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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY: \_\_\_\_\_

1 ANDRÉ BIROTTE JR.  
2 United States Attorney  
3 ROBERT E. DUGDALE  
4 Assistant United States Attorney  
5 Chief, Criminal Division  
6 JAMES A. BOWMAN (Cal. Bar No. 220227)  
7 Assistant United States Attorney  
8 Major Frauds Section  
9 1100 United States Courthouse  
10 312 North Spring Street  
11 Los Angeles, California 90012  
12 Telephone: (213) 894-2213  
13 Facsimile: (213) 894-6269  
14 E-mail: james.bowman@usdoj.gov

15 Attorneys for Plaintiff  
16 UNITED STATES OF AMERICA

17 UNITED STATES DISTRICT COURT

18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA,

20 Plaintiff,

21 v.

22 SCOTT LONDON,

23 Defendant.

No. CR

CR 13 00379

PLEA AGREEMENT FOR DEFENDANT  
SCOTT LONDON

24 1. This constitutes the plea agreement between SCOTT LONDON  
25 ("defendant") and the United States Attorney's Office for the  
26 Central District of California (the "USAO") in the investigation of  
27 defendant's insider trading scheme. This agreement is limited to  
28 the USAO and cannot bind any other federal, state, local, or foreign  
prosecuting, enforcement, administrative, or regulatory authorities.

DEFENDANT'S OBLIGATIONS

2. Defendant agrees to:

a) Give up the right to indictment by a grand jury and,  
at the earliest opportunity requested by the USAO and provided by  
the Court, appear and plead guilty to an information in the form

1 attached to this agreement or a substantially similar form, which  
2 charges defendant with securities fraud through insider trading, in  
3 violation of Title 15, United States Code, Sections 78j(b), and 78ff  
4 and Title 17, Code of Federal Regulations, Section 240.10b-5.

5 b) Not contest facts agreed to in this agreement.

6 c) Abide by all agreements regarding sentencing  
7 contained in this agreement.

8 d) Appear for all court appearances, surrender as  
9 ordered for service of sentence, obey all conditions of any bond,  
10 and obey any other ongoing court order in this matter.

11 e) Not commit any crime; however, offenses that would be  
12 excluded for sentencing purposes under United States Sentencing  
13 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are  
14 not within the scope of this agreement.

15 f) Be truthful at all times with Pretrial Services, the  
16 United States Probation Office, and the Court.

17 g) Pay the applicable special assessment at or before  
18 the time of sentencing unless defendant lacks the ability to pay and  
19 prior to sentencing submits a completed financial statement on a  
20 form to be provided by the USAO.

21 h) Not seek the discharge of any restitution obligation,  
22 in whole or in part, in any present or future bankruptcy proceeding.

23 THE USAO'S OBLIGATIONS

24 3. The USAO agrees to:

25 a) Not contest facts agreed to in this agreement.

26 b) Abide by all agreements regarding sentencing  
27 contained in this agreement.

1 c) At the time of sentencing, provided that defendant  
2 demonstrates an acceptance of responsibility for the offenses up to  
3 and including the time of sentencing, recommend a two-level  
4 reduction in the applicable Sentencing Guidelines offense level,  
5 pursuant to U.S.S.G. § 3E1.1, and recommend and, if necessary, move  
6 for an additional one-level reduction if available under that  
7 section.

8 NATURE OF THE OFFENSE

9 4. Defendant understands that for defendant to be guilty of  
10 the crime charged in the information, that is, securities fraud  
11 through insider trading, in violation of Title 15, United States  
12 Code, Sections 78j(b), and 78ff and Title 17, Code of Federal  
13 Regulations, Section 240.10b-5, the following must be true:

14 a) Beginning no later than in or about October 2010, and  
15 continuing through at least May 2012, defendant engaged in an  
16 insider trading scheme in connection with the purchase or sale of  
17 the stock of certain publicly-traded companies, meaning that:

18 i. Defendant possessed material non-public  
19 information regarding a publicly-traded company;

20 ii. Defendant disclosed this material, non-public  
21 information to another individual in anticipation that it would be  
22 wrongfully used in connection with the purchase or sale of  
23 securities;

24 iii. The other individual used the material, non-  
25 public information provided by defendant in deciding whether to  
26 purchase or sell the stock of a publicly-traded company; and  
27  
28

1           iv. In return for disclosing the material, non-  
2 public information, defendant anticipated some kind of benefit,  
3 directly or indirectly.

