b-5.

11 17. With this complaint, the SEC seeks permanent injunctions prohibiting
12 future violations of the federal securities laws, disgorgement of ill-gotten gains
13 together with prejudgment interest, and civil penalties.

14 **DEFENDANTS**

15 18. **Robert S. Munakash**, age 47, resides in Pacific Palisades, CA.
16 Munakash owns and operates three gas station/convenience stores in southern
17 California. His parents had a trading account at a brokerage firm, which Munakash
18 accessed, and in which he placed trades, even though he was not an authorized user on
19 the account.

20 19. **Carlos A. Rodriguez**, age 33, resides in Los Angeles, CA. Rodriguez
21 has worked for Munakash since 2001, rising to his current position of general manager
22 of Munakash's gas stations. In addition to being Rodriguez's employer, Munakash
23 also mentored him, providing him with advice regarding investments and other topics
24 unrelated to Rodriguez's employment.

25 20. **Marc Winters**, age 60, resides in Chatsworth, CA. Winters is a
26 Managing Director of Investments at Broker A, a dually registered brokerage firm and
27 investment adviser, in Los Angeles, California, and served as Robert Munakash's
28 broker throughout the relevant period. At the time of the trading, Winters held active

1 Series 7, 63 and 65 licenses.

2 **OTHER RELEVANT INDIVIDUALS AND ENTITIES**

3 21. **eBay, Inc.** is a Delaware corporation based in San Jose, California
4 specializing in global commerce and payment platforms. eBay acquired GSIC
5 pursuant to a merger agreement that was publicly announced on March 28, 2011.

6 22. **GSI Commerce, Inc.** was, during the relevant period, an e-commerce
7 company headquartered in King of Prussia, Pennsylvania. Its common stock was
8 registered with the SEC pursuant to Section 12(b) of the Exchange Act until after it
9 was acquired by eBay.

10 23. **Executive A**, age 49, resides in Marina Del Ray, CA. During the relevant
11 time, Executive A was the Executive Vice President of Strategic Business
12 Development at GSIC. Prior to that Executive A had been GSIC's Executive Vice
13 President of Sales.

14 24. **Client A**, age 48, resides in Beverly Hills, CA. During the relevant time,
15 Client A was a client of Winters and had granted Winters discretionary authority over
16 his trading account.

17 25. **Trader A**, age 40, resides in Victorville, CA. Trader A is a close relative
18 of Rodriguez. The two have known each other the majority of their lives, frequently
19 traveling together to visit family outside of the United States, and regularly lending
20 each other significant sums of money.

21 26. **Broker A**, is a California corporation with its headquarters in Los
22 Angeles, CA. It is registered with the SEC as a broker-dealer and an investment
23 adviser. Winters has been a registered representative with Broker A since August
24 2004.

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FACTS

A. Executive A and Munakash Were Close Friends Who Shared Confidential Information About Work and Their Personal Lives

27. Munakash and Executive A met in 2004 and quickly became good friends. In the years leading up to 2011, the two communicated regularly and socialized often, with and without their families. They both belonged to the Jonathan Club, a private social club in Los Angeles, frequented restaurants together, celebrated birthdays together, vacationed together—including a trip across the country to Cape Cod and trips to Executive A’s Palm Springs vacation home—and attended events such as a U2 rock concert and the 2011 Super Bowl.

28. Executive A considered Munakash a close friend and believed that information shared between the two of them would be kept in confidence. The two supported each other through difficult times at their respective jobs, sharing challenges that each faced. They also discussed personal matters regarding their families and other social and professional acquaintances.

29. For example, prior to 2011, Munakash disclosed to Executive A that Munakash had pursued a business transaction in Oregon that eventually caused Munakash and his family to lose hundreds of thousands of dollars, including money that belonged to Munakash’s father. Munakash shared other family details with Executive A, including the fact that Munakash believed his parents favored Munakash’s siblings, even though, he claimed, the siblings were less industrious. Munakash also confided in Executive A regarding the challenges his businesses faced, including competition from other gas stations and legal problems he had with some of his employees.

