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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JACK GAGLIO,

Defendant.

Civil Action No. 05-1195 (SRC)

**CONSENT AND UNDERTAKINGS OF
DEFENDANT JACK GAGLIO**

1. Defendant Jack Gaglio ("Defendant") waives service of a summons and the Complaint in this action, enters a general appearance, and admits the Court's jurisdiction over him and over the subject matter of this action.

2. Without admitting or denying the allegations of the Complaint (except as to personal and subject matter jurisdiction, which Defendant admits), Defendant hereby consents to the entry of the Judgment of Permanent Injunction and Other Relief as to Defendant Jack Gaglio (the "Judgment") in the form attached hereto and incorporated by reference herein, which, among other things:

- (a) permanently restrains and enjoins Defendant from: (i) violating Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. §§78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §§240.10b-5]; and (ii) aiding and abetting violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Rules

12b-20, 13a-1, 13a-13, and 13b2-2 thereunder [17 C.F.R. §§240.12b-20, 240.13a-1, 240.13a-13, and 240.13b2-2]; and

(b) permanently bars him from serving as an officer or director of a publicly held corporation under Section 21(d)(2) of the Exchange Act [15 U.S.C. §78u(d)(2)].

3. Defendant agrees that, upon motion of the Securities and Exchange Commission ("Commission"), the Court shall determine whether it is appropriate to order disgorgement of ill-gotten gains and/or a civil penalty pursuant to Section 21(d)(3) of the Exchange Act, and, if so, the amount(s) of the disgorgement and/or civil penalty. The Defendant further understands that, if disgorgement is ordered, Defendant shall pay prejudgment interest thereon calculated from July 1, 1997, based on the rate of interest used by the Internal Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C. §6621(a)(2). Defendant further agrees that in connection with the Commission's motion for disgorgement and/or civil penalty, and at any hearing held on such a motion: (a) he will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) he may not challenge the validity of this Consent or the Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In

connection with the Commission's motion for disgorgement and/or civil penalties, the parties may take discovery, including discovery from appropriate non-parties.

4. Defendant acknowledges that any civil penalty paid pursuant to an order entered by the Court may be distributed pursuant to the Fair Fund provisions of Section 308(a) of the Sarbanes-Oxley Act of 2002. Regardless of whether any such Fair Fund distribution is made, any civil penalty shall be treated as a penalty paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Defendant agrees that he shall not, after offset or reduction of any award of compensatory damages in any Related Investor Action based on his payment of disgorgement in this action, further benefit by offset or reduction of such compensatory damages award by the amount of any part of Defendant's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Defendant agrees that he shall, within thirty (30) days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the United States Treasury or to a Fair Fund, as the Commission directs. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this action. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Defendant by or on behalf of one or more investors based on substantially the same facts as alleged in the Complaint in this action.

5. Defendant agrees that he shall not seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made

pursuant to any insurance policy, with regard to any civil penalty amounts that Defendant pays pursuant to an order entered by the Court, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors. Defendant further agrees that he shall not claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any penalty amounts that Defendant pays pursuant to an order entered by the Court, regardless of whether such penalty amounts or any part thereof are added to a distribution fund or otherwise used for the benefit of investors.

6. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

7. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Judgment.

8. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

9. Defendant agrees that this Consent shall be incorporated into the Judgment with the same force and effect as if fully set forth therein.

10. Defendant will not oppose the enforcement of the Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

11. Defendant waives service of the Judgment and agrees that entry of the Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty (30) days after the Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Judgment.

12. Consistent with 17 C.F.R. 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendant understands that he shall not be permitted to contest the factual allegations of the Complaint in this action.

13. Defendant understands and agrees to comply with the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." 17 C.F.R. § 202.5. In compliance with this policy, Defendant agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the Complaint or creating the impression that the Complaint is without factual basis. If Defendant breaches this agreement, the Commission may petition the Court to vacate the Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant's: (a) testimonial obligations; or (b) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

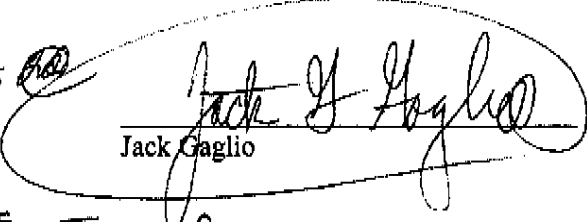
14. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to pursue reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that he is not the prevailing party in this action since the parties have reached a good faith settlement.

