

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, :

- against- :

GALLEON MANAGEMENT, L.P., et al. :

Defendants. :

09 Civ. 8811 (JSR)

----- X

**ANSWER AND AFFIRMATIVE DEFENSES OF DEFENDANT MARK KURLAND**

Defendant Mark Kurland (“Kurland”), by and through his attorneys DLA Piper LLP (US), hereby submits his Answer and Affirmative Defenses to the Amended Complaint of the Plaintiff Securities Exchange Commission (the “Complaint”) as follows:

Kurland has been named as a defendant in a criminal complaint filed in the Southern District of New York, *United States v. Danielle Chiesi, Mark Kurland, and Robert Moffat*, 09 mag. 2307 (the “criminal complaint”). The criminal complaint raises factual issues that substantially overlap with the Plaintiff’s claims in this action and therefore as set forth below Kurland asserts his constitutional right not to be a witness against himself as to allegations in the Complaint asserted as against him. Kurland reserves the right to amend his Answer and respond substantively after the resolution of any criminal prosecution arising from the criminal complaint or as otherwise may be necessary.

Pursuant to Rule 8(d) of the Federal Rules of Civil Procedures, averments in the Complaint to which no responsive pleading is required, including, not limited to, allegations not relating to Kurland shall be deemed as denied.

#### SUMMARY

1. This Paragraph states legal conclusions to which no responsive pleading is required. To the extent a responsive pleading is required, Kurland respectfully declines to respond to the allegations in Paragraph 1 against him based on his constitutional right not to be a witness against himself, and is without knowledge or information sufficient to form a belief as to the truth of the allegations that do not relate to him.

2. Kurland respectfully declines to respond to the allegations in Paragraph 2 based on his constitutional right not to be a witness against himself, except is without knowledge of information sufficient to form a belief as to the truth of the allegations that do not relate to him.

#### NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT

3. The allegations contained in Paragraph 3 assert legal conclusions to which no responsive pleading is required.

#### JURISDICTION AND VENUE

4. The allegations contained in Paragraph 4 assert legal conclusions to which no responsive pleading is required.

5. The first sentence contained in Paragraph 5 of the Complaint contains legal conclusions to which no responsive pleading is required. To the extent any response is required, Kurland respectfully declines to respond to the allegations in Paragraph 5 based on his constitutional right not to be a witness against himself, except is without knowledge of

information sufficient to form a belief as to the truth of the allegations as relates to the other defendants.

#### DEFENDANTS

6. The allegations in Paragraph 6 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6.

7. The allegations in Paragraph 7 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7.

8. The allegations in Paragraph 8 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8.

9. The allegations in Paragraph 9 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9.

10. The allegations in Paragraph 10 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10, except admits that Chiesi was employed by New Castle..

11. Kurland admits the allegations contained in Paragraph 11 of the Complaint.

12. The allegations in Paragraph 12 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12.

13. The allegations in Paragraph 13 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland admits the allegations contained in Paragraph 13.

14. The allegations in Paragraph 14 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14.

15. The allegations in Paragraph 15 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15.

16. The allegations in Paragraph 16 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16.

17. The allegations in Paragraph 17 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17.

18. The allegations in Paragraph 18 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18.

19. The allegations in Paragraph 19 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19.

20. The allegations in Paragraph 20 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20.

21. The allegations in Paragraph 21 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21.

22. The allegations in Paragraph 22 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22.

23. The allegations in Paragraph 23 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 23.

24. The allegations in Paragraph 24 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 24.

25. The allegations in Paragraph 25 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 25.

26. The allegations in Paragraph 26 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26.

#### **RELEVANT ENTITIES**

27. The allegations in Paragraph 27 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 27, except refers the Plaintiff to publicly available information concerning Akamai the contents of which speak for themselves.

28. The allegations in Paragraph 28 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 28, except refers the Plaintiff to publicly available information concerning AMD the contents of which speak for themselves.

29. The allegations in Paragraph 29 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 29, except refers the Plaintiff to publicly available information concerning Atheros the contents of which speak for themselves.

30. The allegations in Paragraph 30 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30, except refers the Plaintiff to publicly available information concerning Clearwire the contents of which speak for themselves.

31. The allegations in Paragraph 31 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 31, except refers the Plaintiff to publicly available information concerning Google the contents of which speak for themselves.

32. The allegations in Paragraph 32 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in

Paragraph 32, except refers the Plaintiff to publicly available information concerning Hilton the contents of which speak for themselves.

33. The allegations in Paragraph 33 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 33, except refers the Plaintiff to publicly available information concerning IBM the contents of which speak for themselves.

34. The allegations in Paragraph 34 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 34, except refers the Plaintiff to publicly available information concerning Intel the contents of which speak for themselves.

