Sanjay Wadhwa
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
New York Regional Office
3 World Financial Center, Suite 400
New York, NY 10281-1022
(212) 336-0181

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,	:	
Plaintiff,	:	
-against-	:	**COMPLAINT**
SIGMA CAPITAL MANAGEMENT, LLC,	:	**ECF CASE**
Defendant,	:	
and	:	
SIGMA CAPITAL ASSOCIATES, LLC, **S.A.C. SELECT FUND, LLC,**	:	
Relief Defendants.	:	

Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against defendant Sigma Capital Management, LLC ("Sigma Capital" or "Defendant") and relief defendants Sigma Capital Associates, LLC ("Sigma Capital Fund") and S.A.C. Select Fund, LLC ("S.A.C. Select Fund") (collectively with Sigma Capital Fund, "Relief Defendants"), alleges as follows:

SUMMARY

1. This case involves insider trading by the hedge fund advisory firm Sigma Capital, which executed trades in the securities of public companies Dell, Inc. ("Dell") and Nvidia Corporation ("Nvidia") based on material nonpublic information concerning

both companies' quarterly financial results. Sigma Capital obtained that information through a Sigma Capital analyst who was a member of a group of hedge fund analysts who regularly shared material nonpublic information. The analyst, Jon Horvath ("Horvath"), passed the inside information to his supervisor, a portfolio manager at Sigma Capital ("Portfolio Manager A"), and, on at least one occasion, to another portfolio manager at Sigma Capital ("Portfolio Manager B"). Based on the inside information that Horvath shared, Sigma Capital executed illegal trades in advance of at least four quarterly earnings announcements during 2008 and 2009 and generated over $6.4 million in profits and avoided losses for relief defendant Sigma Capital Fund (a hedge fund that Sigma Capital managed) and relief defendant S.A.C. Select Fund (a hedge fund that was managed during the relevant period by S.A.C. Capital Advisors, LLC).

Insider Trading in the Securities of Dell

2. During at least 2008 and 2009, a Dell insider (the "Dell Insider") passed material nonpublic information regarding Dell to Sandeep Goyal ("Goyal"), an analyst at Investment Adviser A who previously worked at Dell. This material nonpublic information included quarterly earnings information and other performance data regarding Dell that the Dell Insider obtained in advance of Dell's quarterly earnings announcements.

3. Goyal, in turn, passed this material nonpublic information to Jesse Tortora ("Tortora"), who at the time was an analyst at the investment adviser firm Diamondback Capital Management, LLC ("Diamondback").

4. Tortora, who was a member of the group of hedge fund analysts who regularly shared material nonpublic information regarding technology companies, passed the material nonpublic information that he received from Goyal to other members of the group, including Horvath, an analyst who reported to Portfolio Manager A at Sigma Capital.

5. Soon after Horvath received the Dell inside information from Tortora – in some instances just minutes after Tortora passed the information to Horvath – Horvath communicated the information to Portfolio Manager A, who then executed trades in Dell securities. Portfolio Manager A's trades generated over $2.6 million in profits and avoided losses for the Sigma Capital Fund. On at least one occasion in August 2008, Horvath also passed the Dell inside information that he received from Tortora to Portfolio Manager B at Sigma Capital, and Portfolio Manager B placed trades that allowed the Sigma Capital Fund to avoid losses of approximately $2 million. Portfolio Manager A's and Portfolio Manager B's trading of Dell securities also caused the S.A.C. Select Fund to execute similar trades and to avoid additional losses of over $1 million.

Insider Trading in the Securities of Nvidia

6. During at least 2009 and 2010, Danny Kuo ("Kuo"), a vice-president and fund manager at Investment Adviser B, who was also a member of the group of hedge fund analysts that regularly shared information, obtained material nonpublic information concerning Nvidia's calculation of its revenues, gross profit margins and other financial metrics prior to the company making these figures public in its quarterly earnings announcements. Kuo obtained this information from Hyung Lim, who had himself

obtained the inside information from a friend who was an employee in Nvidia's finance department (the "Nvidia Insider").

7. Kuo passed the information to Horvath, who then relayed it to Portfolio Manager A. Based on this information, Portfolio Manager A caused the Sigma Capital Fund to execute trades in Nvidia securities that resulted in profits of more than $500,000 in May 2009.

NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT

8. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77t(b)] and Section 21(d) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78u(d)]. The Commission seeks a permanent injunction against the Defendant, enjoining it from engaging in the transactions, acts, practices, and courses of business alleged in this Complaint, and a civil penalty pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1]. The Commission also seeks from the Defendant and the Relief Defendants, disgorgement of ill-gotten gains or losses avoided from the unlawful insider trading activity set forth in this Complaint, together with prejudgment interest. Finally, the Commission seeks any other relief the Court may deem appropriate pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)].

JURISDICTION AND VENUE

9. This 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), and 77v(a)] and Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

10. Venue lies in this Court pursuant to Sections 20(b) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)], and Sections 21(d), 21A, and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u-1, and 78aa]. Certain of the acts, practices, transactions, and courses of business alleged in this Complaint occurred within the Southern District of New York. Defendant Sigma Capital has offices in New York, New York. Many of the communications described herein took place while at least one of the parties to the communication was physically located in New York, New York and Portfolio Manager A executed many of the relevant securities trades while located in New York, New York.

DEFENDANT

11. **Sigma Capital** is a New York limited liability corporation and unregistered investment advisory firm based in New York, New York. Sigma Capital advises the Sigma Capital Fund, a hedge fund with approximately $2 billion worth of assets under management. Sigma Capital has been affiliated with Stamford, Connecticut-based investment advisers S.A.C. Capital Advisors, LLC, and S.A.C. Capital Advisors, LP.

RELIEF DEFENDANTS

12. **Sigma Capital Fund** is a hedge fund that is affiliated with Sigma Capital and that benefitted from illegal insider trades in Dell and Nvidia securities set forth in this Complaint.

13. **S.A.C. Select Fund** is a hedge fund that was affiliated with S.A.C. Capital Advisors, LLC during the relevant period and that benefited from illegal insider trades in Dell securities set forth in this Complaint.

RELEVANT ENTITIES AND INDIVIDUALS

14. **Dell** is a Delaware corporation headquartered in Round Rock, Texas. Dell develops and sells computers and related products and services. Dell securities are registered with the Commission pursuant to Section 12(b) of the Exchange Act and its stock is traded on the Nasdaq under the symbol "DELL."

15. **Diamondback** was a registered investment adviser based in Stamford, Connecticut that employed Tortora. On December 6, 2012, Diamondback announced that it would be ceasing investment operations and returning the assets that it managed to its investors.

16. **Goyal**, age 40, resides in Princeton, New Jersey. From July 2007 to January 2012, Goyal worked as an analyst for Investment Adviser A. In 2006 and 2007, Goyal worked as a research analyst at Prudential Equity Group ("Prudential") in San Francisco. While at Prudential, he held Series 7, 63, and 87 licenses. Immediately prior to working at Prudential, Goyal worked as a manager of corporate planning at Dell for approximately three years.

17. **Horvath**, age 43, resides in San Francisco, California. From September 2006 to September 2012, Horvath was employed as a research analyst at Sigma Capital and reported directly to Portfolio Manager A.

18. **Kuo**, age 37, resides in Los Angeles, California. From April 2008 until approximately January 2012, Kuo was a vice-president and fund manager at Investment Adviser B, an unregistered asset management firm. Kuo previously held Series 7, 86 and 87 licenses, which he obtained while employed as an analyst at Bear Stearns & Co., and a Series 63 license, which he obtained while employed at J.P. Morgan Securities, Inc.

19. **Lim**, age 46, resides in Los Altos, California. From 2008 to 2012, Lim was employed in a division of Broadcom Corporation responsible for developing and marketing components of satellite set-top boxes.

20. **Nvidia** is a Delaware corporation headquartered in Santa Clara, California. It develops and sells graphics processors used in smart phones, tablets, video game systems, and other computing devices. Nvidia's securities are registered with the Commission pursuant to Section 12(b) of the Exchange Act and its stock is traded on the NASDAQ under the symbol "NVDA."

21. **Tortora**, age 35, resides in Pembroke Pines, Florida. From late 2007 until early 2010, Tortora worked as an analyst at Diamondback. Prior to working at Diamondback, Tortora was a research analyst at Prudential in San Francisco from 2004 to mid-2007. While at Prudential, Tortora held Series 7, 63, 86, and 87 licenses.