30. Executive A understood these disclosures to be confidential. He did not share them with others.

31. Executive A also confided in Munakash about difficulties he had at work, including problems he was having with specific colleagues, as well as other issues

1 related to his job. Because disclosure of this information could have negatively
2 affected Executive A's career and reputation, Executive A expected Munakash—
3 whom he considered a trusted friend—to keep it confidential. For example, Executive
4 A discussed with Munakash business deals that his colleagues were working on and
5 the impact those deals would have on their respective compensation packages.

6 32. As detailed herein, on several occasions in late 2010 and early 2011,
7 Executive A shared with Munakash significant nonpublic information about GSIC.

8 **B. Munakash and Rodriguez Regularly Discussed Their Investment**
9 **Decisions and Had a Close Mentor-Mentee Relationship**

10 33. Rodriguez has worked full time for Munakash since 2001.

11 34. Over time, the two developed a mentor-mentee relationship. Munakash
12 gave Rodriguez increasing responsibilities and, eventually, a substantial role managing
13 the businesses and facilities Munakash owned.

14 35. During the relevant period, Munakash and Rodriguez shared office space
15 in Munakash's Malibu gas station and often spent most of the work day together.

16 36. Munakash also gave Rodriguez advice unrelated to his employment. For
17 example, he encouraged Rodriguez to invest in real estate and to take additional higher
18 education courses.

19 37. Over the course of their relationship, Munakash encouraged Rodriguez to
20 invest in the stock market. The two men routinely discussed investment opportunities
21 and the reasons for their investments. Their investment portfolios have contained some
22 of the same securities.

23 **C. Munakash and Winters Had a Longstanding, Mutually Beneficial**
24 **Relationship**

25 38. By 2004, Munakash had retained Winters as his broker. Munakash
26 provided Winters information about his finances, businesses and family background.
27 Munakash and Winters also persuaded Munakash's father to open a business account
28 with Winters.

1 39. Before engaging Winters as his broker, Munakash had engaged in risky
2 investment strategies that had resulted in significant losses. Although Winters did not
3 have discretionary trading authority for Munakash's accounts, Munakash relied on
4 Winters to keep him "in check" and to help him be "more conservative" in his
5 approach to trading stocks. Winters described Munakash as a "gambler" when it came
6 to investment decisions.

7 40. Throughout their relationship, Winters provided Munakash with
8 investment advice. The two also shared information that sometimes led to both
9 investing in securities of the same company.

10 41. Given their broker/client relationship, friendship, and history of sharing
11 information about securities (some of which they both invested in), Munakash stood to
12 benefit from Winters in the future if Winters gained valuable information. For
13 example, Winters had previously learned about an unusual warrant for Bank of
14 America stock where the strike price drops when Bank of America pays dividends.
15 Winters located some of these warrants for Munakash because of Munakash's prior
16 investment in Bank of America options.

17 42. With respect to GSIC, Winters alerted Munakash that eBay had publicly
18 announced its intention to purchase GSIC. Winters promptly notified Munakash and
19 recommended that he sell immediately.

20 **D. Munakash Misappropriated, Tipped and Traded on Material, Non-**
21 **Public Information**

22 ***1. Executive A Confided in Munakash That He Was Working on a***
23 ***Potential Acquisition of GSIC***

24 43. In the fall of 2010, Executive A became the Executive Vice President of
25 Strategic Business Development at GSIC. In this new role, Executive A was charged
26 with identifying and developing strategic business relationships for GSIC, including
27 finding a potential buyer for the company. Executive A confided in Munakash over
28 the next several months about the challenges of his new role at GSIC.

1 44. During the New Year's Eve weekend, December 29-31, 2010, Executive
2 A invited Munakash, his family, and one other family to his vacation home in La
3 Quinta, California to celebrate the holiday.

