

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ERIC D. ROGERS,

Defendant.

COMPLAINT

Civil Action No.

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

SUMMARY

1. This case involves insider trading by Eric Rogers, a former proprietary trader at a broker-dealer in New York City. In 2007, Rogers traded ahead of the announced corporate acquisition of 3Com Corp. ("3Com") using inside information misappropriated by two attorneys at the law firm Ropes & Gray LLP ("Ropes & Gray").

2. In this scheme, Arthur J. Cutillo ("Cutillo") and Brien P. Santarlas ("Santarlas"), former lawyers in the New York office of Ropes & Gray, misappropriated from their law firm, in exchange for kickbacks, material, nonpublic information concerning corporate acquisitions or bids involving Ropes & Gray clients, including the September 2007 announced acquisitions of 3Com by Bain Capital and Huawei Technologies. Using Cutillo's friend and fellow attorney Jason Goldfarb as a conduit, Cutillo and Santarlas tipped inside information concerning the acquisitions to Zvi Goffer ("Zvi"), a former proprietary trader at Schottenfeld Group, LLC. Zvi then tipped the acquisition information to, among others, his brother Emanuel Goffer ("Emanuel"), who

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tipped Rogers. Based on this inside information, Rogers traded in the securities of 3Com, resulting in total illicit profits of approximately \$207,000.

3. By virtue of the conduct alleged herein, Defendant violated Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]. Unless enjoined, he is likely to commit such violations again in the future.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this matter pursuant to Exchange Act Sections 21(d)(1), 21(e), 21A, and 27 [15 U.S.C. §§ 78u(d)(1), (e), 78u-1, and 78aa]. Defendant, directly or indirectly, made use of the means or instrumentalities of interstate commerce or the mails in connection with the conduct alleged herein.

5. Venue is proper because certain acts or transactions constituting the violations occurred within this judicial district.

### **DEFENDANT**

6. **Eric D. Rogers**, age 31, is a resident of Oceanside, New York. During the relevant time period, Rogers was a registered representative and proprietary trader at Spectrum Trading, LLC ("Spectrum"), a registered broker-dealer in New York.

### **OTHER RELEVANT INDIVIDUALS AND ENTITIES**

7. **Arthur J. Cutillo**, age 35, is a resident of Toms River, New Jersey. During the relevant time period, Cutillo was an attorney in the New York office of Ropes & Gray LLP.

8. **Brien P. Santarlas**, age 35, is a resident of Hoboken, New Jersey. During the relevant time period, Santarlas was an attorney in the New York office of Ropes & Gray LLP.

9. **Jason C. Goldfarb**, age 34, is a resident of New York, New York. During the relevant time period, Goldfarb was an attorney in private practice in Brooklyn, New York.

10. **Zvi Goffer**, age 35, is a resident of New York, New York. During the relevant time period, Zvi Goffer was a registered representative and a proprietary trader at Schottenfeld Group LLC, a registered broker-dealer.

11. **Emanuel Goffer**, age 33, is a resident of New York, New York. During the relevant time period, Emanuel Goffer was a registered representative and a proprietary trader at Spectrum Trading, LLC, a registered broker-dealer.

12. **Spectrum Trading, LLC** was a limited liability company located in New York, New York. Spectrum was a registered broker-dealer, but ceased operations in 2008.

13. **Schottenfeld Group, LLC** is a limited liability company located in New York, New York. Schottenfeld is a registered broker-dealer.

14. **Ropes & Gray LLP** is a limited liability partnership and international law firm with offices in Boston, New York, Palo Alto, San Francisco, Tokyo, and Washington, DC.

### **FACTS**

15. In 2007, Cutillo and Santarlas were attorneys at Ropes & Gray in the firm's New York office. While employed at Ropes & Gray, Cutillo and Santarlas had

access to, and learned of, material nonpublic information concerning corporate acquisitions in which Ropes & Gray represented acquirers or bidders in proposed acquisitions. Cutillo and Santarlas owed a fiduciary or other duty of trust and confidence to Ropes & Gray and its clients to keep this information confidential and not to disclose or personally use this information.