4           b) When defendant engaged in the insider trading scheme,  
5 defendant acted willfully, knowingly, and with the intent to defraud  
6 the publicly-traded companies and their shareholders; and

7           c) In furtherance of that scheme, there occurred at  
8 least one use of any means or instruments of transportation or  
9 communication in interstate commerce or the use of the mails or any  
10 facility of any national securities exchange.

11                           PENALTIES AND RESTITUTION

12           5. Defendant understands that the statutory maximum sentence  
13 that the Court can impose for a violation of Title 15, United States  
14 Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal  
15 Regulations, Section 240.10b-5, is: twenty years imprisonment; a  
16 three-year period of supervised release; a fine of \$5 million or  
17 twice the gross gain or gross loss resulting from the offense,  
18 whichever is greatest; and a mandatory special assessment of \$100.

19           6. Defendant understands that supervised release is a period  
20 of time following imprisonment during which defendant will be  
21 subject to various restrictions and requirements. Defendant  
22 understands that if defendant violates one or more of the conditions  
23 of any supervised release imposed, defendant may be returned to  
24 prison for all or part of the term of supervised release authorized  
25 by statute for the offense that resulted in the term of supervised  
26 release, which could result in defendant serving a total term of  
27 imprisonment greater than the statutory maximum stated above.

1           7. Defendant understands that defendant will be required to  
2 pay full restitution to the victims of the offense to which  
3 defendant is pleading guilty. Defendant agrees that, in return for  
4 the USAO's compliance with its obligations under this agreement, the  
5 Court may order restitution to persons other than the victims of the  
6 offense to which defendant is pleading guilty and in amounts greater  
7 than those alleged in the count to which defendant is pleading  
8 guilty. In particular, defendant agrees that the Court may order  
9 restitution to any victim for losses suffered by that victim as a  
10 result of any relevant conduct, as defined in U.S.S.G. § 1B1.3, in  
11 connection with the offense to which defendant is pleading guilty.

12           8. Defendant understands that, by pleading guilty, defendant  
13 may be giving up valuable government benefits and valuable civic  
14 rights, such as the right to vote, the right to possess a firearm,  
15 the right to hold office, and the right to serve on a jury.  
16 Defendant understands that once the court accepts defendant's guilty  
17 plea, it will be a federal felony for defendant to possess a firearm  
18 or ammunition. Defendant understands that the conviction in this  
19 case may also subject defendant to various other collateral  
20 consequences, including but not limited to revocation of probation,  
21 parole, or supervised release in another case and suspension or  
22 revocation of a professional license. Defendant understands that  
23 unanticipated collateral consequences will not serve as grounds to  
24 withdraw defendant's guilty plea.

25           9. Defendant understands that, if defendant is not a United  
26 States citizen, the felony conviction in this case may subject  
27 defendant to: removal, also known as deportation, which may, under  
28 some circumstances, be mandatory; denial of citizenship; and denial

1 of admission to the United States in the future. The court cannot,  
2 and defendant's attorney also may not be able to, advise defendant  
3 fully regarding the immigration consequences of the felony  
4 conviction in this case. Defendant understands that unexpected  
5 immigration consequences will not serve as grounds to withdraw  
6 defendant's guilty plea.

7 FACTUAL BASIS

8 10. Defendant admits that defendant is, in fact, guilty of the  
9 offense to which defendant is agreeing to plead guilty. Defendant  
10 and the USAO agree to the Factual Statement attached as Exhibit A to  
11 this agreement. Defendant and the USAO agree that this statement of  
12 facts is sufficient to support a plea of guilty to the charge  
13 described in this agreement and to establish the Sentencing  
14 Guidelines factors set forth in paragraph 12 below but is not meant  
15 to be a complete recitation of all facts relevant to the underlying  
16 criminal conduct or all facts known to either party that relate to  
17 that conduct.

18 SENTENCING FACTORS

19 11. Defendant understands that in determining defendant's  
20 sentence the Court is required to calculate the applicable  
21 Sentencing Guidelines range and to consider that range, possible  
22 departures under the Sentencing Guidelines, and the other sentencing  
23 factors set forth in 18 U.S.C. § 3553(a). Defendant understands  
24 that the Sentencing Guidelines are advisory only, that defendant  
25 cannot have any expectation of receiving a sentence within the  
26 calculated Sentencing Guidelines range, and that after considering  
27 the Sentencing Guidelines and the other § 3553(a) factors, the Court  
28 will be free to exercise its discretion to impose any sentence it

1 finds appropriate up to the maximum set by statute for the crimes of  
2 conviction.

