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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FILED

JUN 22 2006

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

UNITED STATES SECURITIES AND
AND EXCHANGE COMMISSION,

Plaintiff,

v.

JUSTIN HUSCHER

Defendant.

CIVIL ACTION

06CV3397

JUDGE KENDALL

MAGISTRATE JUDGE LEVIN

COMPLAINT

The Securities and Exchange Commission (Commission) alleges the following against defendant Justin Huscher (Huscher):

SUMMARY

1. This case involves insider trading by Huscher, a former managing director at Madison Dearborn Partners, LLC (MDP), in the securities of UniSource Energy Corporation (UniSource).

2. Specifically, in November 2003, Huscher purchased 8,000 shares of UniSource stock after a managing director at JP Morgan Securities, Inc. (referred to hereinafter as the Managing Director at JP Morgan Securities), informed him that UniSource was about to publicly announce that a consortium of investors led by JP Morgan Securities, Inc. (JP Morgan Securities) would acquire UniSource.

3. Following the public announcement of the acquisition on November 24, 2003, the price of UniSource stock rose approximately 26%, yielding Huscher \$54,692.25 in unrealized profits.

4. Huscher thereby violated Section 10(b) of the Securities Exchange Act of 1934 (the Exchange Act) [15 U.S.C. §§78j(b)] and Rule 10b-5 [17 C.F.R. §240.10b-5] promulgated thereunder.

5. Pursuant to Sections 21(d)(1) and 21(e) of the Exchange Act [15 U.S.C. §§78u(d)(1) and 78u(e)], the Commission seeks entry of a permanent injunction against Huscher enjoining him from future violations, as well as disgorgement and a civil penalty.

JURISDICTION AND VENUE

6. The Court has jurisdiction over this action pursuant to Sections 21(d) and 27 of the Exchange Act [15 U.S.C. §§78u(d) and 78aa] and 28 U.S.C. §1331. Venue is proper under Section 27 of the Exchange Act [15 U.S.C. §78aa].

7. Huscher resides in the Northern District of Illinois. The acts and practices constituting the violations alleged herein occurred within the jurisdiction of the United States District Court for the Northern District of Illinois and elsewhere.

DEFENDANT

8. Defendant Huscher is 52 years old and a resident of Chicago, Illinois. At all times relevant, Huscher was a person associated with MDP, an unregistered investment adviser. Huscher worked as a managing director of the firm until August 2004. As a managing director of MDP, Huscher owed to MDP fiduciary duties of loyalty and care.

RELATED ENTITY

9. UniSource is a Tucson, Arizona-based holding company whose subsidiaries generate, buy and distribute electricity.

FACTS

10. Huscher and the Managing Director at JP Morgan Securities met in 1978 and became friends. They worked together over the years on various business deals. Based on many years of personal and professional interaction, Huscher and the Managing Director at JP Morgan Securities developed a relationship of trust and confidence.

11. In the summer of 2002, JP Morgan Securities set out to assemble a consortium of investors to fund an acquisition of UniSource.

12. In the summer of 2002, the Managing Director at JP Morgan Securities contacted Huscher to determine whether MDP had any interest in helping to fund the acquisition of UniSource. Huscher expressed interest.

13. On or around September 13, 2002, Huscher signed a due diligence agreement (Due Diligence Agreement) on behalf of MDP. Under the Due Diligence Agreement, Huscher, on behalf of MDP, accepted a duty to maintain the confidentiality of all nonpublic information obtained about UniSource in connection with MDP's due diligence review of UniSource.

14. On or around September 20, 2002, Huscher, on behalf of MDP, signed an additional letter agreement confirming the parties' understanding that all nonpublic information concerning UniSource would be kept in strict confidence.

15. In or around October 2002, MDP decided to drop out of the investor consortium. JP Morgan Securities proceeded with its effort to gather a consortium of buyers for UniSource, and found a replacement for MDP.

16. In November 2003, an investor consortium headed by JP Morgan Securities reached an agreement in principle with UniSource to acquire all outstanding stock of the company.

17. On the morning of Friday, November 14, 2003, the Managing Director at JP Morgan Securities and Huscher had a 22-minute telephone conversation. Just after the market closed, at 5:01 p.m. EST, the Managing Director at JP Morgan Securities called Huscher again. The call lasted approximately 42 seconds.

18. On Monday, November 17, 2003, at 9:49 a.m. EST, nineteen minutes after the market opened, Huscher purchased 1,500 shares of UniSource stock at \$19.55 per share. He placed this order using the online order system offered through one of his personal brokerage accounts.