35. The allegations in Paragraph 35 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35, except refers the Plaintiff to publicly available information concerning Kronos the contents of which speak for themselves.

36. The allegations in Paragraph 36 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36, except refers the Plaintiff to publicly available information concerning Market Street Partners the contents of which speak for themselves.



37. The allegations in Paragraph 37 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 37, except refers the Plaintiff to publicly available information concerning McKinsey the contents of which speak for themselves.

38. The allegations in Paragraph 38 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 358, except refers the Plaintiff to publicly available information concerning Moody's the contents of which speak for themselves.

39. The allegations in Paragraph 39 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 39, except refers the Plaintiff to publicly available information concerning PeopleSupport the contents of which speak for themselves.

40. The allegations in Paragraph 40 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35, except refers the Plaintiff to publicly available information concerning Polycom the contents of which speak for themselves.

41. The allegations in Paragraph 41 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland lacks knowledge or information sufficient to form a belief as to the truth of the allegations in

Paragraph 41, except refers the Plaintiff to publicly available information concerning SUN the contents of which speak for themselves.

## **FACTS**

### **A. Insider Trading in Polycom Securities**

42. The allegations in Paragraph 42 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 42.

43. The allegations in Paragraph 43 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 43.

#### **(a) Polycom's Q4 2005 Earnings Release – January 25, 2006**

44. The allegations in Paragraph 44 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 44.

45. The allegations in Paragraph 45 of the Complaint do not relate to Kurland and no responsive pleading is required. Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 45.

46. The allegations in Paragraph 46 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 46.

47. The allegations in Paragraph 47 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 47.

48. The allegations in Paragraph 48 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 48.

49. The allegations in Paragraph 49 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 49.

## **II. Polycom's Q1 2006 Earnings Release – April 19, 2006**

50. The allegations in Paragraph 50 of the Complaint do not relate to Kurland and no responsive pleading is required. Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 50.

51. The allegations in Paragraph 51 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 51.

52. The allegations in Paragraph 52 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 52.

53. The allegations in Paragraph 53 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 53.

**B. Insider Trading in Hilton Securities**

54. The allegations in Paragraph 54 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 54.

55. The allegations in Paragraph 55 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 55.

56. The allegations in Paragraph 56 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 56.

57. The allegations in Paragraph 57 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 57.

58. The allegations in Paragraph 58 of the Complaint do not relate to Kurland and no responsive pleading is required. Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 58.

59. The allegations in Paragraph 59 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 59.

60. The allegations in Paragraph 60 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 60.

61. The allegations in Paragraph 61 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 61.

62. The allegations in Paragraph 62 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 62.

63. The allegations in Paragraph 63 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 63.

64. The allegations in Paragraph 64 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 64.

65. The allegations in Paragraph 65 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 65.

**C. Insider Trading in Google Securities**

66. The allegations in Paragraph 66 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 66.

67. The allegations in Paragraph 67 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 67.

68. The allegations in Paragraph 68 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 68.

69. The allegations in Paragraph 69 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 69.

70. The allegations in Paragraph 70 of the Complaint do not relate to Kurland and no responsive pleading is required. Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 70.

71. The allegations in Paragraph 71 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 71.

72. The allegations in Paragraph 72 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 72.

73. The allegations in Paragraph 73 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 73.

74. The allegations in Paragraph 74 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 74.

75. The allegations in Paragraph 75 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 75.

76. The allegations in Paragraph 76 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 76.

77. The allegations in Paragraph 77 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 77.

**D. Insider Trading in Kronos Securities**

78. The allegations in Paragraph 78 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 78.

79. The allegations in Paragraph 79 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 79.

80. The allegations in Paragraph 80 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without



knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 80.

81. The allegations in Paragraph 81 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 81.

82. The allegations in Paragraph 82 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 82.

83. The allegations in Paragraph 83 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 83.

83. The allegations in Paragraph 84 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 84.

85. The allegations in Paragraph 85 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 85.

86. The allegations in Paragraph 86 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 86.

87. The allegations in Paragraph 87 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 87.

88. The allegations in Paragraph 88 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 88.

89. The allegations in Paragraph 89 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 89.

90. The allegations in Paragraph 90 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 90.

**E. Insider Trading in Intel Securities**

91. The allegations in Paragraph 91 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 91.

**(a) Intel's Q4 2006 Earnings Release – January 16, 2007**

92. The allegations in Paragraph 92 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 92.

93. The allegations in Paragraph 93 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 93.

94. The allegations in Paragraph 94 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 94.

95. The allegations in Paragraph 95 of the Complaint do not relate to Kurland and no responsive pleading is required. Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 95.

