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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE DIVISION
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14 SECURITIES AND EXCHANGE COMMISSION,

Case No. _____

15 Plaintiff,

COMPLAINT

16 v.

17 CARL W. JASPER,

18 Defendant.
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20 Plaintiff Securities and Exchange Commission (the "Commission") alleges:

21 **SUMMARY OF THE ACTION**

22 1. From at least 2000 through 2005, defendant Carl W. Jasper, the former Chief Financial
23 Officer of Maxim Integrated Products, Inc. ("Maxim" or the "Company"), a Sunnyvale, California
24 semiconductor company, engaged in a scheme to illegally backdate stock options granted to Maxim
25 employees and directors, concealing millions of dollars in expenses from investors and significantly
26 overstating the Company's income. Jasper was aware of instances of backdating, and on repeated
27 occasions prepared for the signature of Maxim's then Chief Executive Officer falsely dated option
28 grant approval documents to make it appear as though the options had been granted at the market

1 price on an earlier date. Jasper also knew, or was reckless in not knowing, that the Company did not
2 properly account for such options or accurately disclose Maxim's option granting practices.

3 2. Under well-settled accounting principles in effect during the relevant period, Maxim
4 did not need to record an expense for options granted to employees with an exercise price equal to the
5 current market price ("at-the-money"), while the Company was required to record an expense in its
6 financial statements for any options granted with an exercise price below the current market price
7 ("in-the-money"). In order to provide Maxim's employees and outside directors with valuable "in-
8 the-money" options without recording an expense, Maxim routinely backdated stock options to dates
9 corresponding to historical lows in Maxim's stock price, and falsified records to make it appear as
10 though the options were granted "at-the-money" on the earlier date. For ten consecutive quarters,
11 from the second quarter of fiscal year 2002 to the fourth quarter of fiscal year 2004, Maxim granted
12 options to employees with an exercise price equal to the lowest price of the quarter. Maxim
13 fraudulently failed to record compensation expenses for those backdated options, thus overstating its
14 income by millions of dollars and falsely representing in certain filings that it had incurred no
15 expense for option grants.

16 3. Jasper was aware that Maxim granted options on purported dates that had been
17 selected with hindsight, which resulted in the issuance of undisclosed "in-the-money" options to
18 Maxim employees and directors. Jasper also knew, or was reckless in not knowing, that Maxim was
19 failing to report expenses for its "in-the-money" stock options and was falsely reporting that it only
20 granted options at fair market value.

21 4. The Commission seeks an order enjoining Jasper from future violations of the
22 securities laws, requiring him to disgorge ill-gotten gains with prejudgment interest, requiring him to
23 pay a civil monetary penalty, requiring him pursuant to statute to repay bonuses and stock profits,
24 barring him from serving as an officer or director of a public company, and providing other
25 appropriate relief.

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2 **JURISDICTION, VENUE, AND INTRADISTRICT ASSIGNMENT**

3 5. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the
4 Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77t(b) and 77t(d)] and Sections 21(d) and
5 21(e) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78u(d) and 78u(e)].

6 6. This Court has jurisdiction over this action pursuant to Sections 20(b) and 22(a) of the
7 Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)] and Sections 21(d), 21(e), and 27 of the Exchange
8 Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

9 7. Venue is proper in this district pursuant to Section 22 of the Securities Act [15 U.S.C.
10 § 77v] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Jasper resides in the Northern
11 District of California. Acts or transactions constituting violations of the federal securities laws
12 occurred in this district.

13 8. Assignment to the San Jose Division is appropriate pursuant to Civil Local Rules 3-
14 2(c) and 3-2(d) because acts and omissions giving rise to the Commission’s claims occurred, among
15 other places in this district, in Santa Clara County.

16 **DEFENDANT**

17 9. Carl W. Jasper, age 51, resides in San Jose, California. Jasper served as Maxim’s
18 Principal Accounting Officer, Chief Financial Officer, and Vice President from April 1999 through
19 January 31, 2007. Jasper obtained his California Certified Public Accountant license in 1984. Before
20 working at Maxim, Jasper worked as an auditor at Ernst & Young LLP from 1983 to 1995.

21 **RELEVANT ENTITY**

22 10. Maxim is a Sunnyvale, California corporation that makes integrated circuits. At all
23 relevant times, Maxim’s common stock was registered with the Commission pursuant to Section
24 12(g) of the Exchange Act and traded on the NASDAQ National Market under the symbol “MXIM.”
25 At all times relevant to this action, Maxim used a fiscal year that ended on the last Saturday of June.

