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11 U.S. Securities and Exchange Commission

12 **UNITED STATES DISTRICT COURT**  
13 **CENTRAL DISTRICT OF CALIFORNIA**

14  
15 **SECURITIES AND EXCHANGE**  
16 **COMMISSION,**  
17 **Plaintiff,**  
18 **vs.**  
19 **DANIEL J. LAMA,**  
20 **Defendant.**  
21

Case No.  
**COMPLAINT**

22  
23 Plaintiff Securities and Exchange Commission (“SEC”) alleges:

24 **JURISDICTION AND VENUE**

25 1. This Court has jurisdiction over this action pursuant to Sections 21(d),  
26 21(e), 21A, and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), 78u-1 & 78aa]  
27 and Sections 20(b), 20(d), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b),  
28 77t(d), and 77v(a)]. Defendant, directly or indirectly, made use of the means or

1 instrumentalities of interstate commerce, the mails, or the facilities of a national  
2 securities exchange, in connection with the conduct alleged in this Complaint.

3 2. Venue is proper pursuant to Section 27 of the Exchange Act [15 U.S.C.  
4 § 78aa] and Section 22(a) of the Securities [15 U.S.C. § 77v(a)] because certain of the  
5 transactions or acts constituting the violations occurred within the Central District of  
6 California.

7 **SUMMARY OF THE ACTION**

8 3. This case involves unlawful insider trading by Daniel J. Lama, MD (the  
9 “Defendant” or “Lama”) of San Bernardino Urological Associates Medical Group  
10 Inc., in the securities GTx Inc. (“GTx”), a biopharmaceutical company. Lama was a  
11 medical investigator in the clinical trials of Capesaris, a drug GTx developed for the  
12 treatment of prostate cancer. Pursuant to clinical trial agreements with GTx, Lama  
13 had a duty not to use confidential information about the Capesaris clinical trials for  
14 any purpose other than rendering services under the clinical trials agreements. On  
15 Friday February 17, 2012, Lama learned from GTx material, nonpublic information  
16 that the Food and Drug Administration (“FDA”) was placing a hold on the Capesaris  
17 clinical trials because of concerns of an increased risk of blood clots in patients  
18 participating in the trials. Immediately after learning this confidential information,  
19 and in breach of his duty to GTx, Lama sold 5,400 shares of GTx stock that he held in  
20 a retirement account, at a sale price of \$5.82 per share. On the following Tuesday,  
21 February 21, 2012, after GTx publicly announced the FDA hold on the Capesaris  
22 clinical trials, the price of GTx stock dropped over 36% and closed at \$3.69 per share.  
23 As a result of trading on material, nonpublic information about the FDA hold prior to  
24 the public announcement, Lama avoided trading losses of approximately \$11,502.  
25 When later contacted by Commission staff investigating this matter, Lama initially  
26 provided Commission staff with false information, including claiming that he had no  
27 knowledge of the FDA hold at the time of his trading.

28 4. By engaging in the conduct alleged in this Complaint, Lama violated the

1 antifraud provisions of Section 10(b) of the Securities Exchange Act of 1934  
2 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §  
3 240.10b-5], and Section 17(a) of the Securities Act of 1933 (the “Securities Act”) [15  
4 U.S.C. § 77q(a)] . The Commission seeks in this action a permanent injunction,  
5 disgorgement, and a civil penalty.

6 **DEFENDANT**

7 **5. Daniel J. Lama**, age 55, resides in Highland, California. Lama is a  
8 medical doctor. Lama is a principal of Franklin M. Chu MD, Inc., a medical practice  
9 based in San Bernardino, California, which does business under the name San  
10 Bernardino Urological Associates Medical Group Inc. (hereinafter “SBUA”).

11 **RELATED ENTITY**

12 **6. GTx Inc. (“GTx”)** is a biopharmaceutical company incorporated in  
13 Delaware and based in Memphis, Tennessee. GTx’s stock is registered with the  
14 Commission pursuant to Section 12(b) of the Exchange Act [15 U.S.C. § 78l(b)], and  
15 its shares trade on the NASDAQ.

