STATE OF ILLINOIS
SECRETARY OF STATE
DEPARTMENT OF SECURITIES

IN THE MATTER OF:	**Derrick McKinley**	**FILE NO. 0300516**

NOTICE OF HEARING

TO THE RESPONDENT:

Derrick McKinley
369 Medway Road
Highland Heights, OH 44143

Derrick McKinley
CCM Cincinnati
Community Corrections Office
36 E. 7TH ST., Suite 2107-A
Cincinnati, OH 45202

You are hereby notified that pursuant to Section 11.E of the Illinois Securities Law of 1953 [815 ILCS 5] (the "Act") and 14Ill. Adm. Code 130, Subpart K, a public hearing will be held at 69 West Washington Street, Suite 1220, Chicago, Illinois 60602, on the 31st day of May, 2007, at the hour of 10:00 a.m., or as soon as possible thereafter, before Soula Spyropoulos, Esq. Or such duly designated Hearing Officer of the Secretary of State.

Said hearing will be held to determine whether an Order shall be entered pursuant to Section 11.E of the Act prohibiting Respondent from selling or offering for sale securities and/or engaging in the business of an investment adviser in the State of Illinois and/or granting such other relief as may be authorized under the Act including but not limited to imposition of a monetary fine in the maximum amount pursuant to 11.E(4) of the Act, payable within 10 (ten) days of the order.

The grounds for such proposed action are as follows:

COUNT I
Insider Trading

1. Gliatech, Inc. ("Gliatech") was a pharmaceutical research and development company of products used to improve surgical outcomes and to treat neurological disorders, incorporated in Delaware and headquartered in Beachwood, Ohio. Gliatech was founded with a business plan that called for marketing Adcon-L Adhesion Barrier Gel ("Adcon-L"). Gliatech's common stock was publicly traded under the symbol "GLIA" on the Nationwide Automated Quotation System ("NASDAQ") operated by the National Association of Securities Dealers.

2. Adcon-L is a gel-like substance, which is applied to a patient's incision site during back surgery. The purpose of Adcon-L is to reduce scarring following back surgery.

3. Respondent, Derrick S. McKinley, was Vice-President and Medical Director at Gliatech. Beginning on September 21, 1999, the Respondent was the former Vice President and Medical Director of Gliatech.

4. As a publicly traded company, Gliatech adopted an insider-trading policy that prohibited trading in company securities by coporate insiders while in possession of material nonpublic information.

5. Gliatech's insider trading policy defined "material, inside information" as any information relating to the business of Gliatech that has not been disclosed generally to the public and that a reasonable investor would consider important in a decision to buy, hold or sell securities.

6. In addition to the general prohibition against trading while in possession of material nonpublic information, Gliatech's insider-trading policy included further trading restrictions directed towards speculative investments. The policy specifically prohibited all corporate insiders who obtain(ed) material, inside information in the course of their employment with Gliatech from engaging in any short sales of Gliatech stock or securities.

7. As Vice President and Medical Director at Gliatech, the Respondent was subject to Gliatech's insider trading policy. The Respondent's obligations under the policy and his fiduciary duties continued after he left the company.

8. In December of 1996, Gliatech submitted its application to distribute Adcon-L in the United States to the U.S. Food and Drug Administration ("FDA). After the FDA's approval in May 1998, Adcon-L became Gliatech's only product to be marketed in the United States and its major source of revenue.

9. In December 1997, Gliatech's management, scientists and physicians, including McKinley, met with the FDA and the FDA's Advisory Panel to review Gliatech's application for commercial distribution of Adcon-L ("Panel Meeting"). At the conclusion of the meeting, the Advisory panel recommended to the FDA that the FDA approve Gliatech's application, but with certain conditions.

10. One of the conditions was for Gliatech to conduct an Intraobserver Reliability Study ("Reread study") to evaluate the reliability of the technique used by the radiologist to measure the presence of scar tissue in patients who had been treated with Adcon-L.

11. The other condition of the Advisory Panel's recommendation required Gliatech to submit the final results of the U.S. Adcon-L Study. Completion of the study was also

an express condition set by the FDA when it approved Gliatech's application for Adcon-L in May 1998.

