

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

SECURITIES AND EXCHANGE COMMISSION  
100 F Street, N.E.  
Washington, DC 20549,

Plaintiff,

v.

JOSEPH J. SPIEGEL  
c/o E. Niki Warin, Esq.  
Law Offices of J. Bruce Maffeo  
The Woolworth Building  
233 Broadway – Suite 2701  
New York, NY 10279,

Defendant.

CASE NUMBER 1:07CV00008  
JUDGE: Royce C. Lamberth  
DECK TYPE: General Civil  
DATE STAMP: 01/04/2007

**COMPLAINT**

Plaintiff Securities and Exchange Commission (“Commission”) alleges:

**SUMMARY OF ALLEGATIONS**

1. Defendant Joseph J. Spiegel (“Spiegel”), a former portfolio manager for Spinner Asset Management, LLC, the investment adviser for Spinner Global Technology Fund, Ltd. (“SGTF” or “the hedge fund”), a \$200 million hedge fund, engaged in an unlawful trading scheme on SGTF’s behalf in violation of the antifraud and registration provisions of the federal securities laws in connection with three unregistered securities offerings, which are commonly referred to as “PIPEs” (Private Investment in Public Equity). Spiegel’s illegal trading resulted in ill-gotten gains

for the hedge fund.

2. After agreeing, on behalf of the hedge fund, to invest in the three PIPE transactions, Spiegel sold short the PIPE issuer's stock through "naked" short sales in Canada. Later, once the Commission declared the resale registration statement effective, Spiegel used the hedge fund's PIPE shares to close out some of all of the pre-effective date short positions — a practice Spiegel knew or was reckless in not knowing was prohibited by the registration provisions of the federal securities laws. In connection with each of the three PIPEs, to avoid detection and regulatory scrutiny, Spiegel employed wash sales and matched orders to make it appear that he was covering SGTF's pre-effective date short positions with open market stock purchases when in fact the covering transactions were not done with open market shares because the hedge fund was on both sides of the trades and covered the short positions with its PIPE shares.

3. The unlawful PIPE investment strategy and trading scheme involved three issuers that sought PIPE financing (collectively, "the PIPE Issuers"). During the relevant period, the common stock of each PIPE Issuer was registered with the Commission pursuant to either Section 12(b) or Section 12(g) of the Securities Exchange Act of 1934 ("Exchange Act") and either was quoted on NASDAQ or traded on the New York Stock Exchange.

4. In each of the transactions, Spiegel, on behalf of the hedge fund, also made materially false representations to the PIPE Issuers to induce them to sell securities to the hedge fund. As a precondition of participation in a PIPE, the hedge fund had to represent that it would not sell, transfer or dispose of the PIPE shares other than in compliance with the registration provisions of the Securities Act of 1933 ("Securities Act"). This representation was material to the PIPE Issuers, who, as the securities purchase agreements made clear, relied on the investors' representations in

order to qualify for an exemption from the registration requirements for their private offering. At the time Spiegel, on behalf of the hedge fund, signed the securities purchase agreements, however, he intended to distribute the restricted PIPE securities in violation of the registration provisions of the Securities Act.

5. By engaging in the acts alleged herein, the defendant engaged in, and unless permanently restrained and enjoined by the Court will continue to engage in, transactions, acts, practices and courses of business that violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], and Section 5 of the Securities Act [15 U.S.C. § 77e].

6. The Commission seeks a judgment from the Court: (a) enjoining Spiegel from engaging in future violations of the above sections of the federal securities laws; and (b) ordering Spiegel to pay a civil money penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. § 78(u)(d)].

#### **JURISDICTION AND VENUE**

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

8. The defendant made use of the means and instrumentalities of interstate commerce or of the mails in connection with the acts, practices, and courses of business alleged herein. Venue is proper in this District pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa].

