

CME

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

18 4192

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

BRYAN R. ZIEGENFUSE,

Defendant.

Case No. \_\_\_\_\_

COMPLAINT

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

**SUMMARY OF THE ACTION**

1. This matter involves multiple instances of insider trading by Bryan R. Ziegenfuse ("Ziegenfuse"), who at the relevant time in 2017 and early 2018 was the Vice President of Servicing at Ocwen Financial Corporation ("Ocwen"), a Georgia-based mortgage servicing company with offices in Fort Washington, Pennsylvania.

2. During the course of his employment, Ziegenfuse learned material, nonpublic information concerning, among other things: (1) Ocwen's merger negotiations with PHH Corporation ("PHH"); (2) Ocwen's resolution of a group of lawsuits brought by 10 states that sued the company over deficiencies in its servicing and lending activities; and (3) an anticipated enforcement action by the Consumer Financial Protection Bureau (the "CFPB").

3. While in possession of this information, and in breach of the duties that he owed to Ocwen, Ziegenfuse purchased securities in PHH, Ocwen, and Ocwen's counterparty Altisource Portfolio Solutions S.A. ("ASPS"), respectively, and made approximately \$64,065 in illegal profits.

4. By engaging in the conduct described in this Complaint, Ziegenfuse violated and, unless enjoined and restrained will continue to violate, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

### **JURISDICTION AND VENUE**

5. The Commission brings this action pursuant to Sections 21(d), 21(e), and 21A of the Exchange Act [15 U.S.C. §§78u(d), 78u(e), and 78u-1], to enjoin such acts, practices, and courses of business; and to obtain disgorgement, prejudgment interest, civil money penalties and such other and further relief as the Court may deem just and appropriate.

6. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e), 21A, and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), 78u-1, and 78aa].

7. Venue in this district is proper pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Ziegenfuse resides in, and certain of the acts, practices, and courses of business constituting the violations alleged herein occurred within, the Eastern District of Pennsylvania.

### **DEFENDANT**

8. **Bryan R. Ziegenfuse**, age 36, resides in Wayne, Pennsylvania. From February 2013 through his resignation on June 12, 2018, Ziegenfuse was employed at Ocwen. At all relevant times, Ziegenfuse served as Ocwen’s Vice President of Servicing.

### **RELEVANT ENTITIES**

9. **Ocwen**, a Florida corporation, is headquartered in Georgia. Ocwen is a financial services holding company that provides residential and commercial mortgage loan servicing and origination through its subsidiaries. The common stock of Ocwen is registered with the

Commission pursuant to Section 12(b) of the Exchange Act and trades on the New York Stock Exchange (“NYSE”).

10. **PHH**, a Maryland corporation, is headquartered in New Jersey. PHH is one of the largest subservicers of residential mortgages in the United States, providing servicing and portfolio retention solutions through its subsidiary PHH Mortgage. The common stock of PHH is registered with the Commission pursuant to Section 12(b) of the Exchange Act and trades on the NYSE. In February 2018, PHH entered into an agreement to be acquired by Ocwen.

11. **Altisource Portfolio Solutions S.A.**, a Luxembourg corporation, is headquartered in Luxembourg City, Luxembourg. ASPS, which was spun off from Ocwen in August 2009, exclusively provides various fee-based services to Ocwen. The common stock of ASPS is registered with the Commission pursuant to Section 12(b) of the Exchange Act and trades on the NASDAQ.

### **FACTS**

12. As the Vice President of Servicing, Ziegenfuse was responsible for managing Ocwen’s strategy related to Fannie Mae, Freddie Mac, and Ginnie Mae servicing portfolios.

13. In connection with his duties and responsibilities to Ocwen, Ziegenfuse frequently was in possession of material, nonpublic information relating to the company and its counterparties.

14. Ocwen had an Insider Trading Prevention Policy, which explicitly prohibited company personnel or members of their household from trading in a security while in possession of material, nonpublic information about the security.