96. The allegations in Paragraph 96 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 96.

**II. Intel's Q1 2007 Earnings Release – April 17, 2007**

97. The allegations in Paragraph 97 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 97.

98. The allegations in Paragraph 98 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 98.

99. The allegations in Paragraph 99 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 99.

100. The allegations in Paragraph 100 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 100.

101. The allegations in Paragraph 101 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 101.

### **III. Intel's Q3 2007 Earnings Release – October 16, 2007**

102. The allegations in Paragraph 102 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 102.

103. The allegations in Paragraph 103 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 103.

#### **F. Insider Trading in Clearwire Securities**

104. The allegations in Paragraph 104 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 104.

105. Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 105.

106. The allegations in Paragraph 106 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 106.

107. The allegations in Paragraph 107 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 107.

108. The allegations in Paragraph 108 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 108.

109. The allegations in Paragraph 109 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 109.

110. The allegations in Paragraph 110 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 110.

111. The allegations in Paragraph 111 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 111.

**G. Insider Trading in PeopleSupport Securities**

112. The allegations in Paragraph 112 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 112.

113. The allegations in Paragraph 113 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 113.

114. The allegations in Paragraph 114 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 114.

115. The allegations in Paragraph 115 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 115.

116. The allegations in Paragraph 116 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 116.

**H. Insider Trading in Akamai Securities**

117. The allegations in Paragraph 117 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 117.

118. The allegations in Paragraph 118 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 118.

119. Kurland respectfully declines to respond to the allegation in Paragraph 119 that “Chiesi communicated the material nonpublic information she had learned from the Akamai Source to Kurland” based on his constitutional right not to be a witness against himself. The remaining allegations in Paragraph 116 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 116.

120. The allegations in Paragraph 120 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 120.

121. The allegations in Paragraph 121 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 121.

122. The allegations in Paragraph 122 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 122.



**I. Insider Trading in SUN Securities**

123. The allegations in Paragraph 123 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 123.

124. The allegations in Paragraph 124 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 124.

125. The allegations in Paragraph 125 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 125.

126. The allegations in Paragraph 126 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 126.

127. The allegations in Paragraph 127 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 127.

128. The allegations in Paragraph 128 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 128.

129. The allegations in Paragraph 129 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 112.

**J. Insider Trading in AMD Securities**

130.. The allegations in Paragraph 130 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 130.

131. The allegations in Paragraph 131 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 131.

132. Kurland respectfully declines to respond to the allegation in Paragraph 132 that “Chiesi shared material nonpublic information about the AMD Transactions with Kurland” based on his constitutional right not to be a witness against himself. The remaining allegations in Paragraph 132 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 132.

133. Kurland respectfully declines to respond to the allegation in Paragraph 133 that “Chiesi tipped Kurland to material nonpublic information about the AMD Transactions” based

on his constitutional right not to be a witness against himself. The remaining allegations in Paragraph 132 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 133.

134. The allegations in Paragraph 134 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 134.

135. The allegations in Paragraph 135 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 134.

136. The allegations in Paragraph 136 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 136.

137. Kurland respectfully declines to respond to the allegations contained in Paragraph 137 of the Complaint that (1) “Chiesi communicated with Kurland, passing along material nonpublic information about AMD”; (2) “Kurland cautioned Chiesi to be careful and to avoid putting anything in an email”; (3) “Kurland also told Chiesi to purchase AMD shares on behalf of New Castle”; and (4) “On or about August 15, Chiesi and Kurland bought approximately 200,000 AMD shares on behalf of New Castle” based upon on his constitutional right not to be a witness against himself. The remaining allegations in Paragraph 137 of the Complaint do not

relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 137.

138. Kurland respectfully declines to respond to the allegations contained in Paragraph 138 of the Complaint that “Kurland received regular updates on the transactions, either indirectly from Chiesi, or directly by listening in on some of her communications with Moffat” based upon on his constitutional right not to be a witness against himself. The remaining allegations in Paragraph 138 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 138.

139. Kurland respectfully declines to respond to the allegations contained in Paragraph 139 of the Complaint that “Chiesi passed material inside information ... about the AMD Transactions to Kurland” based upon on his constitutional right not to be a witness against himself. The remaining allegations in Paragraph 139 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 139.

140. Kurland respectfully declines to respond to the allegations contained in Paragraph 140 of the Complaint that (1) “Chiesi passed at least some of the inside information she received ... about the AMD Transactions to Kurland”; and (2) on September 30 Chiesi told Kurland that the transaction would be announced on October 7. The remaining allegations in Paragraph 138 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent

any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 138.

141. Kurland respectfully declines to respond to the allegations contained in Paragraph 141 of the Complaint based upon on his constitutional right not to be a witness against himself.

