

BINGHAM MCCUTCHEN LLP

Kenneth I. Schacter
Gerald J. Russello
Eugenie M. Cesar-Fabian
399 Park Avenue
New York, New York 10022
Tel.: (212) 705-7000
Fax: (212) 752-5378
kenneth.schacter@bingham.com

BRICCETTI, CALHOUN & LAWRENCE, LLP

Kerry A. Lawrence
81 Main Street, Suite 450
White Plains, New York 10601
Tel.: (914) 946-5900
Fax: (914) 946-5906
klawrence@bricallaw.com

Attorneys for Defendant Robert Moffat

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

09 Civ. 8811 (JSR)

ECF CASE

**GALLEON MANAGEMENT, LP, RAJ
RAJARATNAM, RAJIV GOEL, ANIL KUMAR,
DANIELLE CHIESI, MARK KURLAND,
ROBERT MOFFAT, NEW CASTLE FUNDS LLC,
ROOMY KHAN, DEEP SHAH, ALI HARIRI, ZVI
GOFFER, DAVID PLATE, GAUTHAM
SHANKAR, SCHOTTENFELD GROUP LLC,
STEVEN FORTUNA, AND S2 CAPITAL
MANAGEMENT, LP,**

**ANSWER OF DEFENDANT
ROBERT MOFFAT TO
SECOND AMENDED COMPLAINT**

Defendants.

----- X

Robert Moffat, by his attorneys, Bingham McCutchen LLP, answers the allegations in the Second Amended Complaint herein as follows. In providing this unsworn and nontestimonial Answer through undersigned counsel, Mr. Moffat does not intend to, and does not, waive any privileges in this or any other proceeding, including but not limited to the privilege against self-incrimination guaranteed to him by the Fifth Amendment to the United States Constitution. Under controlling case law, the filing of the Answer in this matter does not, and is not intended to, effect a waiver of any such privilege. *Klein v. Harris*, 667 F.2d 274, 288 (2d Cir. 1981); *SEC v. Cayman Islands Reinsurance Corp., Ltd.*, 551 F. Supp. 1056, 1058-59 (S.D.N.Y. 1986). Mr. Moffat reserves the right to assert any such applicable privileges in this or other proceedings.

1. Admits he was employed at IBM, and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 1.

2. Denies the allegations that he provided material, nonpublic information to defendant Danielle Chiesi as alleged in paragraph 2(xi), and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 2.

3. The allegations in this paragraph consist of legal conclusions to which no response is required.

4. The allegations in this paragraph consist of legal conclusions to which no response is required.

5. The allegations in this paragraph consist of legal conclusions to which no response is required. To the extent this paragraph contains factual allegations, denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 5, except admits that at one time defendant Chiesi resided in New York, New York.

6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 6.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 7.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 8.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 9.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10, except admits that Danielle Chiesi was at one time associated with New Castle and lived in New York, New York.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 11.

12. Admits the allegations in paragraph 12.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 13.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 14.

15. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 15.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 16.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 17.

18. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 18.

19. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 19.

20. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 20.

21. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 21.

22. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 22.

23. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 23.

24. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 24, except admits that AMD is a global semiconductor company and is based in Sunnyvale, California.

25. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 25.

26. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 26.

27. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 27.

28. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 28.

29. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 29.

30. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 30.

31. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 31.

32. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 32.

33. Admits the allegations of paragraph 33.

34. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 34.

35. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 35.

36. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 36.

37. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 37.

38. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 38.

39. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 39.

40. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 40.

41. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 41.

42. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 42.

43. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 43, except admits that SUN is a company that provides network computing infrastructure and is based in Santa Clara, California.

44. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 44.

45. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 45.

46. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 46.

47. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 47.

48. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 48.

49. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 49.

50. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 50.

51. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 51.

52. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 52.

53. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 53.

54. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 54.

55. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 55.

56. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 56.

57. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 57.

58. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 58.

59. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 59.

60. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 60.

61. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 61.

62. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 62.

63. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 63.

64. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 64.

65. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 65.

66. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 66.

67. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 67.

68. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 68.

69. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 69.

70. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 70.

71. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 71.

72. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 72.

73. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 73.

74. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 74.

75. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 75.

76. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 76.

77. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 77.

78. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 78.

79. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 79.

80. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 80.

81. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 81.

82. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 82.

83. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 83.

84. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 84.

85. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 85.

86. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 86.

87. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 87.

88. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 88.

89. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 89.

90. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 90.

91. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 91.

92. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 92.

93. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 93.

94. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 94.

95. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 95.

96. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 96.

97. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 97.

98. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 98.

99. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 99.

100. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 100.

101. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 101.

102. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 102.

103. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 103.

104. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 104.

105. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 105.

106. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 106.

107. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 107.

108. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 108.

109. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 109.

110. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 110.

111. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 111.

112. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 112.

113. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 113.

114. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 114.

115. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 115.

116. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 116.

117. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 117.

118. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 118.

119. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 119.

120. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 120.

121. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 121.

122. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 122.

123. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 123.

124. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 124.

125. Denies the allegations in paragraph 125, except admits that he was formerly employed by IBM as a Senior Vice President and Group Executive, Systems and Technology Group.