15. Ocwen also had a Code of Business Conduct and Ethics, which explicitly prohibited employees who possessed or had access to confidential information or trade secrets

during the course of performing their responsibilities for the company from using the information for their own benefit or the benefit of persons inside or outside of Ocwen.

16. New employees at Ocwen receive training on the Insider Trading Prevention Policy and Code of Business Conduct and Ethics during the onboarding process, and they are required to affirm in writing within 30 days of hire that they have read them.

17. Employees are also required to review these policies on an annual basis and to affirm that they have read them.

18. From 2013 through 2018, Ziegenfuse annually affirmed that he completed the Ocwen Code of Business Conduct and Ethics training, which includes reviewing the Insider Trading Prevention Policy. His most recent affirmation was on March 7, 2018.

**Insider Trading Prior to the Announcement of Ocwen's Merger With PHH**

19. Beginning in October 2017, Ocwen started negotiating a potential merger with PHH.

20. By early February 2018, Ziegenfuse was privy to the status of the merger discussions between Ocwen and PHH, and was copied on emails detailing the negotiations.

21. Between February 9, 2018, and February 23, 2018, while in possession of this material, nonpublic information, Ziegenfuse purchased 200 call options with a strike price of \$8 and an expiration date of May 18, 2018, and 4,000 shares of PHH stock in a brokerage account in his mother's name at a total cost of \$56,212.

22. A call option gives the buyer the right, but not the obligation, to buy a stock at a specified price on or before a particular date. A put option gives the buyer the right, but not the obligation, to sell a stock at a specified price on or before a particular date.

23. Ocwen and PHH finalized the merger agreement on February 26, 2018, and PHH's Board of Directors approved it the next day.

24. On February 27, 2018, after the market closed, PHH announced that it had entered into a definitive agreement in which Ocwen would acquire all of PHH's outstanding shares of common stock in an all-cash transaction valued at \$360 million, or \$11.00 per fully-diluted share.

25. The public announcement of PHH's merger with Ocwen triggered a 24% increase in PHH's stock price from the prior day's closing price, rising from \$8.52 to \$10.58.

26. Between February 27, 2018, and February 28, 2018, Ziegenfuse sold all 200 call options and 4,000 shares of PHH stock for a total profit of \$36,310.

#### **Insider Trading Prior to the Announcement of Ocwen's Regulatory Settlements**

27. Since April 20, 2017, or shortly thereafter, Ocwen had been subject to regulatory actions from 30 states and the District of Columbia alleging deficiencies in Ocwen's compliance with law and regulations relating to its servicing and lending activities.

28. A number of states issued cease-and-desist orders to Ocwen that limited Ocwen's ability to acquire new mortgage servicing rights and originate mortgage loans.

29. On September 28, 2017, while on a call with Ocwen's legal department, Ziegenfuse learned that the company had entered into agreements with 10 states to resolve the regulatory actions brought by those states.

30. That same day, while in possession of this material, nonpublic information, Ziegenfuse purchased 6,000 shares of Ocwen stock in the account in his mother's name.

31. Later that day, Ocwen publicly announced that the 10 state regulatory actions had been resolved. Although a number of conditions were imposed on Ocwen in the new consent

agreements, Ocwen avoided financial penalties and some of the earlier restrictions were removed.

32. Investors largely viewed the resolution of the regulatory actions as a positive development for Ocwen, as reflected by the 4% increase in Ocwen's stock price from the prior day's closing price, rising from \$3.32 to \$3.44.

33. On September 29, 2017, Ziegenfuse sold all 6,000 shares for a profit of \$1,430.

**Insider Trading Prior to the Announcement of the CFPB's Lawsuit Against Ocwen**

34. At a staff meeting in early April 2017, Ziegenfuse learned that the CFPB was likely to bring an enforcement action against Ocwen in the near term.

35. A CFPB enforcement action would not only negatively affect Ocwen, but it would also negatively impact the revenue and profits for ASPS, which exclusively provides various fee-based services to Ocwen.

36. On April 7, 2017, while in possession of this material, nonpublic information, Ziegenfuse purchased in his own account 40 put options of ASPS with a strike price of \$30 and an expiration date of July 21, 2017.

37. On April 20, 2017, the CFPB publicly sued Ocwen and its subsidiaries over accusations of widespread misconduct in servicing borrowers' mortgage loans, alleging substantial consumer harm.

38. The CFPB's announcement of an enforcement action against Ocwen triggered a 54% drop in the stock price of the company from the prior day's closing price. The announcement also triggered a 42% drop in the stock price of ASPS, falling from \$43.88 to \$25.44.

39. On April 21, 2017, the day after the public announcement of the CFPB action, Ziegenfuse sold all 40 options for a profit of \$26,325.

### **Ziegenfuse Violated the Federal Securities Laws**

40. As Vice President of Servicing, Ziegenfuse owed a duty of trust or confidence to Ocwen's shareholders.

41. Pursuant to Ocwen's Insider Trading Prevention Policy and Code of Business Conduct and Ethics, Ziegenfuse also owed a duty to Ocwen not to trade in the securities of any companies based on material, nonpublic information in his possession as a result of his employment at Ocwen.

42. Ziegenfuse had direct access to material, nonpublic information regarding Ocwen and its counterparties, including information relating to: (1) Ocwen's merger with PHH; (2) Ocwen's settlements with state regulatory agencies; and (3) the CFPB's enforcement action against Ocwen. A reasonable investor would have viewed this information as being important to his investment decision and as significantly altering the total mix of information available to the public.

43. Ziegenfuse knew or was reckless in not knowing that the information about PHH's merger with Ocwen, Ocwen's state regulatory settlements, and the CFPB enforcement action was both material and nonpublic.

44. Ziegenfuse knew or was reckless in not knowing that Ocwen's Insider Trading Prevention Policy and Code of Business Conduct and Ethics prohibited him from trading on the information.

45. In breach of the duty he owed shareholders of Ocwen, Ziegenfuse knowingly or recklessly traded Ocwen securities on the basis, and while in possession, of the material, nonpublic information regarding Ocwen's settlements with state regulatory agencies.

46. In breach of the duty that he owed Ocwen as an employee, Ziegenfuse knowingly or recklessly misappropriated from Ocwen material, nonpublic information regarding Ocwen's

anticipated merger with PHH and the CFPB's enforcement action against Ocwen, and knowingly or recklessly traded securities in PHH and ASPS, respectively, on the basis, and while in possession, of that information.

47. Ziegenfuse knew or was reckless in not knowing that he breached the duties that he owed to Ocwen's shareholders and to Ocwen as an employee.

### **CLAIM FOR RELIEF**

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

48. The Commission re-alleges and incorporates by reference each and every allegation in paragraphs 1-47 inclusive, as if they were fully set forth herein.

49. By engaging in the conduct described above, Defendant Ziegenfuse, directly or indirectly, in connection with the purchase or sale of a security, by use of the means or instrumentalities of interstate commerce or of the mails, or of the facilities of a national securities exchange, knowingly or recklessly: (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material fact or omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon other persons.

50. By engaging in the conduct described above, Defendant Ziegenfuse violated and, unless restrained and enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

### **PRAYER FOR RELIEF**

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



**I.**

Permanently restraining and enjoining Defendant Ziegenfuse from, directly or indirectly, engaging in conduct in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5];

**II.**

Ordering Defendant Ziegenfuse to disgorge all illicit trading profits or other ill-gotten gains derived from the activities set forth in this Complaint, together with prejudgment interest thereon;


**III.**

Ordering Defendant Ziegenfuse to pay civil penalties pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1]; and

**IV.**

Granting such other and further relief as this Court may deem just, equitable, or necessary in connection with the enforcement of the federal securities laws.

Respectfully submitted,

  
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Katie E. Hopkins  
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