12. In November 1997, just weeks prior to the Panel Meeting, Gliatech's independent statisticians analyzed data from the US Adcon-L Study ("November Analysis"). McKinley was aware that the November Analysis did not show any benefit to patients using Adcon-L.

13. In January 1998, McKinley and the project manager for the U.S. Adcon-L Study participated in the Reread Study. McKinley did not conduct the Reread study in accordance with good clinical practices ("GCP"). Specifically, as the radiologist read the magnetic resonance imaging films ("MRIs"), McKinley recorded the scores in pencil on the case report forms. At times, the radiologist changed his mind and McKinley was required to correct some of the scores he had just entered on the case report forms. When this occurred, McKinley erased the first score and entered the new score. GCP guidelines required McKinley to record the data in pen, and make changes by crossing out the old number, entering the new number and signing and dating the change. Because of these irregularities, the results from the Reread Study lacked integrity for purposes of supporting any submission to the FDA.

14. McKinley substituted scores from the Reread study for the original scores in the U.S. Adcon-L Study. Specifically, in October 1998, at McKinley's direction, the project manager of the U.S. Adcon-L Study forwarded data from the Reread Study to Gliatech's independent statisticians with instructions to substitute the original scores with scores from the Reread Study and to reanalyze the data.

15. After the Reread scores were substituted for the original scores, the U.S. Adcon-L Study showed that Adcon-L was effective.

16. In March 1999, Gliatech submitted the final report of the U.S. Adcon-L Study with the substituted data to the FDA without telling the FDA that the data had been substituted.

17. Gliatech's failure to tell the FDA about the data substitution caused integrity problems with the U.S. Adcon-L Study, which made it unreliable.

18. In the spring of 1999, FDA inspectors detected sterility problems with Adcon-L's packaging at Gliatech's contract manufacturer of Adcon-L, located in the Netherlands. In March and April 1999, the FDA cited the contract manufacturer and Gliatech, respectively, for issues related to the defective packaging and sterility problems.

19. Pursuant to FDA guidelines, Gliatech conducted a health hazard evaluation. In May 1999, Gliatech issued a health hazard evaluation, which concluded that the packaging defects posed a minimal health risk to patients.

20. Before issuing the report, Gliatech's Vice President of Regulatory Affairs gave a version of the hazard evaluation to McKinley for him to review and sign. However, McKinley refused to sign the report and instead provided detailed comments highlighting numerous false statements throughout the seven-page report. McKinley believed that Gliatech management had not adequately addressed the sterility problems with the Adcon-L packaging and suggested the company do a recall of the product.

21. During the spring and summer of 1999, McKinley became aware of complaints of cerebral spinal fluid ("CSF") leaks in patients who had been treated with Adcon-L. As Gliatech's Medical Director, McKinley reviewed those complaints. McKinley knew that Gliatech's shareholders did not know about the complaints of CSF leaks.

22. On July 23, 1999, McKinley sent a memorandum and list of complaints to Gliatech's management regarding the CSF leaks. In his memorandum McKinley urged Gliatech management to notify the medical community about the increased risk for CSF leaks and to report them to the FDA.

23. In early September 1999, a surgeon who had participated in the U.S. Adcon-L Study learned of complications from Adcon-L. One of these resulted in the death of a patient. On September 14, 1999, the surgeon wrote a letter to Gliatech management in which he urged them to notify physicians and the FDA of these complications. McKinley was copied on the letter.

24. McKinley knew that Gliatech had not notified physicians and the FDA about complaints of CSF leaks in patients treated with Adcon-L.

25. On September 7, 1999, the FDA issued a Warning Letter to the manufacturer of Adcon-L based upon manufacturing deficiencies, including the packaging defects and sterility problems it had detected earlier. The letter alluded to Gliatech's characterization of the Adcon-L packaging (as "double sterile barrier") as "inadequate." In its letter, the FDA also warned that Adcon-L may be detained upon entry into the United States until the violations, including the packaging and sterility problems, were corrected.