FACTUAL ALLEGATIONS

A. Maxim Used Stock Options Liberally To Recruit And Retain Employees.

11. During the relevant period, Maxim regularly used employee stock options as a form of compensation to recruit, retain, and incentivize key employees. Maxim also used stock options to compensate members of its Board of Directors. Each option gave the grantee the right to buy Maxim common stock from the Company at a set price, called the “exercise” or “strike” price, on a future date after the option vested. The option was “at-the-money” when granted if the trading price of Maxim’s common stock on the date of the grant and the exercise price were the same. The option was “in-the-money” when granted if the trading price of Maxim common stock on the date of the grant exceeded the option’s exercise price.

12. Stock options were the most important part of Maxim’s compensation mix. Maxim generally paid its employees lower salaries than its peers; it competed against other companies for employees by offering the potential gains provided by stock options. Maxim’s ability to recruit and retain the engineers who designed and produced its new products was closely tied to its stock option program. In addition, Maxim attributed its earnings growth and positive stockholder returns in part to its option practices. The Company repeatedly emphasized these facts in communications with its shareholders. For example, in a 2004 proxy statement filed with the Commission, Maxim said: “Options are also used and are quite necessary to make up for the lower salaries Maxim pays.”

13. Maxim granted options to almost all new employees when they were hired. Maxim also granted employees additional options every year as part of their annual performance review. Because it granted so many options, Maxim had to ask shareholders to approve increases in the number of shares available for issuance under its primary stock option plan every year from 1999 through 2005.

14. Maxim’s primary stock option plan authorized it to grant both “incentive” stock options and “non-qualified” stock options. Maxim’s plan defined an incentive stock option as an option intended to qualify as an incentive stock option within the meaning of certain provisions of the

1 Internal Revenue Code. Maxim's plan defined a "non-qualified" option as any option not intended to
2 qualify as an incentive stock option.

3 **B. Maxim Told The Public It Granted Stock Options At Fair Market Value.**

4 15. From at least 2000 and continuing through June 30, 2004, Maxim's primary stock
5 option plan prohibited granting incentive stock options with an exercise price less than the stock's fair
6 market value on the date of grant. In other words, the plan did not allow incentive stock options to be
7 granted "in-the-money."

8 16. During the same time period, Maxim's primary stock option plan allowed some
9 flexibility in granting non-qualified stock options with an exercise price less than the stock's fair
10 market value on the date of grant, but only subject to certain conditions not satisfied here.

11 17. Under Accounting Principles Board Opinion No. 25, "Accounting for Stock Issued to
12 Employees" ("APB 25") and the accounting principles in effect from 1997 through 2005, issuers were
13 required to record an expense on their financial statements for the "in-the-money" portion of any
14 options grant. According to APB 25, that difference must be recorded as a compensation expense to
15 be recognized over the vesting period of the option. Consequently, granting "in-the-money" options
16 to employees could have a significant impact on the expenses and income (or loss) reported to the
17 shareholders of a public company. APB 25 allowed companies, where the key terms of an option
18 grant were known, to grant employee stock options without recording any compensation expense so
19 long as the option exercise price was not below the stock's market price on the date of the grant.

20 18. Maxim publicly reported, in its annual reports and other filings with the Commission
21 for fiscal years 2000 through 2005, that the Company accounted for its employee stock options in
22 accordance with APB 25. Additionally, during the relevant time period, Maxim represented that the
23 Company generally granted options "at-the-money," not "in-the-money." Hence, in its annual reports
24 for fiscal years 2000 through 2005, Maxim did not report compensation expenses for stock options.
25 Jasper prepared, with others, each of those reports and other filings.

26 **C. Maxim and Jasper Backdated Employee And Director Option Grants.**

27 19. Maxim's primary stock option plan provided that it was to be administered by the
28 Board of Directors or a committee designated by the Board. By 2000, Maxim's Board had delegated

1 to Maxim's CEO the authority to grant stock options to non-officer employees as well as to outside
2 directors.

3 20. Maxim, through Jasper and others, repeatedly backdated option grants made to current
4 employees, to newly hired employees, and to outside directors. These backdated grants reflected
5 historically low prices of Maxim stock for the weeks prior to the date on which the price actually was
6 selected. For ten consecutive quarters, from the second quarter of fiscal year 2002 to the fourth
7 quarter of fiscal year 2004, Maxim granted options to current employees with an exercise price equal
8 to the lowest price of the quarter. By backdating the option grants to make it falsely appear that "in-
9 the-money" option grants had been "at-the-money" when granted, Maxim's management, including
10 Jasper, avoided reporting in the Company's financial statements compensation expenses for the
11 options.

12 21. Jasper concealed Maxim's backdating scheme from its Board. On at least two
13 occasions, in 2004 and again in 2006, Jasper falsely told Maxim's directors that Maxim did not
14 backdate stock options.

15 **a. Maxim's Option Grants To Employees**

16 22. During the relevant time period, Maxim granted options to current employees on a
17 quarterly basis. Each quarter, Maxim's managers proposed to Maxim's CEO the number of options
18 to be granted to employees whose annual performance reviews fell within that quarter. Maxim's
19 CEO either approved, or first revised and then approved, the number of proposed options for each
20 employee. Maxim's stock administration department accumulated the employee options approved by
21 Maxim's CEO until it learned the grant date for those options. Jasper communicated the grant date
22 and price to Maxim's stock administration department.