22. **Investment Adviser A** is a registered investment adviser based in New York, New York. It manages the assets of individuals, a family of mutual funds, and other investment vehicles with assets under management worth approximately $88 billion.

23. **Investment Adviser B** is an unregistered asset management firm based in South Pasadena, California and Reno, Nevada.

24. **Portfolio Manager A** is a portfolio manager at Sigma Capital.

25. **Portfolio Manager B** is a portfolio manager at Sigma Capital.

FACTS

INSIDER TRADING IN THE SECURITIES OF DELL

26. During at least 2008 and 2009, the Dell Insider regularly provided material nonpublic information concerning Dell's quarterly financial results to Goyal, an analyst at Investment Adviser A.

27. Goyal, who previously worked at Dell, was friends with the Dell Insider and during the period that the Dell Insider was providing Goyal with inside information about Dell, the Dell Insider sought and received career advice from Goyal.

28. The Dell Insider's provision of this information to Goyal was in clear violation of the Dell Code of Conduct, which specifically prohibited "using any material inside information about Dell or any other company (such as [a] supplier or vendor) to trade any stock," and also prohibited "provid[ing] 'tips' or shar[ing] material inside information with any other person who might trade the stock."

29. Goyal passed the information that he received from the Dell Insider to his friend Tortora, an analyst at Diamondback. In exchange for Goyal providing material nonpublic information regarding Dell, Tortora and his supervisor at Diamondback arranged for Diamondback to make soft dollar payments[1] totaling at least $175,000 to a brokerage account maintained by a nominee of Goyal. Goyal's nominee never performed any services for Diamondback that would warrant soft-dollar payments by Diamondback.

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[1] "Soft dollars" are created when an investment firm causes its trading activity to be directed through a designated broker-dealer, and, in return, the broker-dealer credits the investment firm with a portion of the commissions or fees from the executed trading activity. These credits can then be used to pay for goods and services consumed by the investment firm, such as third-party research. The investment firm can direct the broker-dealer to pay a third-party research consultant directly (thereby utilizing the soft dollar credits it has accumulated with the broker-dealer).

30. After receiving the Dell information from Goyal, Tortora passed the information to several other hedge fund analysts – including Horvath – with whom Tortora regularly exchanged information regarding various technology companies.

31. Tortora informed Horvath that the information had come from a source within Dell. Horvath then passed the information to Portfolio Manager A, his supervisor at Sigma Capital and, on at least one occasion to another Sigma Capital portfolio manager, Portfolio Manager B.

32. Shortly after receiving the information from Horvath, Portfolio Manager A and Portfolio Manager B executed trades in Dell securities on behalf of the Sigma Capital Fund. As a result of Portfolio Manager A and Portfolio Manager B's trading, the S.A.C. Select Fund, a hedge fund managed by a Sigma Capital affiliate, executed similar trades in August 2008.

Dell's May 2008 Earnings Announcement

33. In the weeks leading up to Dell's May 29, 2008 announcement of its first quarter financial results (the three-month period from February 2, 2008 to May 2, 2008), the Dell Insider had several telephone calls with Goyal in which the Dell Insider provided Goyal with material nonpublic information. Beginning in at least early May, as Dell was in the initial stages of computing its financial results, the Dell Insider provided Goyal with preliminary estimates of the company's revenues and gross profit margin. Over time, as the company got closer to finalizing its earnings report, the information that the Dell Insider provided to Goyal became more precise.

34. Soon after each of Goyal's calls with the Dell Insider, Goyal called Tortora and passed along the information that the Dell Insider had provided. And soon

after speaking with Goyal, Tortora passed the information to Horvath.

35. On the evening of May 11, 2008, Goyal and the Dell Insider had a 32-minute phone call. During that call, the Dell Insider provided details about Dell's first quarter results. Shortly after that call ended, Goyal spoke to Tortora and provided the information he had just received from the Dell Insider.

36. The next morning, May 12, Tortora spoke to Horvath via telephone for 14 minutes, passing along the information regarding Dell that Tortora had received from Goyal. About nine minutes later, Horvath telephoned Portfolio Manager A, and the two spoke for ten minutes.

