

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

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CLERK OF DISTRICT COURT
S.D. OF FLA. - MIA

_____)
SECURITIES AND EXCHANGE COMMISSION,)
)
Plaintiff,)
)
vs.)
)
NICOLAS MOLINA and JULIA VASQUEZ,)
)
Defendants.)
_____)

CASE NO.
00 - 1479
CIV-MOORE
MAGISTRATE JUDGE
COMPLAINANT SULLIVAN

Plaintiff, Securities and Exchange Commission ("Commission") alleges that:

1. Defendants Nicolas Molina ("Molina") and Julia Vasquez ("Vasquez") have engaged, and unless enjoined by this Court, will engage in acts and practices which constitute and will constitute violations of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5].

JURISDICTION AND VENUE

2. This Court has jurisdiction of this action pursuant to Sections 20(b), 20(d) and 22(a) of the Securities Act [15 U.S.C. 77t(b), 77t(d) and 77v(a)] and Sections 21(d), 21(e), 21A and 27 of the Exchange Act [15 U.S.C. 78u(d), 78u(e), 78u-1 and 78aa].

3. Certain of the acts and practices constituting violations of the Securities Act and Exchange Act have occurred within the Southern District of Florida and were

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perpetrated through the use of the means and instrumentalities of interstate commerce, the mails, or the facilities of a national securities exchange.

THE DEFENDANTS

4. Defendants Molina and Vasquez reside in Miami, Florida. Defendant Vasquez is the mother of Defendant Molina. At the time of the transactions and events alleged in this complaint, Defendant Molina was chief executive officer (“CEO”) and co-chairman of Let’s Talk Cellular & Wireless, Inc. (“Let’s Talk” or the “Company”).

FACTUAL ALLEGATIONS

5. At the time of the transactions and events alleged in this Complaint, Let’s Talk, a specialty retailer of cellular and wireless products, was a Florida corporation with securities registered with the Commission and traded on the National Association of Securities Dealers, Inc.’s Automated Quotation System. Let’s Talk had an initial public offering (“IPO”) in November 1997 at which time Defendant Vasquez purchased 2,500 shares of Let’s Talk stock.

6. In a meeting held on July 1, 1998 at Let’s Talk’s offices, Molina learned that it was unlikely that the Company would meet analyst earnings expectations for its stock of \$.15 per share for the Company’s fourth fiscal quarter, ending July 31, 1998. The following day, July 2, 1998, a financial analyst following Let’s Talk stock was informed that the Company would not meet its fourth quarter earnings estimates, and issued a “hold” recommendation. After the analyst’s hold recommendation, the price of Let’s Talk stock quickly dropped. Later in the day, Let’s Talk announced that it anticipated revenues and earnings for the fourth quarter ending July 31, 1998 to be \$.0

per share, as opposed to analyst expectations of \$.15 per share. Let's Talk stock closed on July 2, 1998 at \$5 11/16 per share.

7. At a time before the analyst issued, on the morning of July 2, 1998, the "hold" recommendation for Let's Talk stock, Defendant Molina, in breach of the fiduciary duty, or similar duty of trust and confidence, as CEO and co-chairman of the Company he owed Let's Talk and its shareholders, communicated to Defendant Vasquez, the material nonpublic information that Let's Talk would not meet analyst earnings expectations for its stock of \$.15 per share for the Company's fourth fiscal quarter, ending July 31, 1998.

8. Prior to the issuance by the analyst of the "hold" recommendation and while in possession of this material nonpublic information, in the early morning of July 2, 1998, Defendant Vasquez sold the 2500 shares of Let's Stock stock she had acquired in the IPO. Later that same day, the price of Let's Talk stock tumbled, closing at \$5 11/16.

9. Defendant Vasquez, who was aware of Defendant Molina's high-ranking position in the Company, knew, or was reckless in failing to learn, that Defendant Molina, by communicating to her the material nonpublic information, had breached the fiduciary duty, or similar duty of trust and confidence, he owed Let's Talk and its shareholders.

10. By selling her Let's Talk shares based upon the material nonpublic information Defendant Molina had communicated to her in breach of his duty, Defendant Vasquez avoided the substantial devaluation of her Let's Talk stock that would have occurred if she had not sold the stock before the analyst's hold recommendation and subsequent Company announcement on that same day, July 2, 1998.

COUNT I

VIOLATION OF SECTION 17(a)(1) OF THE SECURITIES ACT

11. The SEC incorporates and realleges herein the allegations set forth in paragraphs 1 through 10 of this Complaint.

12. Defendants Molina and Vasquez, directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by use of the mails, in the offer or sale of securities, as described herein, have been, knowingly, willfully or recklessly employing devices, schemes or artifices to defraud.

13. By reason of the foregoing, Defendants Molina and Vasquez, directly and indirectly, have violated and, unless enjoined, will continue to violate Section 17(a)(1) of the Securities Act, 15 U.S.C. § 77q(a)(1).

COUNT II

**VIOLATION OF
SECTIONS 17(a)(2) AND 17(a)(3) OF THE SECURITIES ACT**

14. The SEC incorporates and realleges herein the allegations set forth in paragraphs 1 through 10 of this Complaint.

15. Defendants Molina and Vasquez, directly and indirectly, by use of the means or instruments of transportation or communication in interstate commerce and by the use of the mails, in the offer or sale of securities, as described herein, have been: (i) obtaining money or property by means of untrue statements of material facts and omissions to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; and (ii) engaging in

transactions, practices and courses of business which are now operating and will operate as a fraud or deceit upon purchasers and prospective purchasers of such securities.