23 23. Jasper repeatedly suggested to Maxim's CEO that the Company grant backdated stock
24 options. Jasper was also aware that Maxim's CEO was using hindsight to grant stock options. As
25 Jasper understood, grant dates used for options awarded to Maxim's current employees were
26 repeatedly selected with hindsight in order to grant options at the lowest possible price. Yet, as
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1 Jasper further understood, no compensation expenses were recorded for the undisclosed “in-the-
2 money” option grants to current employees.

3 24. During the relevant time period, Maxim also granted options to new hires on a
4 quarterly basis. Similar to the current employee grants, Maxim’s CEO approved the number of
5 options to be granted to new hires. Maxim’s stock administration department accumulated the
6 options approved by Maxim’s CEO until it learned the applicable grant date. Jasper communicated
7 grant dates and prices for new hires to Maxim’s stock administration department.

8 25. As with stock options awarded to current employees, grant dates used for options
9 awarded to new hires were selected with hindsight. For some new hire grants, Maxim’s stock
10 administrator determined the grant date by selecting a date with a low stock price for the quarter after
11 the date on which the employee was hired. She confirmed these dates with Jasper. Jasper was aware
12 she was using hindsight to select those grant dates. Jasper also, at times, provided the grant date and
13 price to Maxim’s stock administration department. As Jasper understood, however, no compensation
14 expenses were recorded for the undisclosed “in-the-money” grants to new hires.

15 26. In connection with certain grants to current employees and new hires, Jasper drafted
16 backdated memoranda for Maxim’s CEO to sign indicating that the CEO had selected the grant date
17 on the dates indicated in the memoranda. One of the purposes of the grant approval memoranda was
18 to serve as an audit trail and make it appear as though the options had been granted at the market
19 price on the earlier date. Jasper knew, or was reckless in not knowing, that these memoranda did not
20 accurately reflect the dates on which decisions were made to grant options.

21 27. With respect to at least four backdated option grants, Maxim’s CEO in writing
22 instructed Jasper to record compensation expenses for such grants. However, as Jasper understood,
23 no compensation expenses were recorded.

24 **b. Examples Of Maxim’s Backdated Employee Options**

25 28. Maxim purportedly granted approximately 2.7 million options to employees on June
26 30, 2003, with an exercise price equal to that day’s closing stock price of \$34.10. This was Maxim’s
27 lowest stock price of the quarter. In reality, the grant was not made until on or around August 26,
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1 2003, when the stock was trading at \$43.26. On or around August 22, 2003, Maxim's CEO asked
2 Jasper: "What is the lowest price we can use for Q1 options?" Jasper responded: "The best price is
3 the first day of the quarter – June 30, 2003. The price was \$34.10 on that date." Maxim's CEO
4 approved the grant using the June 30th price, but also instructed Jasper to record a compensation
5 expense if it was material. Although the options were "in-the-money" when granted, as Jasper
6 understood, Maxim failed to record compensation expenses for the options.

7 29. In another example, Maxim purportedly granted 2.4 million options to employees on
8 October 2, 2001, with an exercise price equal to that day's closing stock price of \$33.40. This was
9 Maxim's lowest stock price of the quarter. In reality, the grant was not made until on or around
10 December 28, 2001, when the stock was trading at \$54.61. On or around December 28, Jasper
11 proposed to Maxim's CEO that Maxim use October 2 as the grant date for options awarded to certain
12 current employees, and November 28 and December 24 for options awarded to certain new hires
13 (depending on their hire date). Maxim used the dates suggested by Jasper to grant options. Although
14 the options were "in-the-money" when granted, Maxim failed to record compensation expenses for
15 the options.

16 30. In another instance, Maxim purportedly granted options to new employees hired after
17 February 28, 2002 on March 25, 2002, with an exercise price equal to the March 25 closing stock
18 price of \$51.81. In reality, these grants were not made until sometime in late April 2002, after the
19 quarter had ended. On or about April 22, Jasper asked Maxim's CEO to sign a grant approval
20 memorandum dated March 25, 2002, to "keep [Maxim's] documentation and records straight."
21 Maxim's CEO signed the memorandum, which stated: "I want you to make sure that any new hire
22 who started at Maxim between March 1, 2002 and today has their stock granted at today's closing
23 price of \$51.81." Maxim's stock administration department did not learn of the supposed March 25th
24 grant date until on or about April 24, 2002.

25 **c. Maxim's Option Grants To Outside Directors**

26 31. Maxim also backdated certain stock option grants to its outside directors. For
27 example, Maxim purportedly granted the directors 36,000 options on October 1, 2001, at an exercise
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