142. The allegations in Paragraph 142 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 142.

143. The allegations in Paragraph 143 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 143.

**K. Insider Trading in IBM Securities**

144. The allegations in Paragraph 144 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 144.

145. The allegations in Paragraph 145 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 145.

146. The allegations in Paragraph 146 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 146.

147. The allegations in Paragraph 147 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 147.

148. The allegations in Paragraph 148 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 148.

**L. Insider Trading in Atheros Securities**

149. The allegations in Paragraph 149 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 149.

150. The allegations in Paragraph 150 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 150.

151. The allegations in Paragraph 151 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 151.

152. The allegations in Paragraph 152 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 152.

153. The allegations in Paragraph 153 of the Complaint do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 153.

**CLAIM I**  
**Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**  
**(Against all Defendants)**

154. Kurland repeats and realleges his responses to Paragraphs 1 through 153 of the Complaint as fully set forth herein.

155. The allegations contained in the first sentence of Paragraph 155 are legal conclusions for which no responsive pleading is required. To the extent any response is required, Kurland respectfully declines to respond to the allegations based on his constitutional right not to be a witness against himself.

156. The allegations contained in Paragraph 156 are legal conclusions and no responsive pleading is required. To the extent any response is required, Kurland respectfully declines to respond based on his constitutional right not to be a witness against himself.

157. The allegations contained in Paragraph 157 are legal conclusions and no responsive pleading is required. To the extent any response is required, Kurland respectfully declines to respond based on his constitutional right not to be a witness against himself.

158. The allegations contained in Paragraph 158 are legal conclusions for which no responsive pleading is required. To the extent any response is required, Kurland respectfully

declines to respond to the allegations against him based upon on his constitutional right not to be a witness against himself.

159. The allegations contained in Paragraph 159 are legal conclusions for which no responsive pleading is required. To the extent any response is required, Kurland respectfully declines to respond based upon on his constitutional right not to be a witness against himself.

160. The allegations contained in Paragraph 160 do not relate to Kurland and no responsive pleading is required. To the extent any response is required, Kurland is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 160.

161. The allegations contained in Paragraph 161 are legal conclusions for which no responsive pleading is required. To the extent any response is required, Kurland respectfully declines to respond based upon on his constitutional right not to be a witness against himself.

162. The allegations contained in Paragraph 162 are legal conclusions for which no responsive pleading is required. To the extent any response is required, Kurland respectfully declines to respond based upon on his constitutional right not to be a witness against himself.

163. The allegations contained in Paragraph 163 are legal conclusions for which no responsive pleading is required. To the extent any response is required, Kurland respectfully declines to respond based upon on his constitutional right not to be a witness against himself.

164. The allegations contained in Paragraph 164 are legal conclusions for which no responsive pleading is required. To the extent any response is required, Kurland respectfully declines to respond based upon on his constitutional right not to be a witness against himself.



**CLAIM II**  
**Violations of Section 17(a) of the Securities Act**  
**(Against Galleon, Rajaratnam, Goel, Chiesi, Kurland, New Castle, Khan, Far, Lee, Far & Lee, Spherix Capital, Hariri, Shankar, Schottenfeld, Fortuna and S2 Capital)**

165. Kurland repeats and realleges his responses to Paragraphs 1 through 164 of the Complaint as fully set forth herein.

166. The allegations contained in Paragraph 166 are legal conclusions for which no responsive pleading is required. To the extent any response is required, Kurland respectfully declines to respond based upon on his constitutional right not to be a witness against himself.

167. The allegations contained in Paragraph 167 are legal conclusions for which no responsive pleading is required. To the extent any response is required, Kurland respectfully declines to respond based upon on his constitutional right not to be a witness against himself.

**RELIEF SOUGHT**

Kurland respectfully declines to respond as to whether the SEC is entitled to the relief sought against him based upon on his constitutional right not to be a witness against himself.

**AFFIRMATIVE DEFENSES**

Kurland states the following defenses without assuming the burden of proof of such defenses that would otherwise rest on the SEC:

**FIRST DEFENSE**

The Complaint fails to state a claim upon which relief can be granted against Kurland.

**SECOND DEFENSE**

To the extent that the Complaint purports to allege fraud, it fails to comply with the requirements of Rule 9(b) of the Federal Rules of Civil Procedure.

**THIRD DEFENSE**

Kurland incorporates herein any applicable affirmative defenses asserted by any other

defendants not expressive set forth herein.

**FOURTH DEFENSE**

Kurland hereby gives notice that he intends to rely upon any further defenses that may become apparent during the course of this action.

Dated: New York, New York  
December 9, 2009

By: \_\_\_\_\_

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