

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
BIRMINGHAM DIVISION

_____	:	
SECURITIES AND EXCHANGE COMMISSION,	:	
	:	
Plaintiff,	:	Civil Action No.
	:	
v.	:	
	:	Electronically Filed
A. CATLIN CADE, IV,	:	
	:	
Defendant.	:	
_____	:	

COMPLAINT

Plaintiff Securities and Exchange Commission (the “Commission”) alleges as follows:

SUMMARY

1. On July 18, 2016, A. Catlin Cade, IV (“Cade” or “Defendant”), traded on the basis of material nonpublic information concerning Golden Enterprises, Inc. (“Golden Enterprises”), formerly a NASDAQ-listed potato chip manufacturer based in Birmingham, Alabama.
2. Cade bought shares of Golden Enterprises just one day before that company’s July 19, 2016 public announcement that it had executed a merger agreement with Utz Quality Foods, LLC (“Utz”), by which Utz would acquire all of the outstanding shares of Golden Enterprises for \$12 per share, which represented a premium of approximately 60-percent over the then market price for Golden Enterprises’s stock.

4. On July 19, 2016, the merger was announced, and Cade sold his shares of Golden Enterprises common stock, realizing a profit of \$8,745.68.

5. By knowingly or recklessly engaging in the insider trading described in this complaint, Defendant Cade violated, and unless enjoined will continue to violate, Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §78j(b)] and Rule 10b-5 [17 C.F.R. §240.10b-5] thereunder.

JURISDICTION AND VENUE

6. The Commission brings this action pursuant to Section 21(d) of the Exchange Act [15 U.S.C. §78u(d)] to enjoin such acts, transactions, practices, and courses of business and to obtain disgorgement, and such other and further relief as the Court may deem just and appropriate.

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

8. Venue in this district is proper pursuant to Section 27 of the Exchange Act [15 U.S.C. §78aa]. Among other things, certain of the acts, transactions, practices, and courses of business constituting the violations alleged herein occurred within the Northern District of Alabama. Moreover, Defendant resides within this district.

9. In connection with the conduct alleged in this complaint, Defendant, directly or indirectly, singly or in concert, has made use of the means or instrumentalities of interstate commerce or of the mails, or of the facilities of a national securities exchange.

DEFENDANT

10. **A. Catlin Cade, IV**, age 65, resides in Birmingham, Alabama. Cade is registered as a Certified Public Accountant in Alabama and is a principal of a certified public accounting firm.

RELEVANT ENTITIES

11. **Golden Enterprises, Inc.** is a Delaware corporation headquartered in Birmingham, Alabama. Golden Enterprises's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was traded on NASDAQ under the symbol "GLDC" until it filed a Notice of Termination of Registration with the Commission on October 13, 2016.

12. **Utz Quality Foods, LLC** is a privately held snack food company based in Hanover, Pennsylvania.

FACTS

13. A member of Golden Enterprises's board of directors ("Director") learned material nonpublic information concerning the contemplated merger agreement between Golden Enterprises and Utz beginning in November 2015.

14. The Director owned and controlled a private company ("Director's Company") that held shares of Golden Enterprises's stock. On or about February 22, 2016, the Director shared material nonpublic information concerning the contemplated merger agreement with an employee ("Employee") of Director's Company so that the Employee could assess the associated tax consequences for the Director's Company.

15. Employee, in turn, sought related accounting advice from Cade, whose firm had served as the Director's Company's outside accountant for over 20 years. As an Alabama-licensed accountant, Cade had a professional duty to maintain the confidentiality of his firm's clients' information.

16. Specifically, on July 18, 2016, Employee sent a memorandum by email to Cade disclosing material nonpublic information concerning the merger. The memorandum stated, “[a] transaction is being made public today whereby Golden Enterprises is being sold for a very big number ... [c]onsequence to [Director’s Company] is that they will receive \$11.75 per share.”

17. After reading the memorandum and understanding that information concerning the merger was not yet public, Cade placed a market order for 2,000 shares of Golden Enterprises stock for \$22,467.80 through his online brokerage account.

18. On July 19, 2016, after the merger was announced publicly, Cade placed an order to sell his Golden Enterprises stock, thereby realizing a profit of \$8,745.68.

CLAIM FOR RELIEF

Violations of 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

19. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 18, inclusive, as if they were fully set forth herein.

20. By engaging in the conduct described above, Defendant Cade, knowingly or recklessly, in the purchase or sale of securities, directly or indirectly, by the use of any means or instrumentalities of interstate commerce, or of the mails or of any facility of any national securities exchange:

- a. Employed devices, schemes or artifices to defraud;
- b. Made untrue statements of material facts or omitted to state material facts necessary to make the statements made, in 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 any person.

By engaging in the foregoing conduct, Defendant Cade 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.

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that the Court enter a final judgment:

I.

Permanently restraining and enjoining Defendant and his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receive actual notice of the injunction by personal service or otherwise, from violating, directly or indirectly, 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.

II.

Ordering Defendant to disgorge any and all ill-gotten gains, together with prejudgment interest, derived from the activities set forth in this Complaint.

III.

Ordering Defendant to pay civil penalties pursuant to Section 21A(a)(2) of the Exchange Act [15 U.S.C. § 78u-1(a)(2)].

IV.

Retaining jurisdiction of this action for purposes of enforcing the Final Judgment and Order.

Respectfully submitted,

Dated: August 17, 2018

s/ M. Graham Loomis

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