16. Information concerning an upcoming acquisition of a public company is valuable and material information. Normally, when a public company is acquired, the acquisition price is greater than the pre-announcement market price of the stock of the company being acquired. Thus, news of an actual or potential acquisition of a public company often results in an increase in the market price of the company's stock. A reasonable investor would consider information concerning an upcoming corporate acquisition important to his or her investment decision, and a significant alteration of the total mix of information available to the public concerning the company that is the subject of the acquisition.

17. In 2007, Cutillo and Santarlas, together with Cutillo's friend Jason Goldfarb, a lawyer in private practice in New York, entered into a scheme with Zvi, a proprietary trader at Schottenfeld, to trade on material, nonpublic information concerning upcoming corporate acquisitions involving Ropes & Gray's clients. As part of this scheme, and in breach of their duties to Ropes & Gray and its clients, Cutillo and Santarlas misappropriated from their law firm material, nonpublic information concerning upcoming acquisitions involving the firm's clients, including the September 28, 2007 announced acquisition of 3Com by Bain Capital, LLC and Huawei Technologies.

18. In the summer of 2007, 3Com was pursuing the sale of its company. On July 28, 2007, Bain Capital, represented by Ropes & Gray, sent a letter to 3Com indicating interest in acquiring 3Com at a purchase price between \$5.25 - \$5.85 per share. On August 1 and 2, 2007, 3Com's management met with representatives of Bain Capital. On August 8, 2007, 3Com's counsel, Wilson Sonsini Goodrich & Rosati, sent a draft merger agreement to Ropes & Gray. In August and September 2007, Bain Capital conducted due diligence of 3Com.

19. On the evening of August 6, 2007, Cutillo made six telephone calls to Goldfarb. Cutillo tipped Goldfarb material, nonpublic information concerning the acquisition of 3Com, which Cutillo misappropriated from Ropes & Gray. After the calls with Cutillo, Goldfarb talked to Zvi on the telephone that same night. Goldfarb tipped Zvi the material, nonpublic information concerning the upcoming acquisition of 3Com that Cutillo misappropriated from his firm. Zvi paid kickbacks to Goldfarb, Cutillo and Santarlas in exchange for the information.

20. Zvi tipped the inside information concerning the 3Com acquisition to, among others, his brother Emanuel. Emanuel tipped Rogers, a fellow proprietary trader at Spectrum. Rogers knew, or should have known, that the material, nonpublic information he received was obtained in breach of a fiduciary or other duty of trust and confidence owed to the source of the information.

21. Between August 7 and September 27, 2007, Rogers purchased shares of 3Com in a proprietary account at Spectrum based on the inside information misappropriated by Cutillo. On September 28, 2007, 3Com announced that it would be acquired by Bain Capital and Huawei Technologies at a purchase price of \$5.30 a share,

which represented a premium of approximately 44% over the previous day's closing price of \$3.68 per share.

22. At the time the 3Com acquisition was announced, Rogers held 145,000 shares of 3Com, which he sold subsequent to the announcement, resulting in total illicit profits of approximately \$207,000.

### **CLAIM FOR RELIEF**

#### **FIRST CLAIM**

##### **Insider Trading in Connection with the Purchase or Sale of Securities**

##### **(Violations of Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 Thereunder [17 C.F.R. § 240.10b-5])**

23. Paragraphs 1 through 22 are realleged and incorporated by reference.

24. As described above, Defendant engaged in illegal insider trading in which he used material, nonpublic information concerning an upcoming corporate acquisition to purchase securities.

25. By reason of the conduct described above, Defendant, in connection with the purchase or sale of securities, by the use of any means or instrumentalities of interstate commerce or of the mails, or of any facility of any national securities exchange, directly or indirectly (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material fact or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any persons, including purchasers or sellers of the securities.

26. By reason of the conduct described above, Defendant violated Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Exchange Act 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:

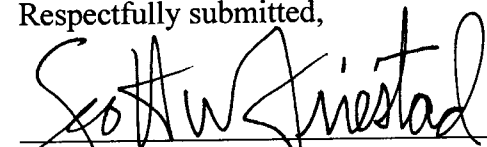
A. permanently enjoining Defendant from violating Exchange Act Section 10(b) [15 U.S.C. § 78j(b)] and Exchange Act Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5];

B. ordering Defendant to disgorge, with prejudgment interest, all illicit trading profits or other ill-gotten gains resulting from the conduct alleged in this Complaint;

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

D. granting such other and further relief as the Court deems just and appropriate.

Respectfully submitted,



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