126. Admits that in January 2009 IBM was conducting preliminary due diligence concerning SUN, denies knowledge or information sufficient to form a belief as to the truth of the allegation that SUN provided IBM with its Q2 2009 earnings results in advance of a January 27, 2009 earnings announcement, and denies the remaining allegations in paragraph 126.

127. Admits that Chiesi and he communicated from time to time during early 2009, and denies the remaining allegations in paragraph 127.

128. Admits that he was one of several IBM executives involved in performing preliminary due diligence regarding SUN in or about January 2009, denies knowledge or information sufficient to form a belief as to whether a draft of SUN's earnings announcement was conveyed to IBM on January 22, 2009 and as to whether he contacted Chiesi at home on the evening of January 19, 2009, and denies the remaining allegations of paragraph 128.

129. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 129.

130. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 130.

131. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 131, except admits that, in early 2009, he transmitted to SUN, on behalf of IBM, a preliminary proposal to acquire SUN.

132. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 132.

133. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 133.

134. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 134.

135. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 135.

136. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 136.

137. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 137.

138. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 138.

139. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 139, except admits that on or about October 7, 2008, AMD made a public announcement concerning, *inter alia*, a spinoff of its semiconductor manufacturing operations.

140. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 140.

141. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 141, except denies that he provided material nonpublic information to Chiesi.

142. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 142.

143. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 143.

144. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 144.

145. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 145, except admits that he participated in discussions on behalf of IBM

relating to the AMD Transactions and licensing certain technology in connection with the AMD Transactions.

146. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 146.

147. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 147, except admits that he and Chiesi spoke in August 2008 concerning the AMD Transactions and denies that he provided material nonpublic information concerning the AMD Transactions to Chiesi.

148. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 148, except admits that he and Chiesi spoke in August and September 2008 concerning the AMD Transactions and denies that he provided material nonpublic information concerning the AMD Transactions to Chiesi.

149. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 149.

150. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 150.

151. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 151.

152. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 152.

153. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 153.

154. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 154.

155. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 155, except denies that he provided material nonpublic information to Chiesi concerning IBM's quarterly financial results.

156. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 156, except admits that he communicated with Chiesi during January 2009.

157. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 157, except admits that he communicated with Chiesi during January 2009.

158. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 158, except admits IBM announced its earnings for the quarter ending December 31, 2008 on or about January 20, 2009.

159. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 159.

160. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 160.

161. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 161.

162. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 162.

163. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 163.

164. Repeats and incorporates by reference his responses to paragraphs 1 through 163, as if fully set forth herein.

165. To the extent the allegations in paragraph 165 consist of legal conclusions, no response is necessary or required. To the extent a response is required, denies the allegations as they relate to him. Denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 165.

166. To the extent the allegations in paragraph 166 consist of legal conclusions, no response is necessary or required. To the extent a response is required, denies the allegations as they relate to him. Denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 166.

167. To the extent the allegations in paragraph 167 consist of legal conclusions, no response is necessary or required. To the extent a response is required, denies the allegations as they relate to him. Denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 167.

168. To the extent the allegations in paragraph 168 consist of legal conclusions, no response is necessary or required. To the extent a response is required, denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 168.

169. To the extent the allegations in paragraph 169 consist of legal conclusions, no response is necessary or required. To the extent a response is required, denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 169.

170. To the extent the allegations in paragraph 170 consist of legal conclusions, no response is necessary or required. To the extent a response is required, denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 170.

171. To the extent the allegations in paragraph 171 consist of legal conclusions, no response is necessary or required. To the extent a response is required, denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 171.

172. To the extent the allegations in paragraph 172 consist of legal conclusions, no response is necessary or required. To the extent a response is required, denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 172.

173. To the extent the allegations in paragraph 173 consist of legal conclusions, no response is necessary or required. To the extent a response is required, denies the allegations as they relate to him. Denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 173.

174. To the extent the allegations in paragraph 174 consist of legal conclusions, no response is necessary or required. To the extent a response is required, denies the allegations as they relate to him. Denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations of paragraph 174.

175. Restates and incorporates by reference his responses to paragraphs 1 through 174, as if fully set forth herein.

176. To the extent the allegations in paragraph 176 consist of legal conclusions, no response is necessary or required. To the extent a response is required, denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 176.

177. To the extent the allegations in paragraph 177 consist of legal conclusions, no response is necessary or required. To the extent a response is required, denies knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 177.

FIRST AFFIRMATIVE DEFENSE

The Second Amended Complaint fails to state a claim upon which relief can be granted.

WHEREFORE, defendant Moffat demands judgment dismissing the Second Amended Complaint and such other and further relief as the Court deems just and proper.

Dated: February 16, 2010

BINGHAM McCUTCHEM LLP

By: /s/ Kenneth I. Schacter
Kenneth I. Schacter
Gerald J. Russello
Eugenie M. Cesar-Fabian
399 Park Avenue
New York, New York 10022
Tel.: (212) 705-7000
Fax: (212) 752-5378
kenneth.schacter@bingham.com

BRICCETTI, CALHOUN & LAWRENCE, LLP

Kerry A. Lawrence
81 Main Street, Suite 450
White Plains, New York 10601
Tel.: (914) 946-5900
Fax: (914) 946-5906
klawrence@bricallaw.com

Attorneys for Defendant Robert Moffat