4 45. Over the course of the weekend, Executive A discussed with Munakash
5 and another close friend the expectations associated with his new job. These
6 conversations concerned Executive A's meetings with private equity firms that
7 Executive A believed were interested in making a strategic investment in GSIC, as
8 well as what such a transaction would mean for Executive A's career. Executive A
9 told Munakash that over the coming months he would be actively developing
10 relationships with these private equity firms.

11 46. In January 2011, Executive A met with private equity funds about the
12 possibility of taking GSIC private. Toward the end of January 2011, Executive A also
13 spoke with eBay representatives about a possible acquisition.

14 47. During this period, Executive A communicated with Munakash several
15 times a week via phone, text and email.

16 48. The weekend before the Super Bowl, Executive A traveled across the
17 country for scheduled meetings with eBay and its subsidiary, PayPal. On January 30,
18 Executive A and another senior executive at GSIC had dinner in Philadelphia with two
19 eBay executives. During that dinner, the eBay executives first raised eBay's interest in
20 acquiring GSIC.

21 49. After that dinner, Executive A called Munakash to discuss their upcoming
22 trip to the Super Bowl in Dallas on February 4-7, 2011. Executive A had invited
23 Munakash to come to the Super Bowl weekend and to attend various GSIC-hosted
24 Super Bowl events as his guest. During the call, Executive A told Munakash that he
25 was in Philadelphia for high-level business meetings that had gone "very well."

26 **2. During Their Super Bowl Trip, Executive A Confided in**
27 **Munakash That A Major Transaction Involving GSIC Was Likely**

28 50. From February 4-7, 2011, Executive A and Munakash traveled together to

1 the Super Bowl. During the trip, Executive A disclosed to Munakash that there were
2 several groups interested in pursuing an acquisition of, or deal with, GSIC.

3 51. Executive A confided in Munakash that he was particularly focused on a
4 meeting in New York City the following Thursday, February 10, during which he
5 expected one of the private equity firms to make an offer to buy GSIC and take it
6 private.

7 52. Further, Executive A explained to Munakash that even if that deal did not
8 work out, another company had expressed interest in acquiring GSIC. Munakash
9 probed further about these potential deals and again asked what they would mean for
10 Executive A's career.

11 53. The information concerning GSIC's efforts to find a buyer, as well as the
12 interest of potential buyers and the upcoming February 10th meeting, was nonpublic.

13 **3. *Munakash Tipped Rodriguez and Winters By Disclosing the***
14 ***Information Executive A Had Shared with Him in Confidence***

15 54. Based on information and belief, on February 8, immediately upon
16 returning from the Super Bowl trip, Munakash provided material nonpublic
17 information to his broker, Winters, and his mentee/employee, Rodriguez. Munakash
18 disclosed the information about potential transactions that Executive A had confided,
19 including that a formal offer to acquire GSIC may then have been imminent.
20 Munakash told Rodriguez and Winters that he was investing based on that information.

21 55. Munakash also recommended that Rodriguez purchase GSIC stock.
22 Rodriguez chose to invest based on Munakash's recommendation and the information
23 Munakash provided. In providing Rodriguez with inside information about GSIC,
24 Munakash sought to provide a gift to his mentee/employee, and stood to garner
25 additional goodwill, loyalty and effort from Rodriguez.

26 56. Rodriguez knew that Munakash and Executive A were friends and that
27 Executive A was an insider at GSIC. Prior to the February 2011 Super Bowl trip,
28 Munakash told Rodriguez that Executive A had invited Munakash to the Super Bowl

1 weekend and that he was excited to attend the Super Bowl events with Executive A.
2 Munakash's description of the weekend made it clear that Executive A had access to
3 the lavish events because Executive A was a senior officer at GSIC.

4 57. Munakash also shared the information with his broker, Winters. Winters
5 did not recall hearing of the stock before Munakash called him on the morning of
6 February 8 and told him about it. Winters based his decision to invest—both on his
7 own behalf and in certain accounts that he controlled on behalf of other brokerage
8 clients—on the information Munakash provided.

