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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN JOSE DIVISION**

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12 SECURITIES AND EXCHANGE COMMISSION, Case No.
13 Plaintiff, COMPLAINT
14 vs.
15 DANIS YADEGAR-MOOSHIABI,
16 Defendant.

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18 Plaintiff, the United States Securities and Exchange Commission (“Commission”), for its
19 Complaint against Defendant Danis Yadegar-Mooshiabi (“Defendant” or “Yadegar”) alleges:

20 **I. SUMMARY**

21 1. This matter involves Yadegar’s illegal conduct in entering into two “roundtrip”
22 transactions that assisted in the improper recognition of revenue by Unify Corporation (“Unify”), a
23 publicly traded software company. In early 2000, Yadegar caused Arsin Corporation (“Arsin”), a
24 private company he headed, to enter into two contracts to purchase a total of \$1 million in software
25 license rights from Unify. When it entered into the contracts, Arsin lacked the funds to pay for the
26 software. Despite this, in each instance Yadegar provided Unify with a check for the entire amount
27 of the purchase, with the understanding that Unify would show the check to Unify’s independent
28 auditors and that Unify would not deposit Arsin’s check until Unify had provided Arsin with the

1 funds necessary to cover Arsin's check. Arsin later used funds that it received from Unify to pay for
2 the software.

3 2. Although it initially recognized revenue on the transactions with Arsin, Unify later
4 reversed nearly all of that revenue, as part of a larger restatement of its financial results. By causing
5 Arsin to enter into two "roundtrip" deals, in which Unify provided Arsin with funds to purchase
6 Unify product, Yadegar aided and abetted the financial reporting fraud at Unify.

7 **II. JURISDICTION, VENUE AND INTRADISTRICT ASSIGNMENT**

8 3. The Commission brings this action pursuant to Section 21(d)(3) of the Securities
9 Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78u(d)] to impose a civil penalty to address
10 Defendant's wrongdoing.

11 4. This Court has jurisdiction over this action pursuant to Sections 21(e) and 27 of the
12 Exchange Act [15 U.S.C. §§ 78u(e) and 78aa]. Defendant, directly or indirectly, has made use of the
13 means and instrumentalities of interstate commerce, or of the mails, in connection with the acts,
14 practices and courses of business alleged in this Complaint.

15 5. Venue in this District is proper pursuant to Section 27 of the Exchange Act [15 U.S.C.
16 § 78aa]. Certain of the transactions, acts, practices and courses of conduct alleged in this Complaint
17 occurred within the Northern District of California.

18 6. Assignment to the San Jose Division is appropriate pursuant to Civil Local Rule 3-2(e)
19 because this action arose in Santa Clara County.

20 **III. THE DEFENDANT**

21 7. Defendant Danis Yadegar-Mooshiabadi, age 47, resides in Campbell, California.
22 Yadegar is the President, Chairman, and CEO of Arsin Corporation, a private company located in
23 Santa Clara that is incorporated under California law and provides software-consulting services.

24 **IV. OTHER ENTITY**

25 8. Unify Corporation is a Delaware Corporation with its corporate headquarters in
26 Sacramento, California. It develops and markets traditional and internet-based data storage and
27 management software. Unify's common stock is registered with the Commission pursuant to Section
28 12(g) of the Exchange Act.

1 **V. FACTUAL ALLEGATIONS**

2 **A. Arsin's Prior Dealings With Unify**

3 9. In October 1999, Yadegar recruited Reza Mikaili, the CEO of Unify, as the first
4 outside member of Arsin's board of directors. Yadegar had known Mikaili for more than 12 years,
5 since the two worked together at another high technology company. At the same time, in October
6 1999, Unify hired Arsin to carry out performance testing for a new software product Unify was
7 planning to develop, called eWave. According to the terms of a so-called Funded Development
8 Agreement dated October 20, 1999, Unify agreed to pay Arsin \$125,000 to develop a testing
9 protocol, test the product, and provide Unify with the test results. The contract provided that Arsin
10 and Unify would jointly own both the testing protocol and the test results. Arsin completed its work
11 under the contract in December 1999.

