

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 10989 / September 27, 2021

SECURITIES EXCHANGE ACT OF 1934
Release No. 93131 / September 27, 2021

ADMINISTRATIVE PROCEEDING
File No. 3-20599

In the Matter of

XUEPENG XIE,

Respondent.

**CORRECTED ORDER INSTITUTING
CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTION 8A OF THE
SECURITIES ACT OF 1933 AND SECTION
21C OF THE SECURITIES EXCHANGE
ACT OF 1934, MAKING FINDINGS, AND
IMPOSING A CEASE-AND-DESIST
ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Xuepeng Xie (“Xie” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings, Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹ that:

Summary

These proceedings arise out of a fraudulent spoofing and layering scheme carried out by Xuepeng Xie to manipulate the stock prices of hundreds of thinly-traded stocks to reap approximately \$1,864,787 in ill-gotten gains from at least August 2016 through February 2021.

Respondent

1. Xuepeng Xie, age 47, is a resident of Cary, North Carolina. He is a full-time day trader and has never held any securities licenses.

Background

2. On an almost daily basis for at least five years, and oftentimes multiple times per day, Xie manipulated the National Best Bid / Offer ("NBBO") of various thinly-traded stocks to ensure that he could buy stocks at artificially low prices and immediately sell the same stocks at artificially high prices. His scheme involved placing a series of visible, limit orders for a particular security on one side of the market at or just away from the NBBO that he did not intend to execute. The purpose of his non-bona fide limit orders was to create a false appearance of new or increased interest and thereby induce market participants to also place orders priced at or better than Xie's non-bona fide orders, thus artificially inflating or suppressing the market price of the security at issue to his advantage.

3. For example, Xie repeatedly placed visible, non-bona fide limit sell orders that established new National Best Offers ("NBO") – incrementally narrowing the NBBO from the offer side – to ensure that he could buy a security at an artificially low price. He then purchased the security via a market order using an account at a different broker-dealer to avoid detection of any wrongdoing and hide the fact that he was placing orders on both sides of the market at the same time. After buying the security at the artificially low price, Xie immediately (within seconds) canceled his visible sell orders. Then he repeated his spoofing from the opposite side of the market to pump up the price of the same security he just purchased. Specifically, he placed a series of visible, non-bona fide limit buy orders that established new National Best Bid ("NBB"), and effectively walked the price of the security up to a price point where he could sell the security via a market order at a higher price than the price at which he purchased the security a few seconds earlier.

4. Xie engaged in this conduct on thousands of occasions and continued to trade in this manner despite receiving warnings from several of his broker-dealers that his trading practices

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

were possibly illegal. For example, he was warned by a broker-dealer on July 12, 2018 that he had “potentially engaged in a manipulative trading practice called spoofing” and was given the details of his suspicious trading activity. Although Xie claimed that the trades identified by that broker-dealer were entered by mistake, and assured that he “now [understood] the concept of spoofing/layering” and even promised he would not engage in such practice again, Xie continued to carry out his manipulative trading scheme.

5. To avoid detection of his scheme by broker-dealers that maintained his accounts, Xie used multiple accounts at different broker-dealers to carry out his manipulative trading scheme. He generally used accounts at one particular broker-dealer to place his manipulative non-bona fide orders and then canceled almost all of these orders before they could be executed. He generally used accounts at other broker-dealers to place market orders on the opposite side of his non-bona fide orders to take advantage of the price movements that he created. To conceal his spoofing even further, Xie traded in his wife’s accounts and in accounts opened in the name of a corporate entity, and he used these accounts to trade on the opposite side of his non-bona fide orders to give the appearance that someone other than him was on the opposite side of his non-bona fide trades.

6. Xie profited approximately \$1,864,787 from his spoofing and layering scheme.

7. As a result of the conduct described above, Xie violated Sections 17(a)(1) and 17(a)(3) of the Securities Act and Section 10(b) of the Exchange Act and Rules 10b-5(a) and (c) thereunder, which prohibit fraudulent conduct in the offer or sale of securities and in connection with the purchase or sale of securities, and violated Section 9(a)(2) of the Exchange Act which makes it illegal for any person to effect, alone or with others, a series of transactions in a security creating actual or apparent active trading in such security, or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others.

Disgorgement and Civil Penalties

8. The disgorgement and prejudgment interest ordered in paragraph IV.C is consistent with equitable principles, does not exceed Respondent’s net profits from its violations, and returning the money to Respondent would be inconsistent with equitable principles. Therefore, in these circumstances, distributing disgorged funds to the U.S. Treasury is the most equitable alternative. The disgorgement and prejudgment interest ordered in paragraph IV.C shall be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

Undertakings

9. Respondent has undertaken to refrain, for a period of five years, from directly, or indirectly, opening or maintaining any brokerage account(s) in his name, the names of any immediate family members, or the name of any company over which he has any control, without providing the relevant broker-dealer(s) a copy of this Order;

In determining whether to accept the Offer, the Commission has considered these undertakings.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Xie's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondent Xie cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Securities Act and Sections 9(a) and 10(b) of the Exchange Act and Rule 10b-5 thereunder;

B. Respondent shall comply with the undertakings enumerated in Section III.9 above; and

C. Xie shall pay disgorgement of \$1,864,787, prejudgment interest of \$243,991, and a civil money penalty of \$600,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payment shall be made in the following installments:

- Due within ten days of the entry of this Order: \$1,354,390
- Due within 90 days of the entry of this Order: \$677,194
- Due within 180 days of the entry of this Order: \$677,194

Payments shall be applied first to post-order interest, which accrues pursuant to Commission Rule 600 and/or 31 U.S.C. §3717. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Xuepeng Xie as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Joseph G. Sansone, Chief, Market Abuse Unit, Division of Enforcement, U.S. Securities and Exchange Commission, 200 Vesey Street, Suite 400, New York, NY 10281-1022.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary