

UNITED STATES DISTRICT COURT
for the
DISTRICT OF COLUMBIA

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)
SECURITIES AND EXCHANGE COMMISSION))
100 F Street NE))
Washington, DC 20549))
)
Plaintiff,))
v.))
)
)
MELISSA A. MAHLER))
756 Rock Beach Road))
Rochester, New York 14617))
Defendant.))
)
-----	x

COMPLAINT

Plaintiff Securities and Exchange Commission (the "SEC") alleges as follows:

NATURE OF THE ACTION

1. This is an insider trading case against Melissa A. Mahler ("Mahler"), a corporate attorney at Nixon Peabody LLP. Mahler traded on material, nonpublic information in breach of her duty of confidentiality, thereby violating Section 10(b) of the Securities Act of 1934 [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]. The SEC brings this action seeking a permanent injunction, disgorgement of ill-gotten gains, prejudgment interest, and a civil insider trading penalty.

JURISDICTION

2. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e) and 27 of the Securities

Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d), 78u(e) and 78aa]. Defendant has, directly or indirectly, made use of the means or instrumentalities of interstate commerce and/or of the mails in connection with the transactions described in this Complaint.

DEFENDANT

3. **Melissa A. Mahler** ("Mahler") was a corporate attorney with the law firm of Nixon Peabody LLP ("Nixon Peabody") at all relevant times until January 2005, when she resigned. Mahler is admitted to practice law in the State of New York.

CLIENT

4. **Roger Tichenor** ("Tichenor") is the sole officer and director of Teleplus Consumer Services, Inc. ("Teleplus"), a publicly-traded company located in Sarasota, Florida. At all relevant times, Teleplus's common stock traded in the pink sheets at around \$0.20 to \$0.30 per share.

SUBSTANTIVE ALLEGATIONS

Merger Negotiations (Pre-July 28)

5. Before July 28, 2004, Tichenor discussed with Mahler a potential merger between Teleplus and Rooms.com Inc., a private online travel company. Tichenor asked Mahler to draft a letter of intent ("LOI") and related

press release concerning the potential Teleplus/Rooms.com merger.

6. Tichenor had a telephone conversation with Mahler about the LOI the morning of July 28, 2004, at approximately 9:15 a.m.

7. Tichenor considered information concerning the potential Teleplus/Rooms.com merger to have been confidential.

8. Tichenor conveyed material, nonpublic information concerning the potential Teleplus/Rooms.com merger to Mahler in trust and confidence.

9. Mahler owed Tichenor a duty of confidentiality obligating her not to use material, nonpublic information for personal gain.

Mahler's Buy Order (July 28)

10. On the morning of July 28, 2004, at approximately 9:30 a.m., Mahler spoke with her broker and instructed him to buy 10,000 shares of Teleplus common stock for her account.

11. Mahler's buy order was executed the morning of July 28, 2004, at approximately 9:58 a.m., for \$0.12 per share or a total of \$1,200.

12. Mahler was in possession of material, nonpublic information concerning the potential Teleplus/Rooms.com merger when she placed her buy order.

13. Mahler breached her duties of loyalty and confidentiality by using material, nonpublic information for personal gain.

LOI and Press Release (July 29-30)

14. Mahler and Tichenor worked on the LOI and related press release the afternoon and evening of July 29 and morning of July 30, 2004.

15. All drafts of the LOI provided that, "[n]either party will make any public disclosure concerning the matters set forth in this letter of intent or the negotiations of the proposed Transaction without the prior written consent of the other party."

16. The potential Teleplus/Rooms.com merger was publicly announced the afternoon of July 30, 2004, at approximately 1:08 p.m.

17. The market price of Teleplus's common stock rose the afternoon of July 30, 2004, from approximately \$0.10 to \$0.90 per share.

Mahler's Sell Order (July 30)

18. Mahler spoke with her broker the afternoon of July 30, 2004 and instructed him to sell 10,000 shares of Teleplus common stock for her account.

19. Mahler's sell order was executed at approximately 2:29 p.m. the afternoon of July 30, 2004, for \$0.70 per share or a total of \$7,000.

20. Mahler's insider trading profits were \$5,800.

CLAIM FOR RELIEF

**(Violations of Section 10(b) and
Rule 10b-5 of the Exchange Act)**

21. Plaintiff SEC hereby incorporates ¶¶ 1 through 20 with the same force and effect as if set out here.

22. In the manner described in ¶¶ 1 through 21, defendant Mahler, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce or of the mails, directly or indirectly (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material facts or omissions of material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon persons.

23. By reason of the foregoing, defendant Mahler violated, and unless restrained will continue to violate, Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder.

PRAYER FOR RELIEF

WHEREFORE, the SEC respectfully requests that this Court enter a judgment:

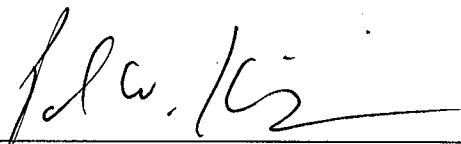
(a) permanently enjoining defendant Mahler and her agents, servants, employees, attorneys-in-fact, and those in active concert or participation with them, who receive actual notice by personal service or otherwise, from violating Section 10(b) of the Exchange Act [15 U.S.C § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder;

(b) ordering defendant Mahler to disgorge her ill-gotten gains, plus prejudgment interest thereon;

(c) ordering defendant Mahler to pay a civil insider trading penalty pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78uA]; and

(d) granting such other relief as this Court may deem just and appropriate.

Dated: September 17, 2009


Paul W. Kisslinger (Trial Counsel)
Cheryl Scarboro
Reid A. Muoio (RAM-2274)
Attorneys for Plaintiff
Securities and Exchange
Commission
100 F Street N.E.
Washington, D.C. 20549
(tel) 202/551-4427 (Kisslinger)

F
09-1767
PLF

CIVIL COVER SHEET

JS-4a
(Rev. 1/05 DC)

I (a) PLAINTIFFS Securities and Exchange Commission	DEFENDANTS Melissa A. Mahler
(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES) <u>Washington, D.C.</u>	COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY) <u>Rochester, NY</u> <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</small>
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Paul W. Kisslinger, SEC 100 F Street N.E. Washington, D.C. 20549 (202) 551-4427	Case: 1:09-cv-01767 Assigned To : Friedman, Paul L. Assign. Date : 9/17/2009 Description: General Civil

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)	III CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!																								
<input checked="" type="radio"/> 1 U.S. Government Plaintiff <input type="radio"/> 2 U.S. Government Defendant <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)	<table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DFT</th> <th></th> <th>PTF</th> <th>DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td><input type="radio"/> 1</td> <td><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td><input type="radio"/> 4</td> <td><input type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="radio"/> 2</td> <td><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="radio"/> 5</td> <td><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="radio"/> 3</td> <td><input type="radio"/> 3</td> <td>Foreign Nation</td> <td><input type="radio"/> 6</td> <td><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6																				

IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place a X in one category, A-N, that best represents your cause of action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act Social Security: <input type="checkbox"/> 861 HIA ((1395ff)) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) Other Statutes <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
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<input checked="" type="radio"/> E. General Civil (Other)	OR	<input type="radio"/> F. Pro Se General Civil
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Real Property <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property Personal Property <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	Bankruptcy <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 Prisoner Petitions <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition Property Rights <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark Federal Tax Suits <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	Forfeiture/Penalty <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other Other Statutes <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation
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<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 900 Appeal of fee determination under equal access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

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<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus-General <input type="checkbox"/> 510 Motion/Vacate Sentence	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights-Employment (criteria: race, gender/sex, national origin, discrimination, disability age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/PRIVACY ACT <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 American w/Disabilities-Employment <input type="checkbox"/> 446 Americans w/Disabilities-Other	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights-Voting (if Voting Rights Act)

V. ORIGIN

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multi district Litigation
 7 Appeal to District Judge from Mag. Judge

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Securities Act of 1934 15 U.S.C. Sec. 78j(b) and Rule 10b-5 17 C.F.R. Sec. 240.10b-5

VII. REQUESTED IN COMPLAINT CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ _____ JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instruction) YES NO If yes, please complete related case form

DATE 9/17/09 SIGNATURE OF ATTORNEY OF RECORD [Signature]

INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the Cover Sheet.

- I. COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence Use 11001 to indicate plaintiff is resident of Washington, D.C., 88888 if plaintiff is resident of the United States but not of Washington, D.C., and 99999 if plaintiff is outside the United States
- III. CITIZENSHIP OF PRINCIPAL PARTIES This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II
- IV. CASE ASSIGNMENT AND NATURE OF SUIT The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of case
- VI. CAUSE OF ACTION Cite the US Civil Statute under which you are filing and write a brief statement of the primary cause
- VIII. RELATED CASES, IF ANY If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form