16. By reason of the foregoing, Defendants Molina and Vasquez, directly and indirectly, have violated and, unless enjoined, will continue to violate Sections 17(a)(2) and 17(a)(3) of the Securities Act, 15 U.S.C. §§ 77(q)(a)(2) and 77(q)(a)(3).

COUNT III

VIOLATION OF SECTION 10(b) OF THE EXCHANGE ACT

AND RULE 10b-5 THEREUNDER

17. Plaintiff Commission incorporates and realleges herein the allegations set forth in paragraphs 1 through 10 of this Complaint.

18. Defendants Molina and Vasquez, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails, and of any facility of any national securities exchange, in connection with the purchase or sale of the securities, as described herein, have been, knowingly, willfully or recklessly: (i) employing devices, schemes or artifices to defraud; (ii) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (iii) engaging in acts, practices and courses of business which have operated, and will operate as a fraud upon the purchasers of such securities.

19. By reason of the foregoing acts, Defendants Molina and Vasquez violated, and unless enjoined will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5, 17 C.F.R. 240.10b-5, thereunder.

RELIEF REQUESTED

WHEREFORE, the Commission respectfully requests that this Court:

I.

Declaratory Relief

(a) Declare, determine and find that Defendants Molina and Vasquez have committed the violations of the federal securities laws alleged herein; and

(b) Declare, determine and find that Defendant Vasquez received ill-gotten gains through the violations of the federal securities laws described herein.

II.

Permanent Injunctive Relief

Enter a Final Judgment of Permanent Injunction, permanently enjoining Defendants Molina and Vasquez, their agents, servants, employees, attorneys-in-fact, and all persons in active concert or participation with them who received actual notice of the Final Judgment by personal service or otherwise, and each of them, from violating Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§ 77q(a)(1), 77(q)(a)(2) and 77(q)(a)(3)] and Section 10(b) of the Exchange Act [15 U.S.C. 78j(b)] and Rule 10b-5 [17 C.F.R. 240.10b-5] thereunder.

III.

Disgorgement

Enter a Final Judgment of Permanent Injunction ordering Defendant Vasquez to disgorge all ill-gotten gains or losses avoided, plus prejudgment interest thereon, arising out of the conduct alleged herein.

IV.

Civil Money Penalties

Issue an Order directing Defendants Molina and Vasquez to pay civil fines and/or penalties pursuant to Section 21A of the Exchange Act [15 U.S.C. 78u-1].

V.

Further Relief

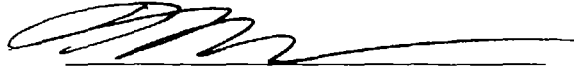
Grant such further relief as the Court may deem just and appropriate.

VI.

Retention of Jurisdiction

Additionally, the Commission respectfully requests that the Court retain jurisdiction over this action in order to implement the terms of all orders and decrees that may be entered, or to entertain any suitable application or motion by the Commission for additional relief within the jurisdiction of this Court.

Respectfully submitted,



Mitchell E. Herr
Regional Trial Counsel
S.D. Fl. A-5500-259

Glenn S. Gordon
Assistant Regional Director
Florida Bar No. 0052744

Jeffrey A. Cohen
Chief, Branch of Investigations # 1
Florida Bar No. 606601

April 26, 2000

Attorneys for Plaintiff
**SECURITIES AND EXCHANGE
COMMISSION**
1401 Brickell Avenue, Suite 200
Miami, Florida 33131
Telephone: (305) 982-6360

JS 44
(Rev. 12/96)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States on September 17, 1994, is to be used for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

00-1479
CIV-MOORE

I. (a) PLAINTIFFS

SECURITIES AND EXCHANGE COMMISSION,

DEFENDANTS

**NICOLAS MOLINA and JULIA VASQUEZ
MAGISTRATE JUDGE
O'SULLIVAN
DADE**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)

Arade / 00cv 1479 / moore / O'sullivan

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME ADDRESS AND TELEPHONE NUMBER)
**Mitchell E. Herr, Regional Trial Counsel,
Securities and Exchange Commission, 1401
Brickell Ave #200, Miami, FL 33131**

ATTORNEYS (IF KNOWN):
**Ralf R. Rodriguez, Esq., Buchanan Ingersoll, P.C.
Nationsbank Tower Ste. 2100, 100 S.E.
2nd Street, Miami, FL 33131**

(d) CIRCLE COUNTY WHERE ACTION AROSE: DADE, MONROE, BROWARD, PALM BEACH, MARTIN, ST. LUCIE, INDIAN RIVER, OKEECHOBEE HIGHLANDS

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)


A CONTRACT	A TORTS	FORFEITURE/PENALTY	A BANKRUPTCY	A OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans - Excl. Veterans. <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 A PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions A OR B
A REAL PROPERTY	A CIVIL RIGHTS	PRISONER PETITIONS	A LABOR	B SOCIAL SECURITY
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition.	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA - 1395ff <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405g) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405g) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)
77v(a) and 15 U.S.C. 78u(d), 78u(e), 78u-1 and 78aa. Violations of anti-fraud laws **15 U.S.C. 77t(b), 77t(d) and**

LENGTH OF TRIAL
via _____ days estimated (for both sides to try entire case)

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ CHECK YES only if demanded in complaint: JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 4/26/00 SIGNATURE OF ATTORNEY OF RECORD  **Mitchell E. Herr, Reg'l Trial Counsel**