

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

13 CIV 2555

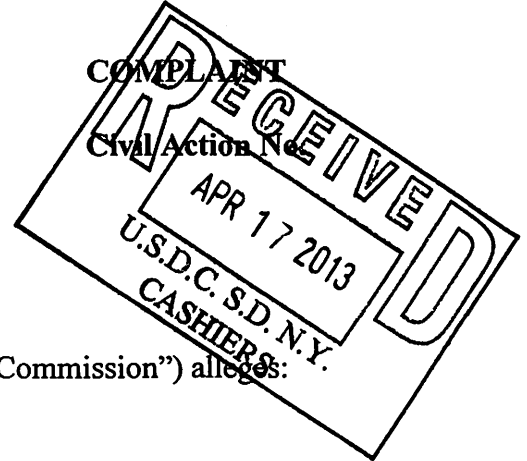
SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JOSEPH M. MANCUSO,

Defendant.



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

SUMMARY

1. This case involves an insider trading scheme in which Zvi Goffer ("Zvi"), a former proprietary trader at the broker-dealer Schottenfeld Group, LLC ("Schottenfeld"), tipped his good friend and colleague, Defendant Joseph M. Mancuso ("Mancuso"), and others, material nonpublic information concerning upcoming corporate acquisitions. Throughout 2007, Mancuso, also a proprietary trader at Schottenfeld, used the inside information he received from Zvi to trade ahead of corporate acquisitions or bids, including the announced acquisitions of Avaya, Inc. ("Avaya"), 3Com Corp. ("3Com"), Axcan Pharma Inc. ("Axcan"), Hilton Hotels Corp. ("Hilton") and Kronos Inc. ("Kronos"). Mancuso's trading based on Zvi's tips resulted in illicit profits of approximately \$350,000.

2. The inside information Zvi tipped to Mancuso and others concerning the 3Com, Axcan and Avaya acquisitions was misappropriated by two attorneys at the New York office of the law firm Ropes & Gray LLP ("Ropes & Gray"). Those attorneys, Arthur Cutillo ("Cutillo") and Brien Santarlas ("Santarlas"), had access to information

about potential acquisition transactions involving Ropes & Gray clients before that information was announced publicly. Zvi engineered an arrangement under which he paid kickbacks to Cutillo and Santarlas in exchange for the valuable inside information, using their mutual friend Jason Goldfarb (“Goldfarb”) as a conduit. Zvi traded on this inside information and tipped others, including Mancuso, who also traded. Mancuso’s trading based on these tips resulted in illicit profits of approximately \$125,000.

3. The inside information Zvi tipped to Mancuso concerning the Hilton and Kronos acquisitions came through Gautham Shankar (“Shankar”), a fellow proprietary trader at Schottenfeld. Shankar was tipped the inside information by Thomas Hardin (“Hardin”), a managing director at the hedge fund adviser Lanexa Management (“Lanexa”), who had been tipped the information by Roomy Khan (“Khan”), a consultant to a New York-based investment adviser. Khan had received the inside information from her friend Deep Shah (“Shah”), an analyst at the credit rating company Moody’s Corp. Zvi paid kickbacks in exchange for the information. Zvi traded on the inside information and tipped Mancuso, who also traded. Mancuso’s trading based on these tips resulted in illicit profits of approximately \$225,000.

4. 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, Defendant is likely to commit such violations again in the future.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this matter pursuant to Exchange Act Sections 21(d)(1), 21(e), and 27 [15 U.S.C. §§ 78u(d)(1), (e), 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.

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

DEFENDANT

7. **Joseph M. Mancuso**, age 36, is a resident of New York, New York. During the relevant time period, Mancuso was a registered representative and proprietary trader at Schottenfeld Group, LLC, a registered broker-dealer in New York.

OTHER RELEVANT INDIVIDUALS AND ENTITIES

8. **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.

9. **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.

10. **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.

11. **Zvi Goffer**, age 35, is a resident of New York, New York. During the relevant time period, Zvi Goffer was a registered representative and proprietary trader at Schottenfeld.

12. **Roomy Khan**, age 54, is a resident of Ft. Lauderdale, Florida. Khan was an individual investor who was employed at Intel in the late 1990s and subsequently was employed at Galleon Management, LP.