9 **4. *Munakash, Rodriguez and Winters Purchased GSIC Stock***
10 ***Almost Simultaneously***

11 58. On the morning of February 8, 2011, all three defendants purchased GSIC
12 stock (for the first time) in rapid succession:

13 **a.** At 10:14 am, Rodriguez purchased \$14,000 worth of GSIC through the
14 online trading portal for his brokerage firm. Rodriguez, having never previously
15 purchased GSIC, funded this purchase through a margin loan. Purchasing on
16 margin means that Rodriguez borrowed money from a broker to buy GSIC
17 stock.

18 **b.** At 10:24 am, Munakash called his registered representative, Winters. The
19 two spoke for twenty-four minutes. During that call, Munakash told Winters
20 about his trip to the Super Bowl.

21 **c.** At the end of his call with Munakash, Winters placed Munakash's GSIC
22 order. Less than three minutes after the call ended Winters also purchased GSIC
23 for two of his discretionary client accounts.

24 **d.** Specifically, at 10:47 am Winters placed an order in Munakash's account,
25 at Munakash's direction, for 8,000 shares of GSIC for \$177,000, nearly all on
26 margin.

27 **e.** At 10:50 am and 10:51 am, respectively, Winters sold blue chip stocks in
28 two clients' accounts—for which he had discretionary trading authority—to

1 fund the purchase of 2,000 shares of GSIC for \$44,000 in each of the two client
2 accounts. Aside from information he “might have” quickly looked up on Yahoo
3 Finance or Wedbush’s site, Winters made these purchases and sales despite
4 knowing nothing about GSIC except what Munakash had told him, and despite
5 considering Munakash to be a gambler whose investment decisions were often
6 risky and unprofitable.

7 f. At 6:43 am the morning of February 9, Winters bought 600 shares of
8 GSIC for \$13,000 in his personal trading account.

9 g. On the morning of February 10, the day of GSIC’s meeting with the
10 private equity fund in New York City that Executive A had discussed with
11 Munakash, Munakash called Winters and placed an order for another 4,000
12 shares of GSIC for \$81,000, again on margin.

13 h. This purchase brought Munakash’s total investment in GSIC to over
14 \$256,000. This position then represented more than thirty-five percent of his
15 portfolio holdings.

16 i. Rodriguez also shared the information he learned from Munakash with his
17 close relative, Trader A. Using that information, Trader A placed an order for
18 \$31,000 of GSIC on February 10, 2011. After briefly selling out of his position
19 in GSIC, Trader A then purchased twice the amount of GSIC on February 22
20 and 23, 2011.

21 59. Following the Super Bowl trip, Executive A and Munakash continued to
22 communicate regularly by phone and text. Munakash never disclosed his purchase of
23 GSIC stock to Executive A.

24 **5. In Late February 2011, Munakash Again Misappropriated**
25 **Material Nonpublic Information from Executive A**

26 60. On February 15, Executive A’s wife emailed Munakash’s wife and the
27 wife of another couple with whom Executive A was close, and invited them to a small
28 gathering for Executive A’s birthday. Executive A’s wife explained that Executive A

1 had originally not wanted to do anything for his birthday but had just told her that “he
2 would like to go to dinner with you guys and your hubbys [sic].”

3 61. On February 28, the three couples celebrated Executive A’s birthday
4 together. During the dinner, Executive A spoke to Munakash about the continued
5 stress and challenges of his new job and again confided in him about the status of
6 potential transactions to acquire GSIC.

7 62. Dinner began at around 7:00 pm. Just before 8:00 pm, Executive A
8 excused himself from the table to take a call from another senior executive at GSIC.
9 Upon his return, Executive A joked to Munakash and the others at the table that if all
10 turned out as planned, he wouldn’t have to take business calls from the other executive
11 at future birthday dinners.