15. In connection with this action and any related judicial or administrative proceeding or investigation commenced by the Commission or to which the Commission is a party, Defendant: (a) agrees to appear and be interviewed by Commission staff at such times and places as the staff requests upon reasonable notice; (b) will accept service by mail or facsimile transmission of notices or subpoenas issued by the Commission for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation by Commission


staff; (c) appoints Defendant's undersigned attorney as agent to receive service of such notices and subpoenas; (d) with respect to such notices and subpoenas, waives the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the testimony reimburses Defendant's travel, lodging, and subsistence expenses at the then-prevailing U.S. Government per diem rates; and (e) consents to personal jurisdiction over Defendant in any United States District Court for purposes of enforcing any such subpoena.


16. Defendant agrees that the Commission may present the Judgment to the Court for signature and entry without further notice.

17. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Judgment.

Dated: 2-8-⁵~~2004~~²⁰⁰⁵,  Jack Gaglio

On Feb 8⁵, 2004, Jack Gaglio, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.


Notary Public & Attorney at Law,
Commission expires: state of New Jersey
Eric H. Jaso

Approved as to form:

Richard Marmaro, Esq.
Proskauer & Rose LLP
2049 Century Park East, Suite 3200
Los Angeles, CA 90067-3206
310-557-2900

Counsel for Defendant Jack Gaglio

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JACK GAGLIO,

Defendant.

Civil Action No.

**JUDGMENT OF PERMANENT INJUNCTION AND
OTHER RELIEF AS TO DEFENDANT JACK GAGLIO**

Plaintiff Securities and Exchange Commission (the "Commission") having filed a Complaint and Defendant Jack Gaglio ("Defendant") having entered a general appearance; consented to the Court's jurisdiction over him and the subject matter of this action; consented to entry of this Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or

instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

II.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from aiding and abetting any violation of Section 13(a) of the Exchange Act [15 U.S.C. §78m(a)] and Rules 12b-20, 13a-1 and 13a-13 thereunder [17 C.F.R. §§240.12b-20, 240.13a-1 and 240.13a-13] by knowingly providing substantial assistance to an issuer of a security registered pursuant to Section 12 of the Exchange Act [15 U.S.C. §78l] that files or causes to be filed with the Commission any report required to be filed with the Commission pursuant to Section 13(a) of the Exchange Act [15 U.S.C. §78m(a)] and the rules and regulations promulgated thereunder, which contains any untrue statement of material fact, which omits to state any material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, or which omits to disclose any information required to be disclosed.

III.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from aiding and abetting any violation of Sections 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act [15 U.S.C. §§78m(b)(2)(A) and 78m(b)(2)(B)] by knowingly providing substantial assistance to an issuer of a security registered pursuant to Section 12 of the Exchange Act [15 U.S.C. §78l] or to any issuer which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. §78o(d)] that:

- (a) fails to make and keep books, records, and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer; or
- (b) fails to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that: (1) transactions are executed in accordance with management's general or specific authorization; (2) transactions are recorded as necessary (a) to permit preparation of financial statements in conformity with generally accepted accounting principles or any other criteria applicable to such statements and (b) to maintain accountability for assets; (3) access to assets is permitted only in accordance with management's general or specific authorization; and (4) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

IV.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise are permanently restrained and enjoined from aiding and abetting any violation of Rule 13b2-2 of the Exchange Act [17 C.F.R. §240.13b2-2] by knowingly providing substantial assistance to an officer or director of any issuer who, directly or indirectly, (a) makes or causes to be made a materially false or misleading statement; or (b) omits to state, or causes another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which such statements were made, not misleading to an accountant in connection with (1) any audit, review or examination of the financial statements of any issuer of a security registered pursuant to Section 12 of the Exchange Act [15 U.S.C. §78I] or any issuer which is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. §78o(d)] or (2) the preparation or filing of any document or report required to be filed with the Commission.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. §78u(d)(2)], Defendant is permanently prohibited from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. §78I] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. §78o(d)].

VI.