13. **Deep Shah**, age 30, resided in Jersey City, New Jersey during the relevant time period and, in 2007, was employed at Moody's as a lodging industry analyst.

14. **Thomas Hardin**, age 34, is a resident of Westwood, New Jersey. During the relevant time period, Hardin was a managing director at Lanexa.

15. **Gautham Shankar**, age 36, is a resident of New Canaan, Connecticut. During the relevant time period, Shankar was a registered representative and proprietary trader at Schottenfeld.

16. **David Plate**, age 37, is a resident of Brooklyn, New York. During the relevant time period, Plate was a registered representative and a proprietary trader at Schottenfeld.

17. **Craig Drimal**, age 56, is a resident of Weston, Connecticut. During the relevant time period, Drimal was a proprietary trader associated with RBC Professional Trader Group LLC, a New York-based registered broker-dealer, working out of the offices of Galleon Management, LP.

18. **Franz Tudor**, age 39, is a resident of Nashville, Tennessee. During the relevant time period, Tudor was a registered representative and a proprietary trader at Schottenfeld.

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

20. **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

21. 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.

22. In a far-reaching scheme that involved multiple sources of inside information, Zvi repeatedly obtained, traded on, and tipped to others, material, nonpublic information about upcoming acquisition announcements before that information was released to the public. Mancuso, by virtue of his close personal and professional relationship with Zvi, was a regular recipient of Zvi's tips. So close was the relationship between Mancuso and Zvi, who had been friends since they met in college in the mid-1990s, that Mancuso earned the nickname "mini Zvi" among his colleagues at Schottenfeld.

23. Similar to Mancuso, Zvi tipped inside information to other colleagues at Schottenfeld, including Shankar, Franz Tudor ("Tudor") and David Plate ("Plate"), as

well as others in the industry, including his brother Emanuel Goffer (“Emanuel”), a proprietary trader at Spectrum Trading, LLC (“Spectrum”), and Craig Drimal (“Drimal”), a trader working out of the offices of Galleon Management, LP. The participants in this scheme went to great lengths to conceal their illegal conduct, including using disposable cell phones, creating phony research files, engaging in multiple purchases and sales of a stock to mask the unlawful trading, and using cash to pay kickbacks.

24. 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. 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 June 4, 2007 announced acquisition of Avaya by Silver Lake Partners and TPG LLP, the September 28, 2007 announced acquisition of 3Com by Bain Capital, LLC and Huawei Technologies, and the November 29, 2007 announced acquisition of Axcan.

Zvi Tipped Mancuso Inside Information Concerning Avaya

25. On the evening of May 31, 2007, Silver Lake Partners and TPG, represented by Ropes & Gray, submitted a bid to acquire Avaya at \$17.50 per share. The bid was not publicly announced.

26. On May 31, 2007, Goldfarb called Cutillo. On June 1, 2007, Zvi talked to Goldfarb for six minutes. Cutillo tipped Goldfarb material, nonpublic information concerning the acquisition of Avaya, which Cutillo misappropriated from Ropes & Gray. Goldfarb then tipped Zvi the inside information that Cutillo misappropriated from his firm.

27. Zvi tipped the material, nonpublic information concerning the Avaya acquisition to various tippees, including Mancuso, Shankar and Drimal. Each tippee, including Mancuso, made profitable trades based on the inside information. Mancuso knew, or should have known, that the information had been obtained in breach of a fiduciary or other duty of trust and confidence owed to the source of the information.

28. Mancuso purchased 125 call options on June 4, 2007. On the same day, Zvi purchased 300 call options, and Shankar and Drimal each purchased shares of Avaya common stock. After the market closed on June 4, 2007, Avaya announced that Silver Lake Partners and TPG would acquire Avaya for \$17.50 per share, a 5% premium over the closing price of the stock that day. Mancuso subsequently sold his call options, resulting in illicit profits of approximately \$8,600.

Zvi Tipped Mancuso Inside Information Concerning 3Com

29. In the summer of 2007, 3Com was seeking to be acquired. 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 sent a draft merger agreement to Ropes & Gray. In August and September 2007, Bain Capital conducted due diligence of 3Com.

30. 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.

