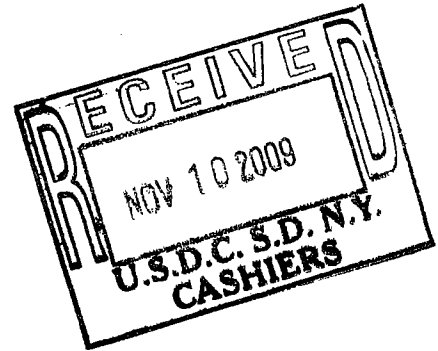


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

EZRA C. LEVY,

Defendant.
-----X

09 Civ. ()

COMPLAINT

Plaintiff Securities and Exchange Commission (“Commission”), for its Complaint against defendant Ezra Levy (“Levy”), alleges:

SUMMARY

1. This case involves a fraudulent scheme by Levy, then the Chief Financial Officer of Boston Provident, L.P., an investment advisory firm (“Boston Provident”), to benefit himself at the expense of Boston Provident and its clients, by deliberately arranging secret sales of securities from his personal trading account to Boston Provident’s accounts at inflated prices. On two days in June 2009, Levy secretly entered matched “sell” and “buy” orders for securities at above-market prices for his personal account and for Boston Provident accounts, respectively.

By selling securities from his personal account to Boston Provident accounts at inflated prices, Levy profited by over \$537,000.

JURISDICTION AND VENUE

2. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) and 20(d) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77t(b), 77t(d)] and Sections 21(d) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78u(d)].

3. Venue is proper in the Southern District of New York pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Certain of the acts and transactions constituting the violations alleged herein occurred within the Southern District of New York. Levy resides in the Southern District of New York and placed the illegal trades alleged herein from his Boston Provident’s offices in the Southern District of New York.

4. Levy, directly or indirectly, made use of means or instruments of transportation or communication in interstate commerce, or of the mails, or facilities of a national securities exchange, or of means or instrumentalities of interstate commerce in connection with the acts and alleged herein.

DEFENDANT

5. Levy, age 32, is, and at all relevant time was, a resident of New York, New York. From approximately 2000 until October 2009, Levy was the Chief Financial Officer of Boston Provident, an investment advisory firm located in New York, New York.

FACTS

6. Levy's job responsibilities at Boston Provident required that he have access to the firm's electronic trade entry system. Levy did not, however, have the authority to make trading decisions for Boston Provident's accounts, but rather was only authorized to execute the trading decisions of the firm's Chief Executive Officer.

7. On two days in June 2009, Levy secretly entered "sell" orders for securities at above-market prices for his personal account and, at approximately the same time, entered "buy" orders for the same securities, at the same above-market prices, for Boston Provident's accounts. By placing these matched orders, Levy caused sales of securities from his personal account to Boston Provident's accounts at inflated prices. Levy's profit from these fraudulent trades exceeded \$537,000.

8. Specifically, on June 12, 2009, Levy, in his personal trading account, bought 50,000 shares of Atlas Energy Resources, LLC ("ATN"), at prices ranging from \$22.30 to \$22.55 per share. Then, shortly before and after the market close, Levy sold 49,200 of the ATN shares to Boston Provident's accounts. Although the day's closing price for ATN was \$22.62 per share, Levy sold 34,200 of the ATN shares from his personal account to the Boston Provident accounts after the market close at \$26.10 per share. Levy's profit on the sale of the 49,200 ATN shares to Boston Provident was approximately \$128,801.

9. On the following trading day, Levy sold the ATN shares from Boston Provident's accounts, at a loss to those accounts.

10. On June 22, 2009, before the market close, Levy bought, for his personal account, 65,000 shares of Atlas America, Inc. (ATLS), at prices ranging from \$15.78 to \$15.98 per share. After the market close on June 22, Levy sold 112,000 ATLS shares from his personal account to

Boston Provident's accounts at \$19.48 per share, substantially above the day's closing price of \$15.75 per share. Because at the time of the sale Levy only had 65,000 ATLS shares in his account, the sale of 112,000 shares created a short position of 47,000 shares. Levy covered that position the next trading day, June 23, by buying the stock at prices ranging between \$15.58 and \$15.71. Levy's profit on the ATLS trades was approximately \$408,751.

11. On the day following the arranged trade, Levy sold the ATLS shares from the Boston Provident accounts, at a loss to those accounts.

12. At all times, Levy acted deliberately, or at a minimum, recklessly, in executing these fraudulent trades by which he secretly profited at the expense of Boston Provident. Levy disclosed none of these trades to Boston Provident, nor was he authorized to make them.

CLAIMS FOR RELIEF

COUNT I

Violations of Section 17(a) of the Securities Act

13. Paragraphs 1 through 12 are incorporated by reference as if set forth fully herein.

14. From at least June 12, 2009, through at least June 23, 2009, Levy, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly, employed devices, schemes, or artifices to defraud; or obtained money or property by means of an untrue statement of a material fact or an omission 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; or engaged in transactions, practices or courses of business which operated as fraud or deceit upon the purchaser.

15. By reason of the activities herein described, Levy violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

COUNT II

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

16. Paragraphs 1 through 15 are incorporated by reference as if set forth fully herein.

17. From at least June 12, 2009, through at least June 23, 2009, Levy, in connection with the purchase and sale of securities, directly and indirectly, by the use of means or instrumentalities of interstate commerce, or of the mails, or of facilities of a national securities exchange, employed devices, schemes or artifices to defraud; 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 engaged in acts, practices and courses of business which operated as a fraud and deceit upon others.

18. By reason of the activities herein described, Levy violated 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 the Court enter a final judgment against Levy granting the following relief:

I.

Permanently restraining and enjoining Levy, his agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from committing future violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

II.

Permanently restraining and enjoining Levy, his agents, servants, employees and attorneys and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from committing future violations 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].

III.

Directing Levy to disgorge his ill-gotten gains, plus prejudgment interest thereon.

IV.

Directing Levy to pay civil money penalties pursuant to Section 20(d) [15 U.S.C. § 77t(d)] of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

V.

Granting such other and further relief as this Court deems just and appropriate.

Dated: New York, New York
November 10, 2009

SECURITIES AND EXCHANGE COMMISSION

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