12 **B. Financial Fraud At Unify and Yadegar's Involvement**

13 10. In December 2000, Unify restated its previously announced financial results for all
14 four quarters of its fiscal year 2000, which ended on April 30, 2000. A portion of Unify's
15 restatement was to correct two "roundtrip" sales transactions involving Arsin that occurred at the end
16 of Unify's third and fourth quarters of its fiscal year 2000. As part of Unify's restatement for the
17 third quarter, Unify reversed \$450,000 in previously recognized revenue relating to Arsin's purchase
18 of a software license from Unify. This transaction caused Unify's originally reported revenue for the
19 quarter to be overstated by 8.6%. As part of Unify's restatement of the fourth quarter, Unify reversed
20 \$500,000 in previously announced revenue relating to a fee that Arsin agreed to pay Unify in
21 connection with an original equipment manufacturer's agreement. The second transaction caused
22 Unify's originally reported revenue for the quarter to be overstated by 10.9 % in Unify's fiscal year
23 2000 earnings announcement.

24 11. When it entered into the contracts with Unify, Arsin lacked the funds to pay for the
25 software it was licensing from Unify and Arsin later used funds that it received from Unify to pay for
26 Unify's software. In each instance, Yadegar provided Unify with a check that Arsin lacked the funds
27 to cover, with the understanding that Unify would show the check to Unify's independent auditors
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1 and that Unify would not deposit Arsin's check until Unify had provided Arsin with the funds
2 necessary to cover Arsin's check.

3 **C. The January 2000 Roundtrip Transaction**

4 12. On January 24, 2000, Unify and Arsin entered into a software license that gave Arsin
5 the right to have an unlimited number of its employees use Unify's eWave product, in exchange for
6 \$500,000. Unify recognized this entire amount as revenue in the Form 10-Q that Unify filed with the
7 Commission for the quarter ended January 31, 2000. Unify later determined that \$450,000 of this
8 revenue was improperly recognized because it was offset by a reciprocal agreement in which Unify
9 supplied Arsin with the funds to pay for the software license.

10 13. Yadegar and Mikaili negotiated the license agreement, along with Unify's CFO, Gary
11 Pado ("Pado"). Yadegar initially informed Mikaili and Pado that Arsin did not have the funds to
12 cover payment. Mikaili told Yadegar that the license agreement would not cost Arsin anything but
13 that he needed an agreement in the amount of \$500,000 and required a check by the end of January
14 2000. Mikaili informed Yadegar that Unify wanted to close the transaction by the end of January
15 because Unify required the \$500,000 for its revenue for the quarter ended January 31, 2000. Mikaili
16 and Pado also told Yadegar that Unify required the check in order to show it to their auditors in the
17 first week of the following month. Yadegar gave Unify a check for the full amount after reaching an
18 agreement with Mikaili and Pado that Unify would not cash the check until Yadegar informed them
19 that he had the money to cover the check.

20 14. In order to provide Arsin with the funds to pay for the license agreement, Yadegar and
21 Pado simultaneously negotiated an amendment to the prior Funded Development Agreement between
22 Arsin and Unify. Under the amended Funded Development Agreement, Arsin agreed to provide a
23 revised testing protocol for eWave, run additional tests, and give Unify sole ownership of both the
24 testing protocol and results, in exchange for an additional \$450,000. The amended Funded
25 Development Agreement was a sham agreement. No technical work was done under the agreement,
26 and its purpose was to provide Arsin with the funds it needed to pay for the software license.

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D. The April 2000 Roundtrip Transaction

15. On April 29, 2000, Unify and Arsin entered into an original equipment manufacturer (“OEM”) agreement in which Arsin agreed to pay \$500,000 for the right to incorporate Unify’s eWave product into software that Arsin had not yet developed. Unify recognized this entire amount as revenue in its earnings release for the fourth quarter ended April 30, 2000. Unify later determined that all of this revenue was improperly recognized because Unify supplied Arsin with the funds it needed to pay for the OEM agreement just two weeks after the agreement was signed.