16 **FACTS**

17 **7.** Beginning in early 2011, GTx entered into a series of Clinical Trial  
18 Agreements (“CTAs”) with SBUA for the Phase II clinical trials of Capesaris, a drug  
19 GTx developed to treat advanced prostate cancer. The purpose of the clinical trials  
20 was to test the safety and efficacy of Capesaris in anticipation of GTx applying for  
21 FDA approval of the drug.

22 **8.** Lama was an investigator for the Capesaris clinical trials at SBUA.  
23 Lama worked with his partner, Dr. Franklin Chu, who was the lead investigator for  
24 the clinical trials at SBUA. Pursuant to the CTAs between GTx and SBUA, GTx  
25 paid compensation to SBUA for each patient the medical practice enrolled in the  
26 study. The CTAs contained strict confidentiality provisions. In particular, as a  
27 medical investigator for the Capesaris clinical trials, Lama was prohibited from using  
28 confidential information about the clinical trials for any purpose other than rendering

1 services under the CTAs.

2 9. At 10:15 a.m.<sup>1</sup> on Friday February 17, 2012, GTx executives had a  
3 teleconference with the FDA. This telephone conference followed reports by GTx to  
4 the FDA of an increased risk of blood clots in patients participating in the Capesaris  
5 clinical trials. During that call the FDA informed GTx that it was placing an  
6 immediate hold on the Capesaris clinical trials. After this call, GTx executives made  
7 plans to notify the doctors and medical practices participating in the clinical trials of  
8 the FDA hold so patients could be promptly taken off Capesaris. Working from a  
9 list, GTx split this responsibility among three GTx executives, the Chief Executive  
10 Officer, the Chief Medical Officer, and the Clinical Trial Coordinator.

11 10. At approximately 3:02 p.m. that day, GTx's Clinical Trial Coordinator  
12 spoke by telephone with SBUA's Research Coordinator and informed her that the  
13 FDA had placed a hold on the Capesaris clinical trials, and that GTx would issue a  
14 press release about the hold on either February 20 or 21. Ann Lama, Lama's spouse,  
15 worked part-time as a nurse at SBUA. Ann Lama was working that day and was  
16 informed of the FDA hold on the Capesaris clinical trials by SBUA's Research  
17 Coordinator. Mrs. Lama immediately called her husband, who was out of the office  
18 that day, and relayed the information about the FDA hold to Lama. Lama knew, or  
19 was reckless in not knowing, that this was material and nonpublic information, and  
20 that he had a duty not to trade on it.

21 11. In a series of calls between Lama and his wife that followed, and in  
22 breach of his duty to GTx, Lama, who did not have access to a computer at the time,  
23 had his wife place an order to sell 5,400 shares of GTx that Lama held in his  
24 retirement account. Lama provided his wife with his password and walked her  
25 through the process of placing the sell order. Lama's sell order was executed at 3:34

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26  
27 <sup>1</sup> As the telephone calls, trading, and other events relevant to this matter  
28 occurred in different time zones, for simplicity all times referenced are to Eastern Standard Time.

1 p.m. on February 17, at a price of \$5.82 per share, for total proceeds of \$31,428.

2 12. The following Tuesday, February 21, 2012, GTx issued a press release  
3 prior to the opening of the market, announcing that the FDA had placed a hold on the  
4 Capesaris clinical trials. After this public announcement, which was the first trading  
5 day following Lama's February 17 sale of GTx stock, the market price of GTx stock  
6 dropped over 36% and closed at \$3.69 per share. As a result of trading on material,  
7 nonpublic information ahead of the public announcement, Lama avoided trading  
8 losses of approximately \$11,502.

9 13. When later contacted by Commission staff investigating this matter,  
10 Lama initially provided Commission staff with false information, including claiming  
11 that he had no knowledge of the FDA hold at the time of his trading.

12 **FIRST CLAIM FOR RELIEF**

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

14 14. The Commission re-alleges and incorporates by reference paragraphs 1  
15 through 13 above.

