

78j(b) and 17 C.F.R. § 240.10b-5). The SEC brings this action to hold them accountable for their illegal conduct, permanently enjoin them from further insider trading, and impose civil penalties. The SEC also seeks an order requiring Daubenspeck to pay disgorgement, plus prejudgment interest, on all ill-gotten profits he received by virtue of his insider trading.

JURISDICTION AND VENUE

4. The SEC brings this action under Sections 21(d), 21(e), and 21A of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), 78u-1].

5. This Court has jurisdiction over this action pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa].

6. Venue is proper in this Court pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Many of the acts, practices, and courses of business constituting the violations alleged herein occurred within the Northern District of Illinois.

7. Daubenspeck and Homer both reside in Chicago and transact business in this District.

8. Daubenspeck and Homer have directly or indirectly made use of the means or instrumentalities of interstate commerce, or of the mails, or the facilities of a national securities exchange in connection with the acts, practices, transactions, and courses of business alleged herein.

9. Daubenspeck and Homer will, unless enjoined, continue to engage in the acts, practices, transactions, and courses of business set forth in this Complaint, or in acts, practices, transactions, and courses of business of similar purport and object.

FACTS

The Defendants

10. **Keith Daubenspeck**, age 56, is a resident of Chicago and also owns a home in Michigan. For most of his career, Daubenspeck worked in the securities industry. Daubenspeck held a variety of FINRA licenses and in 1999 founded a registered brokerage firm. In September 2012, the SEC brought a settled administrative proceeding against the brokerage firm and Daubenspeck in which it sanctioned Daubenspeck for failing reasonably to supervise certain brokers in connection with a private equity offering. The SEC suspended Daubenspeck, for twelve months, from acting in a supervisory capacity in the securities industry.

11. **Geoffrey Homer**, age 57, is a resident of Chicago. Homer has spent the majority of his career working in the personnel staffing business. Earlier in his career, Homer obtained a Series 7 license and worked at a brokerage firm.

12. As a result of their securities licenses and work in the securities industry, both Daubenspeck and Homer believed that it was illegal to trade securities based on material nonpublic information. They also believed it was illegal to pass along insider information to someone they believed would trade based on that information.

Other Relevant Entity and Person

13. **Ulta Beauty, Inc.** (formerly known as Ulta Salon, Cosmetics & Fragrance, Inc.) is a Delaware corporation with its headquarters in Bolingbrook, Illinois. Ulta sells beauty products and salon services in retail stores and on its website. Ulta's securities are registered pursuant to Section 12(g) of the Exchange Act and its common stock is traded on the NASDAQ under the ticker symbol ULTA.

14. **The Ulta Employee** is a resident of Chicago. During the period at issue in this Complaint, the Ulta Employee was a high-ranking employee who was knowledgeable about Ulta's finances prior to their release to the public. The Ulta Employee participated in monthly and quarterly meetings for which she reviewed reports containing sensitive nonpublic information concerning Ulta's sales figures, margins, earnings results, and other proprietary financial information. She also reviewed Ulta's draft quarterly earnings call script in the days prior to the release of Ulta's quarterly earnings.

The Relationships Between Daubenspeck, Homer, and the Ulta Employee

15. Daubenspeck and Homer have been close friends since childhood. During the relevant time period, they regularly socialized together and frequently communicated by phone and text message.

16. Besides being his lifelong friend, Daubenspeck has repeatedly provided financial support to Homer. Daubenspeck has loaned money to Homer since they were in their 20s. Daubenspeck also gave Homer a job at a company Daubenspeck used to own.

17. Homer and the Ulta Employee began dating exclusively in August 2013 and maintained a romantic relationship through the relevant period.

18. During the relevant period, the Ulta Employee had a relationship of trust and confidence with Homer. She entrusted him with both property and information that she expected him to keep confidential and not share with others.

19. Homer and the Ulta Employee regularly spent time together at each other's residences. Starting in April 2014, she and Homer provided each other with keys and unrestricted access to each of their residences. During the time they dated, Homer also had access to and used the Ulta Employee's personal laptop computer.