37. Twenty minutes later, Horvath posted a note to an internal research tracking system maintained by Sigma Capital, which was accessible to Portfolio Manager A and the analysts and traders working under him. That research note stated that Horvath had received information regarding Dell from "JT" (meaning Tortora) which indicated that Dell's quarterly revenues and gross margins would be slightly above analysts' consensus expectations.

38. Following another telephone call between Tortora and Horvath later that day, Horvath called Portfolio Manager A. The next morning, May 13, 2008, Portfolio Manager A purchased 1,000 Dell call options[2] with a strike price of $20 for the Sigma Capital Fund.

[2] A call option is a financial contract between two parties that gives the buyer the right, but not the obligation, to buy an agreed quantity of stock during a specified time period for a specified price, known as the strike price. A buyer pays a fee, or premium, to purchase this right. A buyer of a call option generally stands to gain if the price of the stock increases.

39. Goyal had another call with the Dell Insider on the evening of May 15, 2008. Minutes after completing his call with the Dell Insider, Goyal telephoned Tortora and provided Tortora with the Dell inside information that Goyal had just received. The following morning, May 16, 2008, Tortora spoke with Horvath (among others) and conveyed the Dell inside information to him.

40. That same morning, Goyal and Tortora had a brief email exchange in which they agreed that the numbers received from the Dell Insider indicated that Dell's earnings per share of common stock ("EPS") for the first quarter would be three cents above the then-current consensus among Wall Street analysts.

41. On May 28, 2008 (the day before Dell's earnings release), Goyal spoke to the Dell Insider and received a final update regarding Dell's first quarter performance. Consistent with prior tips, the information indicated that Dell's first quarter earnings per share would surpass analysts' expectations. Minutes after completing his call with the Dell Insider, Goyal called Tortora and passed the Dell Insider's updated information to him. The next morning, May 29, 2008, Tortora spoke with Horvath by telephone and passed the information to him.

42. Approximately 45 minutes after Tortora spoke with Horvath, Portfolio Manager A sold the Dell call options with a strike price of $20 that he had purchased on behalf of the Sigma Capital Fund on May 13, netting profits of over $126,000, and staked a more aggressive long position by purchasing 1,750 Dell call options with a strike price of $22. Later that day, Portfolio Manager A bought 1,000 Dell call options with a strike price of $21 on behalf of the Sigma Capital Fund.

43. After market close on May 29, 2008, Dell announced its first quarter financial results. The company reported adjusted earnings of $0.38 per share, a number which – as Goyal's inside information had indicated – substantially exceeded analysts' consensus estimate of $0.34 per share. The next day, Dell's share price, which had closed at $21.81 just before the announcement, increased more than 5 percent to a close at $23.06.

44. After Dell announced its first quarter earnings, Portfolio Manager A sold the Dell options position he had acquired for the Sigma Capital Fund. Including the approximately $126,000 in profits that Portfolio Manager A generated by readjusting Sigma Capital's options positions on May 28, the Sigma Capital Fund realized profits of approximately $430,000.

Dell's August 2008 Earnings Announcement

45. The Dell Insider once again provided Goyal with inside information concerning Dell's revenues and gross profit margin in advance of the company's August 28, 2008 announcement of its financial results for its second quarter (the period from May 3, 2008 to August 1, 2008).

46. As in the prior quarter, Goyal received updates as Dell revised its calculations in the weeks leading up to the announcement of its quarterly results. And, as in the prior quarter, Goyal provided the Dell inside information to Tortora, who passed it to Horvath, who then passed it to Portfolio Manager A.

47. On the evening of August 4, 2008, during a 40-minute telephone call between the Dell Insider and Goyal, the Dell Insider provided Goyal with inside information concerning Dell's second quarter financial results. Early the following

morning, August 5, 2008, Goyal telephoned Tortora and the two spoke for approximately ten minutes. During this call, Goyal communicated to Tortora the inside information he had received from the Dell Insider.

48. At 8:41 a.m., Tortora sent an email to Horvath (and others), in which he conveyed the inside information he had just received, including Dell's calculation of its revenues and gross margins.

49. Among other information, Tortora's email conveyed that Dell's then-current calculation of its gross profit margin for the second quarter was 17.5 percent, which was significantly worse than the 18.3 percent figure that analysts were expecting at that time.