31. Zvi tipped the material, nonpublic information concerning the 3Com acquisition to various tippees, including Mancuso, Shankar and Plate at Schottenfeld, his brother Emanuel, and his friends Drimal and Kimelman. Drimal and Emanuel tipped the information to others. Each of these tippees, including Mancuso, made profitable trades based on the inside information. Mancuso knew, or should have known, that the information had been obtained in breach of a fiduciary or other duty of trust and confidence owed to the source of the information.

32. Beginning on August 7, 2007, and continuing throughout August and September, Mancuso purchased shares of 3Com in a proprietary account at Schottenfeld. On or around the same date, Zvi, Drimal, Emanuel, Shankar, Plate and others who received Zvi's tip also began acquiring shares of 3Com in the accounts they managed. 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.

33. At the time the 3Com acquisition was announced, Mancuso held more than 33,000 shares of 3Com in a proprietary account at Schottenfeld, which he sold after the announcement, resulting in illicit profits of approximately \$21,000.

Zvi Tipped Mancuso Inside Information Concerning Axcan

34. In early 2007, Axcan's board of directors began to pursue the possibility of selling the company. After an August 9, 2007 board meeting, Axcan established a data room and made senior management available for potential purchasers to conduct due diligence. Axcan's financial adviser, Merrill Lynch, requested that potential purchasers submit indications of interest, including purchase price ranges, by October 26, 2007. TPG Capital, a private equity firm, was one of the bidders for Axcan. Ropes & Gray represented TPG Capital in connection with the transaction.

35. By virtue of their employment at Ropes & Gray, Cutillo and Santarlas had access to, and learned of, material nonpublic information concerning the acquisition of Axcan. Cutillo and Santarlas tipped Goldfarb material, nonpublic information concerning the acquisition of Axcan, which they misappropriated from Ropes & Gray.

36. On October 25, 2007, Cutillo called Goldfarb four times between 7:11 p.m. and 7:55 p.m. Cutillo tipped Goldfarb material, nonpublic information that Axcan was going to be acquired.

37. That same night at 8:51 p.m, Goldfarb called Zvi. Goldfarb tipped Zvi the material, nonpublic information concerning the upcoming acquisition of Axcan that Cutillo misappropriated from his firm.

38. Zvi tipped the material, nonpublic information concerning the Axcan acquisition to various tippees, including Mancuso, Shankar, Drimal, Tudor and Plate. Certain of these tippees also tipped the information to others. Each of Zvi's tippees, including Mancuso, made profitable trades based on the inside information. Mancuso

knew, or should have known, that the information was obtained in breach of a fiduciary or other duty of trust and confidence owed to the source of the information.

39. In late November 2007, based on the inside information misappropriated by Cutillo and Santarlas, and tipped to Mancuso through Zvi, Mancuso began acquiring shares of Axcan in a proprietary account at Schottenfeld. At or around the same time, Drimal, Shankar, Tudor, Plate and Cardillo were also acquiring shares of Axcan.

40. By the time of the acquisition announcement, Mancuso held 19,504 shares of Axcan in a proprietary account at Schottenfeld. On November 29, 2007, Axcan announced that TPG Capital would acquire Axcan at a price of \$23.35 per share, which represented a premium of about 28% over the previous day's closing price. Following the announcement, Mancuso sold his shares of Axcan, resulting in illicit profits of \$95,435.

Zvi Tipped Mancuso Inside Information Concerning Kronos

41. In March 2007, Shah, an analyst at the credit rating company Moody's Corp., was tipped by his roommate ("the Kronos Source") that Kronos was about to be acquired. The Kronos Source was a credit analyst at UBS AG, which was advising one of the private equity firms involved in the final round of bidding. The Kronos Source learned of the upcoming transaction, and, under UBS's policies, was prohibited from disclosing the information.

42. Shah spoke to the Kronos Source several times on March 14, 2007, the day UBS approved its advisee's request for financing to support its acquisition bid. Shah and Khan also spoke several times the same day. During those conversations, Shah tipped Khan the material nonpublic information concerning the Kronos transaction.

43. On or about March 15, 2007, Khan tipped her friend Hardin, a managing director at Lanexa, that Kronos would be acquired in about a week at a substantial premium. Khan also told Hardin that her source, Shah, wanted to be paid \$10,000 for the tip.