20. The Ulta Employee also entrusted Homer with information about her work at Ulta, including proprietary and nonpublic information, which she expected Homer to keep confidential.

21. Among other things, on several occasions, in response to requests from Homer, the Ulta Employee emailed him nonpublic information about Ulta's job placement needs.

22. On at least two occasions in March and April of 2016, she forwarded Homer Ulta work emails containing nonpublic information about Ulta's sales and vendor relationships, which she asked him to print for her and to keep confidential.

23. The Ulta Employee also sent Homer emails about Ulta's and her own business successes. For example, on March 10, 2016, she forwarded Homer a congratulatory email that she received after Ulta announced its fourth quarter 2015 earnings.

24. Daubenspeck knew that Homer and the Ulta Employee maintained a long-term romantic relationship and that the Ulta Employee held a senior position at Ulta. After Homer and the Ulta Employee began dating, they socialized with Daubenspeck and his fiancée, including at restaurants and Daubenspeck's homes in Chicago and Michigan.

25. In April 2016, approximately four weeks after Homer tipped Daubenspeck for the second time, the Ulta Employee wanted to help Homer with his personnel staffing business. The Ulta Employee approached Daubenspeck and the two of them decided to pool their money to make a loan to Homer. They also agreed to not tell Homer about the Ulta Employee's contribution because Homer could find it embarrassing.

26. Per their agreement, the Ulta Employee gave Daubenspeck \$10,000 which he combined with \$10,000 of his own money and gave to Homer as a \$20,000 loan for his business.

Daubenspeck's Brokerage Accounts and Conservative Trading Philosophy

27. In February 2015, Daubenspeck opened three trading accounts at a U.S. brokerage firm ("Brokerage A") in the name of an entity Daubenspeck controlled. Despite the initial recommendations of his broker to invest in the stock market, which offered higher growth potential, Daubenspeck resisted his broker's advice by primarily investing his Brokerage A accounts in more conservative investments such as bonds, money market funds, and cash.

28. Also in February 2015, Daubenspeck transferred a managed IRA account to a second U.S. brokerage firm ("Brokerage B"). He also opened a trading account at Brokerage B, but did not fund that account with any money or securities.

After Being Tipped by Homer, Daubenspeck Bought Ulta Stock in August 2015

29. In mid-August 2015, Daubenspeck, his fiancée, Homer, and the Ulta Employee socialized together to celebrate Daubenspeck's birthday.

30. In the days leading up to Ulta's August 27, 2015 earnings release, Homer obtained from the Ulta Employee material nonpublic information indicating that Ulta's financial results for the quarter had been positive.

31. On the morning of August 26, 2015, before the market opened, Homer sent the following text message to Daubenspeck: "call me." Approximately 30 minutes later, Daubenspeck called Homer, who relayed to Daubenspeck the positive material nonpublic information about Ulta that Homer had obtained from the Ulta Employee.

32. Less than 30 seconds after hanging up with Homer, Daubenspeck placed a call to his broker at Brokerage A and instructed the broker to purchase 2,000 shares of Ulta stock. After Daubenspeck's broker told him that he was reluctant to place the order because it was out of

character with Daubenspeck's conservative investment objectives and negative view of the stock market, Daubenspeck agreed to reduce his purchase order to 1,000 shares.

33. After their conversation, the broker purchased 1,000 Ulta shares for Daubenspeck at a cost of \$155,349.

34. Within 30 seconds after hanging up with his broker at Brokerage A, Daubenspeck called his broker at Brokerage B and asked him whether the account that Daubenspeck had opened in February 2015 was able to trade. The broker told Daubenspeck that the account was functional, but not yet funded.

35. Later that morning, Daubenspeck again called his broker at Brokerage B and instructed him to purchase 2,000 shares of Ulta stock. At the time of the call, Daubenspeck had not yet funded his account. Daubenspeck told the broker that he felt Ulta's earnings would be good and that he believed Ulta's stock would trade higher after it announced its earnings. After this conversation, the broker purchased 2,000 Ulta shares for Daubenspeck at a cost of \$315,006.