50. On the evening of August 14, 2008, the Dell Insider placed a fifty-minute telephone call to Goyal and passed Goyal material nonpublic information, including that Dell's second quarter gross margin was still expected to be lower than analysts were predicting.

51. The following morning, August 15, a telephone number associated with Goyal's office at Investment Adviser A placed a call to Tortora's mobile phone that lasted for approximately three minutes. At approximately 2:00 pm that afternoon, Tortora spoke with Goyal again.

52. On the next trading day, Monday, August 18, 2008, Tortora passed the update concerning Dell's disappointing gross margin results to Horvath during a ten minute telephone call that began at approximately 12:20 p.m.

53. Three minutes after Horvath's call with Tortora had ended, Horvath called Portfolio Manager A and the two spoke for approximately two minutes. One minute after

that call ended, Portfolio Manager A began short selling[3] Dell stock, amassing a substantial short position for the Sigma Capital Fund that day. Over the next few trading days, Portfolio Manager A also purchased Dell put options and short sold Dell call options.

54. On the evening of August 24, 2008, Goyal received another update from the Dell Insider. The following day, August 25, Goyal placed a telephone call to Tortora. During this call, which lasted approximately two minutes, Goyal informed Tortora that Dell was still planning to announce a worse-than-expected gross margin. Approximately 20 minutes after that call, Tortora sent an email to Horvath (and others) indicating that Tortora had done a new "dell check" and that it was the "same as before" and sounded bad for Dell.

55. On August, 26, 2008, Horvath sent an email to Portfolio Manager B, stating that:

> "I have a 2nd hand read *from someone at the company* – this is 3rd quarter I have gotten this read from them and it has been very good in the last quarters. They are seeing GMs miss by 50-80 [basis points] due to poor mix, [operating expenses] in-line and a little revenue upside netting out to an [earnings per share] miss. . . . Please keep to yourself as obviously not well known." (emphasis added).

Two minutes later, Portfolio Manager A, who had been copied on the above email, added: "yes, normally we would never divulge data like this, so please be discreet."

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[3] "Shorting" or "short selling" is the practice of selling a security that one does not own, but rather has arranged to borrow from a third party, with the intention of purchasing (also called "covering") the security at a later date. A short seller stands to gain if the price of the security declines between the short sale and the purchase because the short seller has sold the security at a price that is greater than the purchase price.

56. Twenty-four minutes after Horvath's email, Portfolio Manager B began selling shares of Dell stock on behalf of the Sigma Capital Fund. By the time of Dell's August 28 earnings announcement, Portfolio Manager B had reduced his portfolio's Dell holdings by 600,000 shares. As a result of Portfolio Manager A and Portfolio Manager B's trading in Dell securities, the S.A.C. Select Fund, a hedge fund managed by a Sigma Capital affiliate, also decreased its holdings of Dell stock.

57. After the close of trading on August 28, 2008, Dell announced its second quarter financial results. Its announcement of a gross margin of 17.2 percent was substantially worse than the 18.4 percent that analysts had expected just prior to the announcement. The following day, Dell's share price dropped more than 13 percent, from $25.21 at the close of trading on August 28, 2008 to $21.73 at the close of trading on August 29.

58. In the days following the announcement, Portfolio Manager A closed out both his short position in Dell stock and his multiple options positions, reaping total profits of approximately $1 million for the Sigma Capital Fund. Portfolio Manager B's sale of Dell stock allowed the Sigma Capital Fund to avoid losses of approximately $2 million. In addition, as a result of Portfolio Manager A and Portfolio Manager B's trading, the S.A.C. Select Fund also sold Dell stock in advance of Dell's disappointing earnings announcement and avoided losses of more than $1 million.

Dell's August 2009 Earnings Announcement

59. Dell's second fiscal quarter of its 2010 fiscal year closed on July 31, 2009, and the company announced its earnings results on August 27, 2009.

60. As in prior quarters, the Dell Insider provided Goyal with the company's initial calculations of its results, and then followed up with updates as Dell finalized its quarterly numbers in advance of announcing these figures to the public. As in prior quarters, Goyal passed the information to Tortora, and Tortora passed the information to Horvath, who relayed it to Portfolio Manager A. In this particular quarter, the material nonpublic information that the Dell Insider provided indicated that Dell would beat analyst expectations concerning the company's EPS.