19. On November 20, 2003, at 11:17 a.m. EST, the Managing Director at JP Morgan Securities again called Huscher. The conversation lasted 17 minutes — until 11:35 a.m. EST. Four minutes later, at 11:39 a.m. EST, Huscher purchased from his computer (again through his personal brokerage via the internet) shares of UniSource stock for his personal brokerage account. Following this purchase, Huscher purchased more shares of UniSource stock for the rest of the afternoon and into the following day in small amounts through several transactions using various accounts controlled by him. On November 20 and 21, 2003, Huscher purchased an additional 6,500 shares of UniSource stock at prices ranging from \$19.45 to \$19.54 per share.

20. During one or more of the above telephone communications, the Managing Director at JP Morgan Securities told Huscher that UniSource would be acquired by an investor consortium headed by JP Morgan Securities, and that the acquisition would be announced on or about November 24, 2003.

21. Before the opening of the market on Monday, November 24, 2003, UniSource publicly announced that it would be acquired.

22. Between November 4 and 21, 2003, UniSource traded in a range between \$19.12 and \$20.40, before closing at \$19.40 on Friday, November 21, 2003.

23. On Monday, November 24, 2003, UniSource traded at a high of \$24.90 per share before closing at \$24.49, up \$5.09, or approximately 26%, on volume of 3.7 million shares. As a result of his timely purchases of UniSource stock, therefore, Huscher obtained unrealized profits of \$54,692.25 as a result of the subsequent announcement of the acquisition.

24. Huscher failed to disclose his purchases of UniSource stock to MDP, despite being required to do so by MDP's securities trading policy. Every quarter, each member and employee of MDP had to disclose to MDP securities trades executed in any personal account during the previous three months. Huscher agreed to comply with this policy. On January 4, 2004, Huscher completed his quarterly trading report for the period October 1, 2003 through December 31, 2003. In that report, he failed to disclose to MDP his purchases of UniSource stock.

COUNT I

Violation of Section 10(b) of the Exchange Act of 1934 and Rule 10b-5 Promulgated Thereunder

25. Paragraphs 1 through 24 are realleged and incorporated by reference as if set forth fully herein.

26. The acquisition of UniSource by a consortium of investors, and the fact that this acquisition would be announced on or about November 24, 2003, was material, nonpublic information.

27. Prior to the public announcement of the UniSource acquisition, Huscher learned about the impending acquisition of UniSource from a person with whom Huscher had a relationship of trust and confidence.

28. On November 17, 20 and 21, Huscher misappropriated the information concerning the acquisition of UniSource and purchased 8,000 shares of UniSource common stock at prices ranging from \$19.45 to \$19.55 per share.

29. Huscher purchased UniSource stock, as described above, while in possession of material, nonpublic information relating to the acquisition of UniSource and in breach of duties of trust and confidence he owed to UniSource, MDP and/or the Managing Director at JP Morgan Securities.

30. Huscher knew, or was reckless in not knowing, that he could not use the material, nonpublic information regarding the UniSource acquisition to trade in stock of UniSource for his personal benefit.

31. Huscher purchased UniSource stock, as described above, for his personal benefit, illegally obtaining unrealized profits of \$54,692.25.

32. Huscher, by engaging in the conduct described above, directly or indirectly, in connection with the purchase and sale of securities, and by use of the means and instrumentalities of interstate commerce and of the mails, employed devices, schemes and artifices to defraud; 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; and engaged in acts, practices and courses of business which operated as a fraud and deceit upon other persons.

33. By reason of the activities described above, Huscher violated Section 10(b) of the Securities 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 Commission requests that the Court:

I.

Find that Huscher committed the violation charged above.

II.

Issue an Order of Permanent Injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, permanently restraining and enjoining Huscher from, directly or indirectly, engaging in the acts and practices described above, or in conduct of similar purport and object, in violation of 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.

III.

Issue an Order requiring Defendant Huscher to disgorge his ill-gotten gains, plus prejudgment interest. Specifically, Huscher should disgorge \$54,692.25, plus prejudgment interest.

IV.

With regard to Defendant Huscher's violative acts and practices set forth herein, issue an Order imposing an appropriate civil penalty against him pursuant to Section 21A of the Exchange Act [15 U.S.C. §78u-1].


V.

Retain jurisdiction of this action in accordance with the principals of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

VI.

Grant Orders for such further relief as the Court may deem appropriate.

Respectfully submitted,



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Dated: June 22, 2006