Upon motion of the Commission, the Court shall determine whether it is appropriate to order disgorgement of ill-gotten gains and/or a civil penalty pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] and, if so, the amount(s) of the disgorgement and/or civil penalty. If disgorgement is ordered, Defendant shall pay prejudgment interest thereon, calculated from July 1, 1997, based on the rate of interest used by the Internal Revenue Service for the underpayment of federal income tax as set forth in 26 U.S.C. § 6621(a)(2). In connection with the Commission's motion for disgorgement and/or civil penalties, and at any hearing held on such a motion: (a) Defendant will be precluded from arguing that he did not violate the federal securities laws as alleged in the Complaint; (b) Defendant may not challenge the validity of the Consent or this Judgment; (c) solely for the purposes of such motion, the allegations of the Complaint shall be accepted as and deemed true by the Court; and (d) the Court may determine the issues raised in the motion on the basis of affidavits, declarations, excerpts of sworn deposition or investigative testimony, and documentary evidence, without regard to the standards for summary judgment contained in Rule 56(c) of the Federal Rules of Civil Procedure. In connection with the Commission's motion for disgorgement and/or civil penalties, the parties may take discovery, including discovery from appropriate non-parties.

VII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent and Undertakings of Defendant Jack Gaglio is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

VIII.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Judgment.

Dated: June 16, 2005
Anton, New Jersey


UNITED STATES DISTRICT JUDGE

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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

SECURITIES AND EXCHANGE COMMISSION
450 Fifth Street, N.W.
Washington, D.C. 20549,

Plaintiff,

vs.

JACK GAGLIO
c/o Proskauer & Rose LLP
2049 Century Park East, Suite 3200
Los Angeles, CA 90067-3206,

Defendant.

Civil Action No.

COMPLAINT

The United States Securities and Exchange Commission ("Commission") alleges:

SUMMARY

1. This action involves a financial fraud designed to falsely inflate the sales revenue, accounts receivable, and inventory of Suprema Specialties, Inc. ("Suprema"), a publicly-traded company based in Paterson, New Jersey that was formerly engaged in the

manufacturing, processing, and distribution of cheese and cheese products. The fraudulent scheme commenced in or around 1998 or earlier, and continued into February 2002, when Suprema filed for bankruptcy.

2. The fraudulent scheme was orchestrated by Suprema's management with the direct participation of Suprema's employees and certain vendors and customers of Suprema, and their owners and operators. During the relevant period, the named defendant, JACK GAGLIO ("GAGLIO"), operated and owned in part certain Suprema customers and vendors through which he participated in the fraudulent scheme.

3. The principal component of the fraudulent scheme involved fictitious circular "round-tripping" sales and purchase transactions between Suprema and certain of its customers and vendors, including those operated and owned in part by GAGLIO.

4. The fraudulent scheme resulted in material misstatements in Suprema's periodic reports filed with the Commission during its fiscal years 1998 through 2001 and the first quarter of 2002, as well as Suprema's registration statements filed with the Commission for its secondary public offerings in 2000 and 2001.

5. From fiscal year 1998 through and including the first quarter of 2002, which ended on September 30, 2001, the fictitious round-tripping transactions resulted in Suprema's reporting in its filings with the Commission of fictitious sales that represented approximately 60% of Suprema's total reported revenue of approximately \$1.13 billion. Suprema's fictitious sales accounted for approximately 30%, 65%, 85%, and 87% of accounts receivable reported by Suprema in its filings with the Commission at the end of fiscal years 1998, 1999, 2000, and 2001, respectively. Suprema's fictitious purchases

from vendors participating in the scheme also resulted in a corresponding inflation in Suprema's reported inventory at the end of fiscal years 1998, 1999, 2000 and 2001.

6. From 1998 through the bankruptcy filing in early 2002, the fictitious sales revenue on Suprema's books and records resulting from the round-tripping transactions totaled over \$700 million.

7. Approximately \$359 million, or 32%, of Suprema's \$1.13 billion in reported revenue during the period 1998 through the first quarter of Suprema's 2002 fiscal year was attributable to round-tripping transactions effected with entities operated and owned in part by GAGLIO. These fictitious transactions accounted for approximately 10%, 23%, 34%, 38% and 38% of the revenue reported by Suprema in its filings with the Commission for the fiscal years 1998, 1999, 2000, and 2001, and the first quarter of Suprema's 2002 fiscal year, respectively.

8. By knowingly or recklessly engaging in the acts alleged in this Complaint, GAGLIO violated, or aided and abetted violations of, the anti-fraud, reporting, books and records, internal controls, and lying-to-auditors provisions of the federal securities laws.