3 12. Defendant and the USAO agree to the following applicable  
4 Sentencing Guidelines factors:

5 Base Offense Level : 8 [U.S.S.G. § 2B1.4]

6 There is no agreement between the parties regarding other specific  
7 offense characteristics, adjustments, and departures which may  
8 apply. Instead, defendant and the USAO reserve the right to argue  
9 that additional specific offense characteristics, adjustments, and  
10 departures under the Sentencing Guidelines are appropriate.

11 13. Defendant understands that there is no agreement as to  
12 defendant's criminal history or criminal history category.

13 14. Defendant and the USAO reserve the right to argue for a  
14 sentence outside the sentencing range established by the Sentencing  
15 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),  
16 (a)(2), (a)(3), (a)(6), and (a)(7).

17 WAIVER OF CONSTITUTIONAL RIGHTS

18 15. Defendant understands that by pleading guilty, defendant  
19 gives up the following rights:

- 20 a) The right to persist in a plea of not guilty.  
21 b) The right to a speedy and public trial by jury.  
22 c) The right to be represented by counsel - and if  
23 necessary have the court appoint counsel - at trial. Defendant  
24 understands, however, that, defendant retains the right to be  
25 represented by counsel - and if necessary have the court appoint  
26 counsel - at every other stage of the proceeding.



1 d) The right to be presumed innocent and to have the  
2 burden of proof placed on the government to prove defendant guilty  
3 beyond a reasonable doubt.

4 e) The right to confront and cross-examine witnesses  
5 against defendant.

6 f) The right to testify and to present evidence in  
7 opposition to the charges, including the right to compel the  
8 attendance of witnesses to testify.

9 g) The right not to be compelled to testify, and, if  
10 defendant chose not to testify or present evidence, to have that  
11 choice not be used against defendant.

12 h) Any and all rights to pursue any affirmative  
13 defenses, Fourth Amendment or Fifth Amendment claims, and other  
14 pretrial motions that have been filed or could be filed.

15 WAIVER OF APPEAL OF CONVICTION

16 16. Defendant understands that, with the exception of an  
17 appeal based on a claim that defendant's guilty plea was  
18 involuntary, by pleading guilty defendant is waiving and giving up  
19 any right to appeal defendant's conviction on the offense to which  
20 defendant is pleading guilty.

21 LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE AND COLLATERAL ATTACK

22 17. Defendant agrees that, provided the Court imposes a term  
23 of imprisonment within the statutory maximum sentence specified  
24 above, defendant gives up the right to appeal all of the following:  
25 (a) the procedures and calculations used to determine and impose any  
26 portion of the sentence; (b) the term of imprisonment imposed by the  
27 Court; (c) the fine imposed by the Court, provided it is within the  
28 statutory maximum; (d) the term of probation or supervised release



1 imposed by the Court, provided it is within the statutory maximum;  
2 and (e) any of the following conditions of probation or supervised  
3 release imposed by the Court: the conditions set forth in General  
4 Orders 318, 01-05, and/or 05-02 of this Court; the drug testing  
5 conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the  
6 alcohol and drug use conditions authorized by 18 U.S.C.  
7 § 3563(b)(7).

8 18. Defendant also gives up any right to bring a post-  
9 conviction collateral attack on the conviction or sentence,  
10 including any order of restitution, except a post-conviction  
11 collateral attack based on a claim of ineffective assistance of  
12 counsel, a claim of newly discovered evidence, or an explicitly  
13 retroactive change in the applicable Sentencing Guidelines,  
14 sentencing statutes, or statutes of conviction.

15 19. The USAO agrees that, provided that all portions of the  
16 sentence are at or below the statutory maximum specified above, the  
17 USAO gives up its right to appeal any portion of the sentence.