44. Hardin tipped the information to his friend Shankar, a proprietary trader at Schottenfeld. Hardin asked whether Shankar's colleague, Zvi, would be willing to pay \$10,000 for the tip. Zvi agreed and provided \$10,000 in cash that Hardin used to pay Shah for the information. In return, Shankar tipped Zvi the inside information concerning the upcoming acquisition announcement, including the source of the information. Zvi in turn tipped Mancuso the information. Mancuso knew, or should have known, that the information had been obtained in breach of a fiduciary or other duty of trust and confidence owed to the source of the information.

45. On March 19, 2007, within 30 minutes of each other, Zvi and Mancuso began acquiring shares of Kronos in Schottenfeld accounts they controlled. Shankar also tipped the information to Plate in exchange for \$5,000, and at or around the same time, Shankar and Plate also began to accumulate shares of Kronos.

46. Between March 19 and March 22, Mancuso purchased 23,700 shares of Kronos in a proprietary account at Schottenfeld, at prices ranging between approximately \$42 and \$46 per share.

47. On March 23, 2007, an announcement was made that Kronos was being acquired for \$55 per share. Kronos's stock price increased nearly 14%, from \$46.63 per share on March 22 to \$53.11 per share at the market close on March 23.

48. Mancuso sold his shares of Kronos after the announcement. Mancuso's trading based on material, nonpublic information about the acquisition announcement resulted in illicit profits of approximately \$91,000.

Zvi Tipped Mancuso Inside Information Concerning Hilton

49. Khan also obtained material nonpublic information in advance of a July 3, 2007 announcement that a private equity group would be buying Hilton at a premium. Khan again obtained the nonpublic information from Shah, who was working as an analyst at Moody's, a rating agency that was evaluating Hilton's debt in connection with the transaction. Because of his position at Moody's, Shah had access to material nonpublic information about Hilton, and had a duty not to disclose the information.

50. On or about July 2, 2007, Shah provided Khan with specific information concerning the upcoming Hilton transaction. Shah told Khan that Hilton was going to be taken private in a deal to be announced the following day, at a price around the mid \$40s per share. Shah indicated that he had learned this information through a communication that representatives of Moody's had received from Hilton management.

51. Khan purchased shares of Hilton and tipped Hardin on July 2, 2007, telling him that she had learned from a source with inside information that Hilton would be acquired the next day at a significant premium. Hardin traded based on that information and also tipped Shankar, indicating to Shankar that the information was from an inside source. Shankar traded based on the inside information, and tipped others at Schottenfeld, including Zvi and Plate.

52. Shankar told Zvi that Hilton was about to be taken over and indicated that the information was from an inside source who, through Hardin, had previously provided

Shankar with inside information. Zvi tipped Mancuso the information he received from Shankar. Mancuso knew, or should have known, that the information had been obtained in breach of a fiduciary or other duty of trust and confidence owed to the source of the information.

53. On July 3, 2007, Zvi purchased 5,000 Hilton shares and 510 call option contracts in a Schottenfeld account that he managed. Zvi also provided Shankar with \$10,000 to pay his source for the Hilton tip. On the same day, Mancuso purchased 85 call option contracts and 50,500 Hilton shares in a Schottenfeld account that he managed. Plate and Shankar also purchased Hilton shares and call options at or around that time.

54. On the evening of July 3, the Hilton transaction was announced at an \$11.45 per share premium over that day's closing price of \$36.05. On July 5, the first trading day after the July 4th holiday, Hilton's stock price rose to \$45.39 per share, a 26% increase.

55. At the time of the announcement, Mancuso held 12,500 shares of Hilton in a proprietary account at Schottenfeld. He sold the shares on July 5, resulting in illicit profits of approximately \$134,250.

CLAIM FOR RELIEF

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])

56. Paragraphs 1 through 55 are realleged and incorporated by reference.

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

58. 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.

59. 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

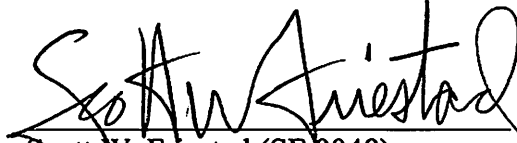
WHEREFORE, the Commission respectfully requests that this Court enter a final judgment:

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; and

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

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott W. Friestad". The signature is written in a cursive style with a large, looping initial "S".

Scott W. Friestad (SF 8048)

Brian O. Quinn

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Dated: April 17, 2013