9. Unless enjoined by this Court, it is likely that GAGLIO will continue to engage in such violative conduct. Therefore, the Commission seeks this Court's injunction against future violations, an officer and director bar, as well as disgorgement of unjust enrichment, prejudgment interest, and statutory civil penalties as described in its prayer for relief.

JURISDICTION

10. The Commission brings this action pursuant to Section 21(d) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78u(d)].

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

12. The defendant has 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 transactions, acts, practices, and courses of business alleged herein.

DEFENDANT

13. JACK GAGLIO, age 46, resides in Rancho Mirage, California. From at least 1998 through February 2002, GAGLIO was the founder and president of and owned 50% of A&J Cheese Company; owned 50% of Noble J. G. Cheese, LLC and California Goldfield Cheese Trading, LLC; and owned 25% of Wall Street Cheese, LLC and Whitehall Specialties, Inc. During this same time period, GAGLIO also operated A&J Cheese Company, Noble J. G. Cheese, LLC, and California Goldfield Cheese Trading, LLC.

OTHER RELEVANT PERSON AND ENTITIES

14. Founded in 1983, Suprema, a New York corporation based in Paterson, New Jersey, held itself out as a manufacturer, processor and distributor of "all natural" gourmet Italian cheeses. Suprema maintained three wholly owned subsidiary facilities in California, New York, and Idaho. Suprema held its initial public offering in 1991 and registered its securities with the Commission pursuant to Section 12(g) of the Exchange Act. As such, the company was required to file periodic reports with the Commission pursuant to Section 13 of the Exchange Act. The company adopted a fiscal year ending on June 30. Suprema's common stock was traded on the over-the-counter market starting on April 25, 1991, as well as on the NASDAQ National Market System from March 22,

1993 until March 1, 2002, when the stock was delisted. Suprema is presently liquidating pursuant to a Chapter 7 proceeding in federal bankruptcy court.

15. Lawrence Fransen ("Fransen"), age 49, owns LNN Enterprises, Inc., and also owns a 25% interest in Wall Street Cheese, LLC, both of which he operates.

Fransen is also the founder and president of LNN Enterprises, Inc.

16. A&J Cheese Company ("A&J"), a non-public company registered as a corporation and located in California, was engaged in the purchase and sale of cheese products. A&J was placed in receivership in March 2002 and liquidated in September 2002.

17. California Goldfield Cheese Trading, LLC ("California Goldfield") was a non-public company registered as a limited liability company ("LLC") located at different times in California and in Colorado that purchased and sold cheese products. California Goldfield ceased operations after February 2002.

18. LNN Enterprises, Inc. ("LNN") is a sole proprietorship incorporated and located in California that brokers cheese transactions.

19. Noble J. G. Cheese, LLC ("Noble") was a non-public company registered as an LLC and located in California that purchased and sold cheese products. Noble ceased operations after February 2002.

20. Wall Street Cheese, LLC ("WSC") is a non-public company registered as an LLC and located in California that purchases and sells cheese products.

21. Whitehall Specialties, Inc. ("Whitehall") is a non-public company registered as a corporation and located in Wisconsin that purchases and sells cheese products.

THE FRAUDULENT SCHEME

22. In every fiscal year from 1996 forward, Suprema claimed annual double-digit growth in sales and revenues. Beginning in 1994, the company borrowed against its accounts receivable and inventory to obtain a revolving credit line with a consortium of banks that rose to \$140 million by the end of 2001. Suprema held secondary public offerings in August 2000 and November 2001 that raised over \$8 million and \$48 million, respectively. In fiscal 2001, which ended on June 30 of the calendar year, Suprema reported over \$420 million in revenues, an increase of over 50% from the prior fiscal year, and reported \$8.9 million in net income.

23. From at least 1998 through the first quarter of 2002, however, Suprema's apparent success was the product of a fraudulent scheme orchestrated and managed by the company's management with the defendant's direct and knowing involvement. The principal component of the fraudulent scheme involved fictitious circular "round-tripping" transactions among Suprema and certain of its customers and vendors.

I. The False Transactions

24. From at least 1998 through early 2002, Suprema engaged in circular round-tripping transactions that generated fictitious sales revenues and inflated accounts receivable and inventory. Each round-tripping "circle" in this scheme involved three parties: Suprema, a third-party "customer," and a "vendor." In most instances, the customer and vendor in these circles shared a common owner. With some exceptions as noted below, the fraud operated as follows: Fictitious paperwork was created purporting to represent sales of cheese products from Suprema to a customer involved in the fraud. The customer then purportedly sold those or other products to the related vendor. This

was followed by a fictitious sale of other products (often purporting to be the raw materials for cheese manufacturing) from the vendor back to Suprema. With rare exception, no goods were actually delivered, or otherwise changed hands, in these transactions.