18 RESULT OF WITHDRAWAL OF GUILTY PLEA

19 20. Defendant agrees that if, after entering a guilty plea  
20 pursuant to this agreement, defendant seeks to withdraw and succeeds  
21 in withdrawing defendant's guilty plea on any basis other than a  
22 claim and finding that entry into this plea agreement was  
23 involuntary, then (a) the USAO will be relieved of all of its  
24 obligations under this agreement; and (b) should the USAO choose to  
25 pursue any charge that was not filed as a result of this agreement,  
26 then (i) any applicable statute of limitations will be tolled  
27 between the date of defendant's signing of this agreement and the  
28 filing commencing any such action; and (ii) defendant waives and

1 gives up all defenses based on the statute of limitations, any claim  
2 of pre-indictment delay, or any speedy trial claim with respect to  
3 any such action, except to the extent that such defenses existed as  
4 of the date of defendant's signing this agreement.

5 RESULT OF VACATUR, REVERSAL OR SET-ASIDE

6 21. Defendant agrees that if the count of conviction is  
7 vacated, reversed, or set aside, both the USAO and defendant will be  
8 released from all their obligations under this agreement.

9 EFFECTIVE DATE OF AGREEMENT

10 22. This agreement is effective upon signature and execution  
11 of all required certifications by defendant, defendant's counsel,  
12 and an Assistant United States Attorney.

13 BREACH OF AGREEMENT

14 23. Defendant agrees that if defendant, at any time after the  
15 signature of this agreement and execution of all required  
16 certifications by defendant, defendant's counsel, and an Assistant  
17 United States Attorney, knowingly violates or fails to perform any  
18 of defendant's obligations under this agreement ("a breach"), the  
19 USAO may declare this agreement breached. All of defendant's  
20 obligations are material, a single breach of this agreement is  
21 sufficient for the USAO to declare a breach, and defendant shall not  
22 be deemed to have cured a breach without the express agreement of  
23 the USAO in writing. If the USAO declares this agreement breached,  
24 and the Court finds such a breach to have occurred, then: (a) if  
25 defendant has previously entered a guilty plea pursuant to this  
26 agreement, defendant will not be able to withdraw the guilty plea,  
27 and (b) the USAO will be relieved of all its obligations under this  
28 agreement.

1        24. Following the Court's finding of a knowing breach of this  
2 agreement by defendant, should the USAO choose to pursue any charge  
3 that was either dismissed or not filed as a result of this  
4 agreement, then:

5            a) Defendant agrees that any applicable statute of  
6 limitations is tolled between the date of defendant's signing of  
7 this agreement and the filing commencing any such action.

8            b) Defendant waives and gives up all defenses based on  
9 the statute of limitations, any claim of pre-indictment delay, or  
10 any speedy trial claim with respect to any such action, except to  
11 the extent that such defenses existed as of the date of defendant's  
12 signing this agreement.

13           c) Defendant agrees that: (i) any statements made by  
14 defendant, under oath, at the guilty plea hearing (if such a hearing  
15 occurred prior to the breach); (ii) the agreed to factual basis  
16 statement in this agreement; and (iii) any evidence derived from  
17 such statements, shall be admissible against defendant in any such  
18 action against defendant, and defendant waives and gives up any  
19 claim under the United States Constitution, any statute, Rule 410 of  
20 the Federal Rules of Evidence, Rule 11(f) of the Federal Rules of  
21 Criminal Procedure, or any other federal rule, that the statements  
22 or any evidence derived from the statements should be suppressed or  
23 are inadmissible.

24                    COURT AND PROBATION OFFICE NOT PARTIES

25        25. Defendant understands that the Court and the United States  
26 Probation Office are not parties to this agreement and need not  
27 accept any of the USAO's sentencing recommendations or the parties'  
28 agreements to facts or sentencing factors.

1        26. Defendant understands that both defendant and the USAO are  
2 free to: (a) supplement the facts by supplying relevant information  
3 to the United States Probation Office and the Court, (b) correct any  
4 and all factual misstatements relating to the Court's Sentencing  
5 Guidelines calculations and determination of sentence, and (c) argue  
6 on appeal and collateral review that the Court's Sentencing  
7 Guidelines calculations and the sentence it chooses to impose are  
8 not error, although each party agrees to maintain its view that the  
9 calculations in paragraph 12 are consistent with the facts of this  
10 case. While this paragraph permits both the USAO and defendant to  
11 submit full and complete factual information to the United States  
12 Probation Office and the Court, even if that factual information may  
13 be viewed as inconsistent with the facts agreed to in this  
14 agreement, this paragraph does not affect defendant's and the USAO's  
15 obligations not to contest the facts agreed to in this agreement.