36. On August 27, 2015, before the market opened, Homer sent the following text message to Daubenspeck: "My bad. Ulta earnings call is today not yesterday. So the stock should jump tomorrow." After receiving Homer's text message, Daubenspeck and Homer spoke via telephone.

37. Shortly after his call with Homer, Daubenspeck spoke with his broker at Brokerage B several times, and, later in the day, the broker purchased an additional 2,000 Ulta shares in Daubenspeck's Brokerage B account at a cost of \$321,506. Daubenspeck funded his Brokerage B account that day with a \$450,000 wire and also requested that he be allowed to sign a margin agreement, despite initially declining to sign a margin agreement at the time he opened the account.

38. Also on the morning of August 27, Daubenspeck called his broker at Brokerage A and said that he wanted to purchase 1,000 additional Ulta shares.

39. Daubenspeck's Brokerage A broker questioned this trade because it was inconsistent with Daubenspeck's previously stated conservative investment objectives and negative view of the stock market. But Daubenspeck insisted on making the purchase, telling his broker that he knew Ulta well and believed its upcoming earnings release would be very good. The broker then moved funds from a separate account into Daubenspeck's brokerage account and executed an additional purchase of 1,000 Ulta shares at a cost of \$161,760.

40. After the close of trading on August 27, 2015, Ulta reported financial results for the second fiscal quarter of 2015 including diluted earnings of \$1.15 per share, an increase of 22% compared to \$0.94 in the second fiscal quarter of 2014. This exceeded analysts' consensus expectations by \$.03 per share.

41. Stock analysts largely viewed Ulta's earnings announcement as positive news for the company. The following day, August 28, 2015, Ulta stock opened at \$164.78 per share, up 3% from its closing price of \$160.24 per share just prior to the announcement, and traded as high as \$169.29 per share in morning trading, before declining and closing at \$159.00 per share.

42. Shortly after 11:00 am on August 28, Daubenspeck sold the 2,000 shares of Ulta stock in his Brokerage A account at a price of \$160.78 per share. The next trading day, August 31, 2015, Daubenspeck sold the 4,000 shares of Ulta stock in his Brokerage B account at a price of \$159.28 per share. Daubenspeck's total profits from this trading were \$3,944.

After a Second Tip by Homer, Daubenspeck Again Bought Ulta Stock in March 2016

43. On February 27, 2016, Daubenspeck, his fiancée, Homer and the Ulta Employee had dinner at a luxury hotel in Chicago.

44. The following weekend, from March 4 to March 6, Homer travelled with the Ulta Employee to attend an out-of-town event. On the evening of March 9, 2016, the two spent additional time together in Chicago. During that week, Homer obtained from the Ulta Employee material nonpublic information indicating that Ulta's financial results for the quarter had been positive.

45. Based on the positive material nonpublic information about Ulta that Homer had obtained from the Ulta Employee, at 7:27 a.m. on March 10, 2016, Homer sent the following text message to Daubenspeck: "Ulta earnings call this afternoon for Q4. Might want to own the stock."

46. Based on his interactions with Homer, Daubenspeck understood that Homer's recommendation to purchase Ulta stock was based on material nonpublic information Homer obtained from the Ulta Employee.

47. Even though his previous Ulta purchases had required him to risk more than \$950,000 to earn less than \$4,000 in profits, Daubenspeck had so much confidence in Homer's tip that Daubenspeck was again willing to wager many hundreds of thousands of dollars on Ulta stock.

48. Less than two hours after receiving Homer's text message, Daubenspeck called his Brokerage A broker and told him that Ulta was going to report earnings and that its stock price would rise. In response, the broker reminded Daubenspeck that buying Ulta stock was inconsistent with Daubenspeck's conservative account objectives.

49. Despite the broker's reservations, Daubenspeck insisted on purchasing 2,500 Ulta shares, which Daubenspeck's Brokerage A broker purchased at a cost of \$400,174.

50. Later that day, Daubenspeck again called his broker at Brokerage A and placed an order to purchase 1,000 additional shares of Ulta stock.