25. On each leg of the circle – Suprema to the customer, customer to the vendor, and vendor back to Suprema – the entity purporting to sell goods created false invoices and bills of lading to document the false transaction, and the entity purporting to buy goods generated a check in payment for the same false transaction.

26. These circular round-tripping transactions resulted in a continuous flow of checks from Suprema to the vendors involved in the fraud, from the vendors to the related customers, and from the customers back to Suprema, all purportedly in payment for fictitious sales. Typically, the checks from Suprema to the vendors involved in the fraud were greater than the corresponding checks from the related customers back to Suprema. This difference in the checks represented a kick-back or “commission” paid to the common owner of the customer and vendor for his participation in the fraudulent scheme. Funds for the checks, including commissions, were drawn on Suprema’s line of credit with its consortium of banks, which increased as Suprema’s accounts receivable and inventory grew.

II. Gaglio’s Participation in the Round-Tripping Transactions

27. From at least 1998 through the first quarter of 2002, Suprema engaged in round-tripping transactions with A&J, California Goldfield, Noble, and WSC as customers and several entities, including LNN and Whitehall, as vendors. All of these entities were operated and owned in part by defendant GAGLIO, or by his business

associates, including Fransen, whom he persuaded to participate in the scheme. During this period, Suprema recognized approximately \$359 million in fraudulent revenue from the round-tripping transactions with these entities.

28. Defendant GAGLIO, through the entities operated and owned in part by him, participated in the round-tripping fraud; received false invoices reflecting fictitious sales from Suprema to A&J, California Goldfield, and Noble; directed the generation of false invoices reflecting fictitious purchases by Suprema from its vendors; circulated checks purportedly in payment for these fictitious transactions; and signed false audit confirmations that were provided to Suprema's independent auditors purporting to confirm the existence of fictitious accounts receivable at the end of each fiscal year.

29. In addition to the foregoing, GAGLIO, through the entities owned and operated by him, shipped sizeable quantities of artificial cheese to Suprema at fiscal year end which Suprema then relabeled as higher priced cheese products and included in physical inventory. Suprema used this relabeled physical inventory to support the inflated fiscal year end inventory figures on its books and records during the year-end audit by its external auditors, and the invoices for GAGLIO's shipments were recorded on its books and records only after the close of the fiscal year.

30. For their participation in the fraudulent scheme to inflate Suprema's publicly reported revenues, the entities operated and owned in part by GAGLIO received a payment of one to two cents per pound of cheese. A&J also borrowed from banks against its own inflated accounts receivable and inventory.

31. In furtherance of the round-tripping fraud, one or more officers and directors of Suprema created false paperwork and instructed GAGLIO to sign the false

audit confirmations, all of which were provided to Suprema's independent auditors purporting to confirm the existence of fictitious accounts receivable.

32. GAGLIO knew, or was reckless in not knowing, that his conduct would result in Suprema materially misstating the financial statements that it filed with the Commission.

III. Suprema's Reporting of Fictitious Revenue from the Round-Tripping Transactions in its Filings with the Commission

33. GAGLIO's participation in fictitious sales transactions with Suprema resulted in Suprema materially misstating its reported revenue by approximately 10%, 23%, 34%, 38%, and 38% in fiscal years 1998, 1999, 2000, and 2001, and the first quarter of 2002, respectively. As a consequence, the round-tripping scheme resulted in material overstatements of Suprema's revenue and total assets in the financial statement included in the following forms that the company filed with the Commission: a Form 10-K for each of its fiscal years 1998, 1999, 2000, and 2001; a Form 10-Q for the first three quarters of each of those fiscal years and for the first quarter of its fiscal year 2002; and a Form S-2 registration statement, and any amendments thereto, for each of the secondary public offerings in August 2000 and November 2001.

THE FRAUDULENT SCHEME COLLAPSES

34. On December 21, 2001, after the close of trading, Suprema issued a press release announcing the resignations of its chief financial officer and its controller. The same press release also stated that the company had "initiated an internal investigation of its prior reported financial results and ha[d] instructed its auditors to review the Company's financial records."