16        27. Defendant understands that even if the Court ignores any  
17 sentencing recommendation, finds facts or reaches conclusions  
18 different from those agreed to, and/or imposes any sentence up to  
19 the maximum established by statute, defendant cannot, for that  
20 reason, withdraw defendant's guilty plea, and defendant will remain  
21 bound to fulfill all defendant's obligations under this agreement.  
22 Defendant understands that no one -- not the prosecutor, defendant's  
23 attorney, or the Court -- can make a binding prediction or promise  
24 regarding the sentence defendant will receive, except that it will  
25 be within the statutory maximum.

26                    NO ADDITIONAL AGREEMENTS

27        28. Defendant understands that, except as set forth herein,  
28 there are no promises, understandings, or agreements between the

1 USAO and defendant or defendant's attorney, and that no additional  
2 promise, understanding, or agreement may be entered into unless in a  
3 writing signed by all parties or on the record in court.

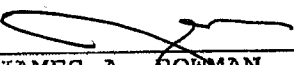
4 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

5 29. The parties agree that this agreement will be considered  
6 part of the record of defendant's guilty plea hearing as if the  
7 entire agreement had been read into the record of the proceeding.


8  
9 AGREED AND ACCEPTED

10 UNITED STATES ATTORNEY'S OFFICE  
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA


12 ANDRÉ BIROTTE JR.  
13 United States Attorney

14   
15 JAMES A. BOWMAN  
16 Assistant United States Attorney  
MAJOR FRAUDS SECTION

5/21/13  
Date

17   
18 SCOTT LONDON  
19 Defendant

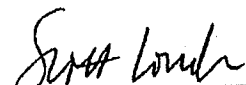
6/25/13  
Date

20   
21 HARLAND BRAUN  
22 Attorney for Defendant  
SCOTT LONDON

5/25/13  
Date

CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.

  
SCOTT LONDON  
Defendant

5/25/13  
Date

CERTIFICATION OF DEFENDANT'S ATTORNEY

I am SCOTT LONDON's attorney. I have carefully and thoroughly discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. To my knowledge: no promises, inducements, or representations of any kind have been made to my client other than those contained in this agreement; no one has threatened or forced my client in any way to enter into this agreement; my client's decision to enter into this agreement is an informed and voluntary one; and the factual basis set forth in this agreement is sufficient to support my client's entry of a guilty plea pursuant to this agreement.



HARLAND BRAUN  
Attorney for Defendant  
SCOTT LONDON



Date



**EXHIBIT A TO PLEA AGREEMENT - FACTUAL STATEMENT OF SCOTT LONDON****A. Overview**

1. Between approximately October 2010, and continuing until approximately May 2012, defendant SCOTT LONDON ("defendant") knowingly and willfully engaged a conspiracy with his friend, Bryan Shaw ("Shaw"), to commit securities fraud through insider trading. During the time period of the conspiracy, defendant was a senior partner at the accounting firm, KPMG, LLP.

2. KPMG, LLP was an accounting firm that, among other things, audited the financial statements of public corporate entities and issued audit papers with respect to these financial statements. Because corporate clients disclosed financial information to KPMG in the course of such audits that had not yet been disclosed to the public, KPMG required that its employees maintain the confidentiality of information that they received through their employment at the firm. KPMG also required that its employees not make securities trades based on confidential information obtained from its clients, not use that information for their own personal benefit, or disclose that information to any third party.

3. Defendant was the partner in charge of the KPMG's audit practice for the Pacific Southwest region, including Southern California, Nevada, and Arizona. Defendant was also the partner with primary responsibility at KPMG for handling the audits of certain large corporate clients, including, among others, Herbalife, Ltd ("Herbalife") and Skechers USA, Inc. ("Skechers"). Defendant also supervised accounting partners at KPMG who handled the audits for other large corporate clients, including, among others, Deckers Outdoor Corporation ("Deckers"), Pacific Capital Bancorp ("Pacific Capital"), and RSC Holdings, Inc. ("RSC Holdings"). Through his

1 position at KPMG, defendant regularly received confidential  
2 information regarding the firm's corporate clients, including  
3 confidential information regarding Herbalife, Skechers, Deckers,  
4 Pacific Capital, and RSC Holdings. Defendant and Shaw knew that  
5 defendant was required by KPMG not to disclose confidential  
6 information about the firm's clients.