61. On the morning of August 12, 2009 – just hours after the Dell Insider had spoken to Goyal regarding Dell's second quarter results – Tortora telephoned Horvath and passed the Dell inside information to him. Later that morning, Horvath telephoned Portfolio Manager A and the two spoke for five minutes. Approximately one minute later, Portfolio Manager A began covering shares of a Dell short position that he had previously established on behalf of the Sigma Capital Fund. Portfolio Manager A covered 200,000 shares of Dell stock that day and covered an additional 50,000 shares the next day.

62. In the days leading up to the August 27, 2009 announcement, the Dell Insider provided additional updates, which Tortora relayed to Horvath, and Horvath passed to Portfolio Manager A. Based on this information, Portfolio Manager A accumulated a significant quantity of Dell stock on behalf of the Sigma Capital Fund.

63. When Dell announced its results on the afternoon of August 27, 2009, the company's reported EPS beat analysts' forecast by four percent and the stock price rose 7 percent in the final minutes of trading, ending the day 8.6 percent above the prior day's

closing price. (While Dell usually announced its results right after the close regular market trading, the August 27, 2009 announcement was made just prior to the close.)

64. As a result of Portfolio Manager A's trading, the Sigma Capital Fund reaped almost $500,000 in profits and also avoided losses of more than $700,000 on the short position that Portfolio Manager A covered based on that same information.

<u>Insider Trading in the Securities of Nvidia</u>

65. During at least 2009 and 2010, Lim obtained material nonpublic information concerning Nvidia's anticipated quarterly earnings announcements from his friend, the Nvidia Insider, and relayed it to Kuo.

66. As an employee of Nvidia's finance department, the Nvidia Insider had access to Nvidia's calculation of its quarterly financial results. The Nvidia Insider regularly provided Lim with nonpublic information concerning Nvidia's quarterly results prior to the company announcing this information to the public.

67. In addition to using the Nvidia Insider's data to trade in his own account, Lim also passed the Nvidia Insider's information to Kuo, who relayed the information to his supervisor at Investment Adviser B and other investment professionals including Horvath.

68. Kuo compensated Lim by paying him $15,000 through direct and indirect means. On one occasion, Kuo wired $5,000 to a Las Vegas bookmaker to pay off a debt of Lim's. On two other occasions, Kuo paid Lim by giving him cash.

69. On Saturday, May 2, 2009, just days before Nvidia's first quarter 2010 earnings announcement, the Nvidia Insider called Lim twice and spoke to him for a total

of about three minutes. One minute after this call ended, Lim telephoned Kuo and spoke to him for over eight minutes.

70. On Monday, May 4, 2009, Kuo sent an email to Horvath (and others), relaying the information he obtained during his May 2 call with Lim, stating: "NVDA checks over the weekend . . . April quarter revenues around $668 million; Came in better than the last read (mid April) .... April quarter GM 30%." Horvath relayed this information to Portfolio Manager A. Based on this information, Portfolio Manager A began short selling Nvidia securities on May 5, 2009.

71. On May 5, 2009, the Nvidia Insider called Lim and spoke to him for over a minute. The next morning, May 6, 2009, Kuo telephoned Lim and spoke to him for over 12 minutes.

72. Shortly after that call, Kuo began relaying the updated Nvidia information to Horvath and others. Horvath then passed the information to Portfolio Manager A.

73. Later that day, Kuo sent an email to other employees of Investment Adviser B, conveying the updated information, including that Nvidia expected to report quarterly revenues of $664 million and a gross margin of 29 percent. The numbers Kuo provided in his May 6, 2009 email accurately anticipated the quarterly figures that Nvidia announced to the public the next day.

74. On the morning of May 7, 2009, Portfolio Manager A added to the Sigma Capital Fund's Nvidia short position.

75. After the market close on May 7, 2009, Nvidia issued a press release announcing its worse-than-expected financial results for the first quarter of 2010, including revenues of $664.2 million and a gross profit margin of 28.6 percent. On May

8, 2009, Nvidia stock, which had closed at $10.73 per share on the previous day, fell as low as $9.11 per share and closed at $9.25 per share.