12 63. Later in the evening, Executive A and Munakash took a break from the
13 dinner table to get a drink at the bar.

14 64. At this time, Munakash probed Executive A for more information about
15 the earlier phone conversation with the other GSIC senior executive that interrupted
16 the birthday dinner. By this time, Munakash—like Rodriguez and Winters—was
17 aware that GSIC’s stock price had declined since their initial purchase, and that no
18 announcement of a deal had been made.

19 65. Executive A confided in Munakash that he was disappointed that the
20 GSIC Board of Directors was now going to lead negotiations with the other company
21 that was interested in acquiring GSIC. Executive A explained that, given the Board’s
22 involvement, he was now tasked with trying to keep the private equity firms interested
23 in GSIC even though the other acquisition offer was the preferred deal.

24 66. This information concerning GSIC’s efforts to find a buyer and the status
25 of negotiations was nonpublic.

26 67. Munakash again misappropriated this material nonpublic information. He
27 and Rodriguez soon traded on it.

28 68. Between 7:08 pm and 9:21 pm—both before and after Executive A

1 excused himself from the dinner table to take the call—Munakash and Rodriguez
2 exchanged seven text messages.

3 69. The next morning, March 1, Rodriguez and Munakash both purchased
4 more GSIC stock, even though the stock had fallen in price since they first purchased it
5 on February 8.

6 70. At 10:45 am on March 1, Rodriguez placed an order for an additional
7 \$9,000 of GSIC, using a margin loan.

8 71. Just after noon the same day, Munakash purchased 10,000 shares of GSIC
9 for more than \$198,000 in his parents' trading account, using a margin loan.

10 72. Munakash's parents did not like incurring debt and rarely used margin in
11 their trading account. Notwithstanding their aversion to debt, the GSIC investment,
12 bought on margin, then represented more than twenty-five percent of the total value in
13 Munakash's parents' account.

14 73. On March 9, Rodriguez purchased an additional \$14,000 of GSIC,
15 increasing his total investment in GSIC to more than \$39,000, all purchased on margin.

16 **E. Winters' Statements To Client A Show That Winters Traded On the**
17 **Material Nonpublic Information Munakash Provided**

18 74. On February 10, Client A asked Winters about the investment in GSIC.
19 Winters responded via email that Winters "ha[d] a lot of confidence in th[e] stock" and
20 that if Client A called him, Winters would "discuss it" with him.

21 75. On March 1, Client A emailed Winters again and asked if GSIC, whose
22 stock had declined in price since Winters originally purchased it for Client A, was still
23 a good investment. During a telephone call after Client A sent the email, Winters told
24 Client A that they needed to be patient with the investment because there was going to
25 be a management change at GSIC.

26 76. Prior to the March 28 announcement regarding eBay's acquisition of
27 GSIC, public discussions of GSIC did not include a potential management change.
28 Information concerning a potential management change, such as the information

1 Executive A disclosed in confidence to Munakash, would have been highly material to
2 a reasonable investor. Thus—particularly as a registered representative—Winters
3 knew or should have known that he was trading on material nonpublic information that
4 Munakash had obtained in breach of a duty.

5 **F. After eBay and GSIC Announced a Merger Agreement on March 28,**
6 **2011, the Defendants Liquidated Their GSIC Shares for Significant**
7 **Ill-Gotten Gains**

8 77. On March 28, at 10:05 am ET, eBay and GSIC jointly announced the
9 intended acquisition of GSIC by eBay. After the announcement, GSIC's share price
10 rose by more than fifty percent from the prior day's closing price.

11 78. All Defendants immediately sold their shares of GSIC. Each made a
12 nearly fifty percent profit on their investment.

13 a. Munakash, after exchanging several phone calls with Winters, sold his
14 position for a profit of more than \$86,000.

15 b. Munakash also logged into his parents' online trading account and sold
16 their position in GSIC for a profit of more than \$92,000.