7 **B. The KPMG Clients**

8 4. Herbalife was a global nutrition company, with  
9 headquarters in Los Angeles, California, within the Central District  
10 of California. The common stock of Herbalife was registered with  
11 the United States Securities and Exchange Commission ("SEC") under  
12 Section 12(b) of the Securities Exchange Act of 1934 ("the '34  
13 Act"), 15 U.S.C. § 781. The common stock of Herbalife was listed on  
14 the New York Stock Exchange under the ticker symbol "HLF."

15 5. Skechers was a company that designed, manufactured, and  
16 marketed footwear, with headquarters in Manhattan Beach, California,  
17 within the Central District of California. The common stock of  
18 Skechers was registered with the SEC under the '34 Act, and was  
19 listed on the New York Stock Exchange under the ticker symbol "SKX."

20 6. Deckers was a company that designed, manufactured, and  
21 marketed footwear and outdoor accessories, with headquarters in  
22 Goleta, California, within the Central District of California. The  
23 common stock of Deckers was registered with the SEC under the '34  
24 Act, and was listed on the Nasdaq National Market under the ticker  
25 symbol "DECK."

26 7. Pacific Capital was a bank holding company that operated  
27 Santa Barbara Bank and Trust, N.A., with headquarters in Santa  
28 Barbara, California, within the Central District of California. The  
common stock of Pacific Capital was registered with the SEC under

1 the '34 Act, and was listed on the Nasdaq National Market under the  
2 ticker symbol "PCBC." On or about March 12, 2012, Pacific Capital  
3 announced that it was being acquired by UnionBanCal Corporation and  
4 its primary subsidiary Union Bank, N.A. (collectively referred to  
5 herein as "Union Bank").

6 8. RSC Holdings was a company that leased construction and  
7 industrial equipment, with headquarters in Scottsdale, Arizona. The  
8 common stock of RSC Holdings was registered with the SEC under the  
9 '34 Act, and was listed on the New York Stock Exchange under the  
10 ticker symbol "RRR." On or about December 16, 2011, RSC Holdings  
11 announced that it was being acquired by United Rentals, Inc.  
12 ("United Rentals").

13 **C. The Insider Trading Conspiracy**

14 9. Defendant's insider trading conspiracy with Shaw operated  
15 as follows:

16 a. Defendant would obtain material, non-public  
17 information ("inside information") regarding certain publicly-traded  
18 KPMG clients, including Herbalife, Skechers, and Deckers, including  
19 but not limited to inside information regarding those companies'  
20 earnings and financial outlook. On two occasions, defendant also  
21 obtained inside information regarding the planned acquisitions of  
22 Pacific Capital and RSC Holdings.

23 b. Defendant would provide the inside information  
24 regarding Herbalife, Skechers, Deckers, Pacific Capital, and RSC  
25 Holdings to Shaw, in violation of (1) the fiduciary and other duties  
26 of trust and confidence that defendant owed to KPMG and its clients;  
27 (2) the expectations of confidentiality of KPMG's clients; and  
28 (3) KPMG's policies regarding the use and safekeeping of inside  
information. In providing this inside information to Shaw,

1 defendant knew that Shaw would make securities transactions based on  
2 that inside information, thereby generating substantial illegal  
3 profits.

4 c. Shaw would use the inside information belonging to  
5 KPMG and its clients, knowing that defendant had provided that  
6 inside information in violation of a duty of trust and confidence,  
7 to make securities transactions in Herbalife, Skechers, Deckers,  
8 Pacific Capital, and RSC Holdings.

9 d. In all, defendant disclosed inside information to  
10 Shaw regarding at least 14 separate earnings announcements or  
11 acquisitions for KPMG clients, including but not limited to:

- 12 • Herbalife's May 2, 2011 Earnings Announcement;
- 13 • United Rentals' December 16, 2011 Announcement of its  
Acquisition of RSC Holdings;
- 14 • Herbalife's February 21, 2012 Earnings Announcement;
- 15 • Deckers' February 23, 2012 Earnings Announcement;
- 16 • Union Bank's March 12, 2012 Announcement of its  
17 Acquisition of Pacific Capital; and
- 18 • Deckers' April 26, 2012 Earnings Announcement.