35. Also after the close of trading on December 21, 2001, the Nasdaq halted trading in Suprema's common stock. The trading halt continued until the Nasdaq delisted Suprema's common stock on March 1, 2002.

36. On February 24, 2002, Suprema filed a voluntary bankruptcy petition for a Chapter 11 reorganization in the U.S. Bankruptcy Court for the Southern District of New York. On March 20, 2002, the bankruptcy was converted to a Chapter 7 liquidation. In re the Jointly Administered Estate of Suprema Specialties, Inc., et al., No. 02-10823 (CB) (Bankr. S.D.N.Y.).

FIRST CLAIM

Defendant Gaglio Violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5

37. Paragraphs 1 through 36 are realleged and incorporated herein by this reference.

38. Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5] prohibit a person from, *inter alia*, employing any device, scheme or artifice to defraud; making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

39. By virtue of the conduct described above, defendant GAGLIO violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5 thereunder.

SECOND CLAIM

Defendant Gaglio Aided and Abetted Violations of Sections 13(a) and 13(b)(2)(A) and (B) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, and 13a-13

40. Paragraphs 1 through 36 are realleged and incorporated herein by this reference.

41. Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Exchange Act Rules 13a-1 and 13a-13 thereunder [17 C.F.R. §§ 240.13a-1 and 240.13a-13] require all issuers with registered securities to file with the Commission factually accurate annual and quarterly reports. Exchange Act Rule 12b-20 [17 C.F.R. § 240.12b-20] provides that in addition to the information expressly required to be included in a statement or report, there shall be added such further material information as may be necessary to make the required statements, in light of the circumstances under which they were made, not misleading.

42. Section 13(b)(2)(A) of the Exchange Act [15 U.S.C. § 78m(b)(2)(A)] requires issuers of registered securities to make and keep books, records, and accounts, which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer. Section 13(b)(2)(B) of the Exchange Act [15 U.S.C. § 78m(b)(2)(B)] requires issuers to, among other things, devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances that the company's transactions were recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles.

43. By reason of the conduct described above, Suprema violated Sections 13(a) and 13(b)(2)(A) and (B) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, and 13a-13.

44. Defendant GAGLIO knowingly provided substantial assistance to Suprema in connection with its above-described violations of the federal securities laws.

45. By virtue of the conduct described above in paragraphs 1 to 37 inclusive, and pursuant to Exchange Act Section 20(e) [15 U.S.C. § 78t(e)], defendant GAGLIO is liable as an aider and abettor of Suprema's violations of Sections 13(a) and 13(b)(2)(A) and (B) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, and 13a-13.

THIRD CLAIM

Defendant Gaglio Aided and Abetted Violations of Exchange Act Rule 13b2-2

46. Paragraphs 1 through 36 above are realleged and incorporated herein by this reference.

47. Exchange Act Rule 13b2-2 [17 C.F.R. § 240.13b2-2] prohibits an officer or director, among other things, from making, or causing to be made, materially false statements or omissions to an accountant in connection with an audit or a filing with the Commission.

48. By virtue of the conduct described above, one or more Suprema officers and directors violated Exchange Act Rule 13b2-2.

49. Defendant GAGLIO knowingly provided substantial assistance to one or more Suprema officers and directors in connection with those officers' and directors' violations of Exchange Act Rule 13b2-2.

50. By virtue of the conduct described above, and pursuant to Exchange Act Section 20(e) [15 U.S.C. § 78t(e)], defendant GAGLIO is liable as an aider and abettor of violations of Exchange Act Rule 13b2-2 by one or more Suprema officers and directors.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court enter an Order:

A. permanently restraining and enjoining defendant GAGLIO from violating Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5 thereunder and from aiding and abetting violations of Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Exchange Act Rules 12b-20, 13a-1, 13a-13, and 13b2-2;

B. prohibiting defendant GAGLIO from acting as an officer or a director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act or that is required to file reports pursuant to Section 15(d) of the Exchange Act, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)];

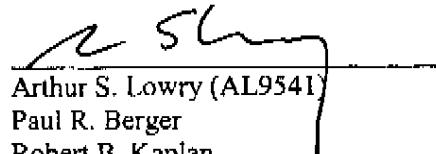
C. requiring defendant GAGLIO to pay disgorgement of all unlawful gains and prejudgment interest;

D. imposing civil monetary penalties on defendant GAGLIO pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)]; and

E. granting such other and additional relief as the Court may deem just and proper.

Dated: February 27, 2005

Respectfully submitted,



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