26. After he left Gliatech in September 1999, McKinley became a confidential informant to the FDA. In November and December 1999, McKinley provided the FDA with information about the complaints of CSF leaks.

27. After learning about the complaints from McKinley, the FDA initiated an investigation into the complaints. On January 5, and February 5, 2000, McKinley visited the FDA offices to discuss the complaints.

28. Following his January 5, 2000 interview with the FDA McKinley began to short Gliatech stock. Between January 6, and February 15, 2000, he sold short a total of 92,000 shares of Gliatech stock.

29. During the time of his trades in January and February of 2000, McKinley was aware of material, non-public information that: 1) the results of the U.S. Adcon-L Study submitted by Gliatech to the FDA had several defects that called its reliability into question; and 2) there were complaints of CSF leaks in patients following surgery where Adcon-L was used.

30. On March 13, 2000, Gliatech finally filed the medical reports for the complaints including CSF leaks and, thereby, disclosed them to the public. The day after Gliatech disclosed the CSF complaints, its stock price declined by 8 percent.

31. McKinley profited from the decline in Gliatech's stock price. His total profits from this series of trades were approximately $53,178.

32. On February 5, 2000, McKinley met with the FDA and provided a copy of the November Analysis that showed Adcon-L was not effective. McKinley suggested that the FDA investigate events relating to the U.S. Adcon-L Study, which then triggered a two-month investigation into data integrity issues. During this investigation, the FDA interviewed McKinley about the U.S. Adcon-L Study several times during July and August 2000.

33. In May 2000, Gliatech and Guilford Pharmaceuticals, Inc. ("Guilford") located in Baltimore, Maryland announced a plan to merge their businesses. Within weeks of the announcement of the anticipated $233 million merger, McKinley contacted Guilford. McKinley called Guilford's General Counsel and its CEO respectively. In his call to the CEO, McKinley said he wanted to make sure that the CEO understood that McKinley had material information about Adcon-L that he wanted to discuss. Because McKinley's attorney refused to meet with Guilford, McKinley and Guilford never discussed the substance of McKinley's information.

34. In July and August of 2000, McKinley sold short an additional 63,000 Gliatech shares. At the time of these short sales, McKinley was aware of Gliatech's integrity problems with the Adcon-L. He also knew that the public did not know about Adcon-L's integrity problems.

35. On August 23, 2000, the FDA held a "closeout meeting" with Gliatech and Guiford in which they discussed the results of their data integrity investigation. During that meeting, the FDA investigators stated that they believed that the data had been falsified and that the substitution of the original data was fraudulent. Citing the FDA's findings, on August 28, 2000, Gliatech and Guilford announced that they were terminating the proposed merger. Trading in Gliatech was halted on August 28, 2000. The following day, Gliatech opened at $9.47, down 6o percent.

36. McKinley profited from the decline in Gliatech's stock price. His total profits from this series of trades were approximately $932,000.

37. Between on or about January 5, 2000 and in or about August 2000, the defendant sold short in Gliatech stock, obtaining gross proceeds of approximately $986,177.

38. The defendant made these short sales on the basis of the material nonpublic information about Gliatech, including, among other things, the reliability of the U.S. Adcon-L Study, the complaints of CSF leaks, and the undisclosed FDA investigation.

39. Between January 5, 2000 and in or about August 2000, Derrick S. McKinley, willfully directly and indirectly, use and employ manipulative devices and contrivances in connection with the purchase and sale of securities, namely, the common stock of Gliatech, by a) employing a device, scheme and artifice to defraud; b) omitting to state material facts necessary to make statements made, in light of the circumstances under which they were made, not misleading; and c) engaging in acts, practices, and courses of dealing which would and did operate as a fraud and deceit.

40. Section 12. F of the Act provides, *inter alia*, that it shall be a violation of the Act for any person to engage in any transaction, practice or course of business in conjunction with the sale or purchase of securities, which works or tends to work a fraud or deceit upon the purchaser or seller thereof.

41. By virtue of the foregoing, Respondent violated Sections 12.F of the Act.

42. Section 12. I of the Act provides, *inter alia*, that it shall be a violation of the Act for any person to employ any device, scheme or artifice to defraud in connection with the sale or purchase of any security, directly or indirectly.

