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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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SECURITIES AND EXCHANGE COMMISSION

U.S. DISTRICT COURT
DISTRICT OF MASS.
JURY TRIAL DEMANDED

Plaintiff,

v.

ROBERT J. THERRIEN,

Defendant.

Case No.

07 CA 11364 RCL

COMPLAINT

1. Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against defendant Robert J. Therrien ("Therrien"), alleges the following:

SUMMARY

2. This Commission enforcement action concerns a fraudulent stock options backdating scheme perpetrated from at least 1999 through 2005 by Therrien, the former Chairman of the Board and Chief Executive Officer of Brooks Automation, Inc. ("Brooks" or the "Company"), a Chelmsford, Massachusetts-based supplier of software and related services to manufacturers of computer chips.

3. Under well-settled accounting principles in effect throughout the relevant period, Brooks was required to record an expense in its financial statements for any stock options granted below the current market price ("in-the-money"), while the Company did not need to record an expense for options granted to employees at the current market price ("at-the-money"). In order to provide Brooks' employees and executives, including himself, with lucrative in-the-money options (which result in an immediate financial benefit to recipients), while avoiding having to inform shareholders of the millions of

dollars in compensation expenses thereby incurred and the resulting impact on the Company's financial statements, Therrien engaged in a scheme to falsify company records to create the false appearance that the options granted in-the-money actually had been granted at-the-money on an earlier date. Therrien's scheme involved choosing purported grant dates with the benefit of hindsight in order to grant options at a lower price than the current market price at the time of the actual grant determination. Therrien personally benefited by more than \$10 million from his fraudulent conduct.

4. As part of the scheme, Therrien, in or about November 1999, created and signed false documents resulting in the issuance of in-the-money options to himself, which he immediately exercised, to purchase 225,000 shares of Brooks' common stock. Therrien signed these false documents after learning that his options to purchase the shares had expired unexercised a few months earlier in or about August 1999. The documents Therrien signed falsely indicated that he had actually exercised his options before they expired. As a result, Therrien received approximately \$5.8 million in undisclosed compensation from Brooks. Brooks failed to report this compensation in its Commission filings.

5. As a result of this and other transactions, Therrien and Brooks concealed millions of dollars in expense from investors, materially understating Brooks' expenses and overstating the Company's income, by falsifying records and failing to maintain records relating to stock option grants and exercises. During the period from May 1999 to September 2005, Therrien signed numerous public filings by Brooks that he knew or was reckless in not knowing materially misrepresented its financial results.

6. On or about May 11, 2006, Brooks announced that it intended to restate its financial statements contained in filings with the Commission for some or all of the periods between 1999 and 2005, and that those financial statements should not be relied upon. The announcement stated that “[t]he Company believes that it accounted for certain matters concerning stock options incorrectly, and as a result recognized less compensation expense than it should have in periods prior to fiscal 2006.”

7. On or about July 31, 2006, Brooks announced that “[d]riven by matters related to past stock option grants, the Company has revised its financial statements for the fiscal years 1996 through 2005 to record cumulative additional non-cash, pre-tax stock-based compensation expense of \$64.5 million.” In effect, Brooks restated its results and wrote off more than \$64 million that had been reported as profit during that period. At least \$54 million of Brooks’ restatement is attributable to Therrien’s fraudulent conduct.

8. By engaging in the acts alleged in this Complaint, Therrien violated Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)], Sections 10(b), 13(b)(5), 14(a), and 16(a) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. §§ 78j(b), 78m(b)(5), 78n(a) and 78p(a)] and Exchange Act Rules 10b-5, 13a-14, 13b2-1, 13b2-2, 14a-9 and 16a-3 [17 C.F.R. §§ 240.10b-5, 240.13a-14, 240.13b2-1, 240.13b2-2, 240.14a-9 and 240.16a-3] thereunder. Through his conduct, Therrien aided and abetted Brooks’ uncharged violations of Exchange Act Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) [15 U.S.C. §§ 78j(b), 78m(a), 78m(b)(2)(A) and 78m(b)(2)(B)] and Exchange Act Rules 12b-20, 13a-1 and 13a-13 [17 C.F.R. §§ 240.12b-20, 240.13a-1, and 240.13a-13] thereunder.