17 c. Rodriguez sold all of his GSIC holdings for a profit of more than \$17,000
18 and Trader A sold out of his position for \$26,000.

19 d. Winters sold the GSIC stock in his personal account for a profit of \$4,100.

20 e. Winters also sold the position in one of his discretionary client accounts
21 for a profit of over \$13,000.

22 f. Winters' other client, Client A, noticed the spike in GSIC's stock price
23 and instructed Winters' assistant to sell his GSIC position for him, realizing a
24 profit of over \$13,000.

25 **G. Executive A Was Angry When He Discovered That Munakash**
26 **Traded In GSIC Stock**

27 79. In September 2011, Executive A, by then an executive at eBay, received
28 information from a regulator that listed the names of those who had traded in GSIC

1 prior to the March 28, 2011 announcement. He reviewed the list and identified
2 Munakash's name on it.

3 80. Executive A immediately called Munakash. Executive A was both
4 shocked and furious that Munakash had traded in GSIC stock and was particularly
5 upset that Munakash traded without ever telling Executive A.

6 81. Because Executive A felt that Munakash had betrayed his trust, he is no
7 longer friends with Munakash.

8 **CLAIM FOR RELIEF**

9 **Fraud in Connection With The Purchase Or Sale of Securities**

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

11 82. The SEC re-alleges and incorporates by reference paragraphs 1 through
12 81 above.

13 83. Munakash knew, or was reckless in not knowing, that the information he
14 possessed concerning the potential acquisition of GSIC was material nonpublic
15 information.

16 84. Munakash also knew, or was reckless in not knowing, that he owed a duty
17 of trust or confidence to his good friend, Executive A, when Executive A shared with
18 him information regarding the challenges he had in his new position as EVP of
19 Strategic Business Development at GSIC.

20 85. By both trading on and disclosing the material nonpublic information
21 regarding GSIC's business transactions, Munakash misappropriated confidential
22 information for securities trading purposes, in breach of a duty of trust or confidence
23 he owed to Executive A.

24 86. Munakash also tipped his mentee and employee, Rodriguez, with the
25 material nonpublic information he learned from Executive A, with the intent to benefit
26 Rodriguez.

27 87. Munakash knew, recklessly disregarded, or should have known that
28 Rodriguez would trade on the basis of the material nonpublic information and/or tip

1 the information to others who could also be expected to trade on the basis of that
2 information.

3 88. Munakash, directly or indirectly, personally benefited from disclosing that
4 material, nonpublic information to Rodriguez.

5 89. At the time he traded in the securities of GSIC, Rodriguez knew or was
6 reckless in not knowing that he was in possession of material nonpublic information
7 regarding GSIC.

8 90. At the time he traded in the securities of GSIC, Rodriguez knew, should
9 have known, or consciously avoided knowing that the material nonpublic information
10 about GSIC that Munakash had disclosed to him was misappropriated by Munakash in
11 breach of a relationship of trust and confidence.

12 91. At the time he traded in the securities of GSIC, Rodriguez knew or should
13 have known that Munakash had tipped him material nonpublic information about
14 GSIC with the intent to benefit Rodriguez.

15 92. Munakash also tipped his long-time registered representative, Winters,
16 with the material nonpublic information he learned from Executive A, with the intent
17 to benefit Winters.

18 93. Munakash knew, should have known, or recklessly disregarded that
19 Winters would trade on the basis of the material nonpublic information and/or tip the
20 information to others who could also be expected to trade on the basis of that
21 information.

22 94. Munakash, directly or indirectly, personally benefited from disclosing that
23 material, nonpublic information to Winters and reasonably expected a future benefit
24 from Winters.

25 95. At the time he traded in the securities of GSIC, Winters knew or was
26 reckless in not knowing that he was in possession of material nonpublic information
27 regarding GSIC.