19 e. As a result of Shaw's securities trades based on the  
20 inside information provided by defendant, Shaw generated at least  
21 \$1,270,000 in illegal profits. Defendant's position is that he was  
22 not aware of how much Shaw profited from trading on the inside  
23 information provided by defendant and could not have reasonably  
24 foreseen that the profits would be as high as they actually were.  
25 The parties reserve the right to dispute the amount of illegal  
26 profits for which defendant should be accountable for the purposes  
27 of sentencing.  
28

1           f. After generating these illegal profits, Shaw would  
2 secretly make cash payments to defendant as compensation for  
3 providing the inside information regarding KPMG's clients. Shaw  
4 also gave things of value to defendant as compensation for the  
5 inside information, including concert tickets, a Rolex Daytona  
6 Cosmograph watch, and jewelry. The parties reserve the right to  
7 dispute the values of the cash and non-cash items that were provided  
8 to defendant.

9 **D. Selected Examples of Insider Trading by Defendant and Shaw**

10 (1) Insider Trading Related to Herbalife's May 2, 2011  
11 Earnings Announcement

12 10. In or about April 2011, defendant disclosed inside  
13 information to Shaw regarding Herbalife's earnings for the quarter  
14 ended March 31, 2011. After disclosing that inside information to  
15 Shaw, defendant knew that Shaw then made trades in the securities of  
16 Herbalife based on that inside information, before the information  
17 was disclosed to the public.

18 11. On May 2, 2011, Herbalife announced record earnings for  
19 the quarter ended March 31, 2011. Defendant knew that after that  
20 announcement, Shaw sold the securities of Herbalife that he had  
21 purchased based on the inside information from defendant, thereby  
22 generating illegal profits. The parties reserve the right to  
23 dispute the amount of illegal profits from these trades for which  
24 defendant should be accountable for the purposes of sentencing.

25 (2) Insider Trading Related to United Rentals' December 16,  
26 2011 Acquisition of RSC Holdings

27 12. On or about December 12, 2011, defendant called Shaw and  
28 disclosed inside information to Shaw regarding the fact that United  
Rentals may acquire RSC Holdings. On or about December 14, 2011,  
defendant again called Shaw and disclosed additional inside

1 information regarding United Rentals' potential acquisition of RSC  
2 Holdings. After disclosing that inside information to Shaw,  
3 defendant knew that Shaw then made trades in the securities of RSC  
4 Holdings based on that inside information, before the information  
5 was disclosed to the public.

6 13. On December 16, 2011, RSC Holdings and United Rentals  
7 jointly announced that United Rentals was acquiring RSC Holdings.  
8 Defendant knew that after that announcement, Shaw sold the  
9 securities of RSC Holdings that he had purchased based on the inside  
10 information from defendant, thereby generating illegal profits. The  
11 parties reserve the right to dispute the amount of illegal profits  
12 from these trades for which defendant should be accountable for the  
13 purposes of sentencing.

14 (3) Insider Trading Related to Union Bank's March 12, 2012  
15 Acquisition of Pacific Capital

16 14. On or about February 3, 2012, defendant called Shaw and  
17 disclosed inside information to defendant regarding the fact that  
18 Union Bank may acquire Pacific Capital. After disclosing that  
19 inside information to Shaw, defendant knew that Shaw then made  
20 trades in the securities of Pacific Capital based on that inside  
21 information, before the information was disclosed to the public.

22 15. On or about March 12, 2012, Union Bank had announced that  
23 it was acquiring Pacific Capital. Defendant knew that after that  
24 announcement, Shaw sold the securities of Pacific Capital that he  
25 had purchased based on the inside information from defendant,  
26 thereby generating illegal profits. The parties reserve the right  
27 to dispute the amount of illegal profits from these trades for which  
28 defendant should be accountable for the purposes of sentencing.

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1           (4) Insider Trading Related to Deckers' April 26, 2012  
2           Earnings Announcement

3           16. On or about April 18, 2012, defendant called Shaw and  
4 disclosed inside information to Shaw regarding Deckers' earnings for  
5 the quarter ended March 31, 2012. After disclosing that inside  
6 information to Shaw, defendant knew that Shaw then made trades in  
7 the securities of Deckers based on that inside information, before  
8 the information was disclosed to the public.

9           17. On April 26, 2012, Deckers announced disappointing  
10 financial results for the quarter ended March 31, 2012. Defendant  
11 knew that after that announcement, Shaw sold the securities of  
12 Deckers that he had purchased based on the inside information from  
13 defendant, thereby generating illegal profits. The parties reserve  
14 the right to dispute the amount of illegal profits from these trades  
15 for which defendant should be accountable for the purposes of  
16 sentencing.  
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