16 15. Defendant, by engaging in the conduct described above, directly or  
17 indirectly, in connection with the purchase or sale of securities, by use of the means  
18 or instrumentalities of interstate commerce, or the mails, or the facilities of a national  
19 securities exchange:

- 20 a. employed devices, schemes, or artifices to defraud;
- 21 b. made untrue statements of material fact or omitted to state  
22 material facts necessary in order to make the statements made, in  
23 light of the circumstances under which they were made, not  
24 misleading; and/or
- 25 c. engaged in acts, practices, or courses of business which operate or  
26 would operate as a fraud or deceit upon any persons, including  
27 purchasers or sellers of the securities.

28 16. By engaging in the foregoing conduct, Defendant violated, and unless

1 enjoined will continue to violate, Section 10(b) of the Exchange Act [15 U.S.C. §  
2 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

3 **SECOND CLAIM FOR RELIEF**

4 **Violations of Section 17(a) of the Securities Act**

5 17. The Commission re-alleges and incorporates by reference paragraphs 1  
6 through 13 above.

7 18. Defendant, by engaging in the conduct described above, in the offer or  
8 sale of securities by use of means or instruments of transportation or communication  
9 in interstate commerce or by use of the mails, directly or indirectly:

- 10 a. employed a device, scheme, or artifice to defraud;  
11 b. obtained money or property by means of an untrue statement of  
12 material fact or an omission to state a material fact necessary in  
13 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 a transaction, practice, or course of business which  
16 operates or would operate as a fraud or deceit upon the purchaser.

17 19. By engaging in the foregoing conduct, Defendant violated, and unless  
18 enjoined will continue to violate, Section 17(a) of the Securities Act [15 U.S.C. §  
19 77q(a)].

20 **PRAYER FOR RELIEF**

21 WHEREFORE, the Commission respectfully requests that the Court enter a  
22 Final Judgment:

23 **I.**

24 Permanently restraining and enjoining Defendant from, directly or indirectly,  
25 engaging in conduct in violation of Section 10(b) of the Exchange Act [15 U.S.C. §  
26 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5], and from engaging in  
27 conduct in violation of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)];

28 ///

1 **II.**

2 Ordering Defendant to disgorge, with prejudgment interest, ill-gotten gains  
3 received as a result of the conduct alleged in this Complaint;

4 **III.**

5 Ordering Defendant to pay a civil penalty pursuant to Section 21A of the  
6 Exchange Act [15 U.S.C. § 78u-1]; and

7 **IV.**

8 Granting such other and further relief as this Court may deem just and necessary.  
9

10 DATED: *MAY* 19, 2014

Respectfully submitted,

11 **Securities and Exchange Commission**

12 By its attorneys,

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## Complaints and Other Initiating Documents

[5:14-cv-00996 Securities and Exchange Commission v. Lama](#)

UNITED STATES DISTRICT COURT for the CENTRAL DISTRICT OF CALIFORNIA

### Notice of Electronic Filing

The following transaction was entered by Van Havermaat, David on 5/19/2014 at 7:48 AM PDT and filed on 5/19/2014

**Case Name:** Securities and Exchange Commission v. Lama

**Case Number:** [5:14-cv-00996](#)

**Filer:** Securities and Exchange Commission

**Document Number:** [1](#)

### Docket Text:

**COMPLAINT No Fee Required - US Government, filed by Plaintiff Securities and Exchange Commission. (Attorney David J Van Havermaat added to party Securities and Exchange Commission(pty:pla))(Van Havermaat, David)**

### 5:14-cv-00996 Notice has been electronically mailed to:

David J Van Havermaat vanhavermaatd@sec.gov, berryj@sec.gov, cavallones@sec.gov, irwinma@sec.gov, LAROFiling@sec.gov

### 5:14-cv-00996 Notice has been delivered by First Class U. S. Mail or by other means **BY THE FILER** to :

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

**Document description:**Main Document

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[STAMP cacdStamp\_ID=1020290914 [Date=5/19/2014] [FileNumber=17504217-0] [7de49f4de3d813b004326524883e8696108c8a3f14735beaca26468f20687e74b4ff98032f7a9f8cbdff3034b0b903a02b27cea8b0b449697ec0d796641f9e53]]