28 96. At the time he traded in the securities of GSIC, Winters knew, should

1 have known, or consciously avoided knowing, that the material nonpublic information
2 about GSIC that Munakash had disclosed to him was misappropriated by Munakash in
3 breach of a relationship of trust and confidence.

4 97. At the time he traded in the securities of GSIC, Winters knew or should
5 have known that Munakash had tipped him material nonpublic information about
6 GSIC with the intent to benefit Winters.

7 98. By engaging in the conduct described above, Defendants Munakash,
8 Rodriguez and Winters, directly or indirectly, in connection with the purchase or sale
9 of securities, by use of the means or instrumentalities of interstate commerce, or the
10 mails, or the facilities of a national securities exchange:

11 a. Employed devices, schemes, or artifices to defraud;

12 b. Made untrue statements of material facts or omitted to state material facts
13 necessary in order to make the statements made, in light of the circumstances
14 under which they were made, not misleading; and/or

15 c. Engaged in acts, practices or courses of business which operated or would
16 operate as a fraud or deceit upon any person in connection with the purchase or
17 sale of any security.

18 99. By engaging in the foregoing conduct, Munakash, Rodriguez and Winters
19 violated, and unless enjoined will continue to violate, Section 10(b) of the Exchange
20 Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10-b-5.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, the SEC respectfully requests that the Court:

23 **I.**

24 Issue findings of fact and conclusions of law that Munakash, Rodriguez and
25 Winters committed the alleged violations.

26 **II.**

27 Issue judgments, in a form consistent with Fed. R. Civ. P. 65(d), permanently
28 enjoining Defendants Munakash, Rodriguez, and Winters, and their agents, servants,

1 employees, attorneys and those persons in active contact or participation with them,
2 who receive actual notice of the order by personal service or otherwise, from violating
3 Sections 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17
4 C.F.R. § 240.10b-5.

5 **III.**

6 Order Munakash, Rodriguez, and Winters to disgorge the illegal trading profits
7 described herein, plus prejudgment interest.

8 **IV.**

9 Order Munakash, Rodriguez, and Winters to pay civil penalties under Section
10 21A of the Exchange Act, 15 U.S.C. § 78u-1.

11 **V.**

12 Retain jurisdiction of this action in accordance with the principles of equity and
13 the Federal Rules of Civil Procedure in order to implement and carry out the terms of
14 all orders and decrees that may be entered or to entertain any suitable application of
15 motion for additional relief within the jurisdiction of this Court.

16 **VI.**

17 Grant such other and further relief as this Court may determine to be just and
18 necessary.

19 In accordance with Fed. R. Civ. P. 38 and C.D. Cal. L.R. 38-1, Plaintiff
20 Securities and Exchange Commission hereby demands a jury trial on all issues so
21 triable.

22 DATED: February 5, 2016

Respectfully submitted,

23 /s/ Gary Y. Leung

24 Gary Y. Leung

25 Joshua E. Braunstein

26 Daniel J. Maher

27 Jessica L. Matelis

Attorneys for Plaintiff

28 U.S. Securities and Exchange Commission

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Complaints and Other Initiating Documents

[2:16-cv-00833 Securities and Exchange Commission v. Munakash et al](#)

UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF CALIFORNIA

Notice of Electronic Filing

The following transaction was entered by Leung, Gary on 2/5/2016 at 12:32 PM PST and filed on 2/5/2016

Case Name: Securities and Exchange Commission v. Munakash et al

Case Number: [2:16-cv-00833](#)

Filer: Securities and Exchange Commission

Document Number: [1](#)

Docket Text:

COMPLAINT No Fee Required - US Government, filed by Plaintiff Securities and Exchange Commission. (Attorney Gary Y Leung added to party Securities and Exchange Commission(pty:pla))(Leung, Gary)

2:16-cv-00833 Notice has been electronically mailed to:

Gary Y Leung LeungG@sec.gov, berryj@sec.gov, irwinma@sec.gov, larofiling@sec.gov

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The following document(s) are associated with this transaction:

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