76. By trading on the basis of inside information in anticipation of Nvidia's May 7, 2009 earnings announcement, the Sigma Capital Fund reaped profits of over $500,000.

CLAIMS FOR RELIEF

CLAIM I
Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder
(Against Defendant Sigma Capital)

77. The Commission realleges and incorporates by reference paragraphs 1 through 76, as though fully set forth herein.

78. The information the Dell Insider provided to Goyal and was later passed to Horvath, Portfolio Manager A, Portfolio Manager B, and Sigma Capital, was, in each case, material and nonpublic. In addition, the information was, in each case, considered confidential by Dell, the company that was the source of the information, and Dell had policies protecting confidential information.

79. The information that the Nvidia Insider provided to Lim regarding Nvidia and was later passed to Horvath, Portfolio Manager A, and Sigma Capital was material and nonpublic. In addition, the information was considered confidential by Nvidia, the company that was the source of the information and which had policies protecting confidential information.

80. Sigma Capital knew, recklessly disregarded, or should have known, that the material nonpublic information concerning Dell and/or Nvidia that it received was

disclosed or misappropriated in breach of a fiduciary duty, or similar relationship of trust and confidence.

81. Sigma Capital is liable for the Relief Defendants' trading because it directly or indirectly effectuated trades by the Relief Defendants and/or unlawfully disclosed material nonpublic information to the Relief Defendants.

82. By virtue of the foregoing, Sigma Capital in connection with the purchase or sale of securities, by the use of the means or instrumentalities of interstate commerce, or of the mails, or a facility of a 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 the 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 have operated as a fraud or deceit upon persons.

83. By virtue of the foregoing, Sigma Capital directly or indirectly, violated, and unless enjoined, will again 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].

CLAIM II
Violations of Section 17(a) of the Securities Act
(Against Defendant Sigma Capital)

84. The Commission realleges and incorporates by reference paragraphs 1 through 83, as though fully set forth herein.

85. By virtue of the foregoing, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly, defendant Sigma Capital: (a) employed

devices, schemes or artifices to defraud; (b) obtained money or property by means of an untrue statement of a material fact or omitted 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; and (c) engaged in transactions, practices or courses of business which operate or would operate as a fraud or deceit upon a purchaser.

86. By reason of the conduct described above, defendant Sigma Capital directly or indirectly violated, and unless enjoined will again violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

CLAIM III
Unjust Enrichment
(Against Relief Defendants)

87. The Commission realleges and incorporates by reference paragraphs 1 through 86, as though fully set forth herein.

88. Each of the Relief Defendants earned profits or avoided losses as a result of the violations by Sigma Capital, as alleged above, under circumstances in which it is not just, equitable or conscionable for the Relief Defendants to retain the funds. As a result of the foregoing, the Relief Defendants were unjustly enriched.

RELIEF SOUGHT

WHEREFORE, the Commission respectfully requests that this Court enter a Final Judgment:

I.

Permanently restraining and enjoining defendant Sigma Capital from violating 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.

Permanently restraining and enjoining defendant Sigma Capital from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)];

III.

Ordering defendant Sigma Capital to disgorge, with prejudgment interest, all ill-gotten gains received as a result of the conduct alleged in this Complaint, including their ill-gotten gains, and the illicit trading profits, other ill-gotten gains, and/or losses avoided of their direct and downstream tippees;

IV.

Ordering defendant Sigma Capital to pay a civil monetary penalty pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1]; and

V.

Ordering each of the Relief Defendants to disgorge on a joint and several basis with Sigma Capital, with prejudgment interest, all funds unlawfully obtained by which they were unjustly enriched;

VI.

Granting such other and further relief as this Court may deem just and proper.

Dated: New York, New York
March 15, 2013

Sanjay Wadhwa

Sanjay Wadhwa
Senior Associate Director
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
New York Regional Office
3 World Financial Center, Suite 400
New York, New York 10281-1022
(212) 336-0181

Of Counsel:

Joseph G. Sansone (SansoneJ@sec.gov)
Matthew Watkins (WatkinsMa@sec.gov)
Daniel R. Marcus (MarcusD@sec.gov)
Justin Smith (SmithJu@sec.gov)