43. By virtue of the foregoing, Respondent violated Sections 12.I of the Act.

COUNT II:
Fraud

44. Respondent throughout 2001 was Senior Managing Member of McKinley Investments Management L.L.C., a limited liability company, which acts as general partner of McKinley Investments, L.P.

45. Arthur Broder ("Investor") is an Illinois resident who resides at 3444 Whirlaway Drive, Northbrook, IL 60062.

46. In March of 2001, Respondent solicited Investor to purchase a percentage share in McKinley Investments, L.P.

47. In March of 2001, Respondent did in fact purchase a percentage share in McKinley Investments, L.P.

48. In exchange for his interest in McKinley Investments, L.P., Investor transferred to Respondent a check in the amount of $25,000 along with 303,900 shares of eXegenics stock along with a margin balance upon that stock that McKinley Investments, L.P agreed to assume.

49. In March of 2001, Respondent provided Investor with a Private Placement Memorandum and a Subscription Agreement.

50. The objective of McKinley Investments, L.P. was to achieve above average returns through investments in marketable common stock of companies offering long-term growth prospects.

51. Only Senior Managing members and Managing members had management responsibility relating to the partnership.

52. At the end of each accounting period of the Partnership, any net capital appreciation or depreciation would be allocated to the accounts of all partners in proportion to their respective partnership percentages.

53. The Private Placement Memorandum for McKinley Investments, L.P. provided to Investor by Respondent states that McKinley Investments L.P. is a Registered Investment Adviser.

54. There is no record of McKinley Investments Management L.L.C. or McKinley Investments, L.P. being registered as an Investment Adviser at the time the prospectus was provided to investor.

55. Investor purchased his percentage share of McKinley Investments L.P. in reliance on the information contained in the Private Placement Memorandum provided to him by Respondent.

56. That Respondent's activities described above involve the sale of an interest in a profit sharing agreement and/or an investment fund shares, therefore, a security as that term is defined in Sections 2.1 and 2.5 of the Act.

57. Section 12. F of the Act provides, *inter alia*, that it shall be a violation of the Act for any person to engage in any transaction, practice or course of business in conjunction with the sale or purchase of securities, which works or tends to work a fraud or deceit upon the purchaser or seller thereof.

58. That by virtue of the activity in paragraphs 46-55, Respondent violated Section 12.F of the Act.

59. Section 12.G of the Act provides that it shall be a violation of the Act to obtain money or property through the sale of securities by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made in light of the circumstances under which they were made, not misleading.

60. That by virtue of the activity in paragraphs 46-55, Respondent violated Section 12.G of the Act.

61. Section 12.I of the Act provides, that it shall be a violation of the Act for any person to sign or circulate any statement, prospectus, or other paper or document required by any provision of this Act or pertaining to any security knowing or having reasonable grounds to know any material representation therein contained to be false or untrue.

62. That by virtue of the activity in paragraphs 46-55, Respondent violated Section 12.I of the Act.

You are further notified that you are required pursuant to Section 1104 of the Rules to file an answer to the allegations outlined above, a Special Appearance pursuant to Section 1107 of the Rules, or other responsive pleading within thirty (30) days of receipt of this notice. Your failure to do this within the prescribed time shall be deemed an admission of the allegations contained in the Notice of Hearing and waives your right to a hearing.

Furthermore, you may be represented by legal counsel; may present evidence; may cross-examine witnesses and otherwise participate. A failure to appear shall constitute default by you.

A copy of the Rules promulgated under the Act and pertaining to Hearings held by the Office of the Secretary of State, Securities Department is included with this Notice.

Delivery of notice to the designated representative of any Respondent constitutes service upon such respondent.

Dated: This 6th day of April, 2007.

JESSE WHITE
Secretary of State
State of Illinois

Attorney for the Secretary of State:
Illinois Securities Department
Miltie Verveniotis
69 West Washington Street
Suite 1220
Chicago, Illinois 60602
(312) 793-3022

Hearing Officer:
Soula J. Spyropoulos
4125 W. Lunt Ave.
Lincolnwood, Illinois 60712