16. Mikailli and Pado called Yadegar in April 2000 and requested that Arsin do another \$500,000 deal with Unify. Yadegar again informed them that Arsin lacked the funds to cover a \$500,000 payment. Mikailli told Yadegar that Arsin ultimately would not have to pay for the agreement, but that Unify required a check from Arsin by the end of April. Mikailli and Pado told Yadegar that Unify wanted the contract to include it in Unify’s quarterly revenue and required the check by the end of April so that they could present it to Unify’s auditors. Yadegar executed the OEM contract on April 29, and provided Unify with a check for the entire \$500,000 on the same day. Yadegar, Mikailli and Pado agreed that Unify would refrain from depositing the check until Arsin received funds from Unify to cover it.

17. Despite this agreement, in early May 2000 Unify deposited Arsin’s check, which bounced due to insufficient funds. Upon learning of the bounced check, Yadegar threatened to cancel the OEM agreement with Unify. On May 12, 2000, Unify wired Arsin \$500,000 to cover the bounced Arsin check. Arsin used the funds from the wire transfer to pay Unify.

FIRST CLAIM FOR RELIEF*Aiding and Abetting Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.*

18. The Commission realleges and incorporates by reference Paragraphs 1 through 17 above.

19. By causing Unify to improperly recognize revenue on the January 24, 2000 and April 29, 2000 software agreements with Arsin, Mikailli and Pado violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

1 20. By engaging in the conduct described above, Yadegar knowingly provided Mikailli
2 and Pado substantial assistance with respect to their violations of Sections 10(b) of the Exchange Act
3 and Rule 10b-5 thereunder, and therefore is liable as an aider and abettor pursuant to Section 20(e) of
4 the Exchange Act [15 U.S.C. §78t(e)].

5 **SECOND CLAIM FOR RELIEF**

6 *Aiding and Abetting Violations of Section 13(a) of the
Exchange Act and Rules 12b-20 and 13a-13.*

7 21. The Commission realleges and incorporates by reference Paragraphs 1 through 17
8 above.

9 22. Unify violated Section 13(a) of the Exchange Act and Rules 12b-20 and 13a-13
10 thereunder by filing with the Commission materially misleading financial statements in its periodic
11 reports for the quarter ended and January 31, 2000.

12 23. By engaging in the conduct described above, Yadegar knowingly provided Unify
13 substantial assistance with respect to its violation of Section 13(a) of the Exchange Act and Rules
14 12b-20 and 13a-13 thereunder, and therefore is liable as an aider and abettor pursuant to Section
15 20(e) of the Exchange Act [15 U.S.C. §78t(e)].

16 **THIRD CLAIM FOR RELIEF**

17 *Aiding and Abetting Violations of Section 13(b)(2)(A)
of the Exchange Act.*

18 24. The Commission realleges and incorporates by reference Paragraphs 1 through 17
19 above.

20 25. Unify violated Section 13(b)(2)(A) of the Exchange Act by failing to make and keep
21 books and records that accurately reflected the disposition of its assets during fiscal year 2000.

22 26. By engaging in the conduct described above, Yadegar knowingly provided Unify
23 substantial assistance with respect to its violation of Sections 13(b)(2)(A) of the Exchange Act, and
24 therefore is liable as an aider and abettor pursuant to Section 20(e) of the Exchange Act [15 U.S.C.
25 §78t(e)].

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FOURTH CLAIM FOR RELIEF

*Aiding and Abetting Violations of Section 13(b)(5) of the Exchange Act
and Rule 13b2-1 and Rule 13b2-2*

27. The Commission realleges and incorporates by reference Paragraphs 1 through 17 above.

28. Unify, Mikaili and Pado violated Section 13(b)(5) and Rule 13b2-2 by making or causing to be made materially false statements to accountants in connection with an audit or examination of the financial statements of Unify.

29. By engaging in the conduct described above, Yadegar knowingly provided Unify, Mikaili and Pado with substantial assistance with respect to its violation of Sections 13(b)(5) of the Exchange Act, and Rule 13b2-2 thereunder, and therefore is liable as an aider and abettor pursuant to Section 20(e) of the Exchange Act [15 U.S.C. §78t(e)].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court order Yadegar to pay civil penalties under Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

Dated: July __, 2003

Respectfully submitted,

Christopher C. Cooke
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SECURITIES AND EXCHANGE COMMISSION