51. In response, the broker told Daubenspeck that he was marking the order as unsolicited and indicating that he was providing no advice on the trade. At Daubenspeck's insistence, the broker purchased 1,000 more shares of Ulta at a cost of \$161,040. Before trading closed, Daubenspeck contacted the broker again and instructed him to buy 500 more Ulta shares, which the broker purchased at a cost of \$81,775.

52. After the close of trading on March 10, 2016, Ulta reported that its diluted earnings per share for the fiscal fourth quarter of 2015 had increased 25.2% to \$1.69, compared to \$1.35 in the fiscal fourth quarter of 2014. This beat analysts' consensus expectations by \$.15 per share.

53. On March 11, 2016, Ulta stock opened at \$186.60 per share and closed at \$191.62 per share, an increase of 17.2% from its previous day's closing price of \$163.39 per share just prior to the announcement.

54. That day, Daubenspeck instructed his Brokerage A broker to sell his 4,000 shares of Ulta stock, realizing a profit of \$107,528.

55. When Daubenspeck called his broker to place the sell order, Daubenspeck lied to the broker by volunteering that his interest in Ulta came from an acquaintance who was an Ulta supplier who had generally informed Daubenspeck that Ulta's business was very good. In reality, Daubenspeck's conviction to buy hundreds of thousands of dollars' worth of Ulta stock was based on an insider trading tip that Daubenspeck received from Homer.

COUNT I

Daubenspeck and Homer Violated Exchange Act Section 10(b) and Rule 10b-5 Thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5]

56. The SEC realleges and incorporates by reference paragraphs 1 through 55 as though fully set forth herein.

57. All of the Ulta shares that Daubenspeck purchased are securities.

58. Homer misappropriated material nonpublic information that he obtained from the Ulta Employee by tipping Daubenspeck to trade Ulta securities. Homer knew or recklessly disregarded that the information he obtained was material and nonpublic. Homer also knew or recklessly disregarded that by tipping Daubenspeck he breached a duty or similar relationship of trust and confidence owed to the Ulta Employee.

59. Homer received a personal benefit from his tips to Daubenspeck, including but not limited to the benefit of providing gifts to a close personal friend.

60. Daubenspeck purchased Ulta shares based on tips that he received from Homer. Daubenspeck knew, or recklessly disregarded the fact, that the tips Homer shared with him were based on material and nonpublic information and conveyed in breach of a fiduciary duty, or a similar obligation arising from a relationship of trust and confidence.

61. Daubenspeck and Homer knew, or recklessly disregarded the fact, that it would be improper for Daubenspeck to purchase Ulta securities based on material nonpublic information Homer obtained from the Ulta Employee.

62. As more fully described in paragraphs 1 through 55 above, Daubenspeck and Homer, in connection with the purchase and sale of securities, by the use of the means or instrumentalities of interstate commerce, or of the mails, or of any facility of any national securities exchange, directly or indirectly: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material fact or omitted to state materials facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated or

would operate as a fraud or deceit upon another person, including purchasers and sellers and prospective purchasers and sellers of securities.

63. Daubenspeck and Homer acted with scienter in that they knowingly or recklessly engaged in the insider trading described above.

64. By engaging in the conduct described above, Daubenspeck and Homer, directly or indirectly, violated, and unless enjoined will again violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

RELIEF REQUESTED

WHEREFORE, the SEC respectfully requests that this Court:

I.

Issue findings of fact and conclusions of law that Daubenspeck and Homer committed the violations charged and alleged herein.

II.

Enter Orders of Permanent Injunction restraining and enjoining Daubenspeck and Homer, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the Order, by personal service or otherwise, and each of them from, directly or indirectly, engaging in the transactions, acts, practices or courses of business described above, or in conduct of similar purport and object, in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j] and Rule 10b-5 thereunder [17 CFR § 240.10b-5].

III.

Issue an Order requiring Daubenspeck to disgorge the ill-gotten gains he received as a result of the violations alleged in this Complaint, including prejudgment interest.

IV.

Issue an Order requiring Daubenspeck and Homer to pay civil monetary penalties pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1].

V.

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

VI.

Grant such other relief as this Court deems appropriate.

JURY DEMAND

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

Respectfully Submitted,

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