

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 97499 / May 12, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21418

In the Matter of

TODD DOBBERFUHL,

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO 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 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Todd Dobberfuhl (“Dobberfuhl” 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 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 finds that:

Summary

This matter involves insider trading by Dobberfuhr in the securities of Vaxart, Inc. ("Vaxart") in advance of the June 25, 2020 announcement that Dobberfuhr's employer Attwill Medical Solutions Steriflow, LP ("Attwill") had entered into a Memorandum of Understanding ("MOU") with Vaxart memorializing Attwill's intent to enable Vaxart to use Attwill's production facilities for potential large scale manufacturing of a COVID-19 oral vaccine that Vaxart was developing (the "Announcement"). In the week prior to the Announcement, Dobberfuhr worked on the costing analysis for Attwill and obtained material nonpublic information ("MNPI") about the discussions between Attwill and Vaxart. On June 18, 2020, in violation of his duties to Attwill, Dobberfuhr purchased Vaxart stock while in possession and on the basis of this MNPI. Following the pre-market opening Announcement, Vaxart's stock price rose by approximately 96%, and Dobberfuhr obtained ill-gotten gains of more than \$72,000.

Respondent

1. **Dobberfuhr**, age 52, resides in Sun Prairie, Wisconsin. From December 2017 to November 2020, Dobberfuhr was employed by Attwill as its controller. Dobberfuhr has never held any securities licenses and has never been registered with the Commission.

Other Relevant Entities

2. **Attwill** is a limited partnership registered in Utah, with its principal place of business in Lodi, Wisconsin. It is a contract development and manufacturing company that provides biotechnology manufacturing services, specializing in the lyophilization and related processing of pharmaceutical intermediates and medical devices.

3. **Vaxart** is a Delaware corporation that is headquartered in South San Francisco, California. Vaxart is a clinical-stage biotechnology company focused primarily on the discovery, development, and commercialization of oral recombinant vaccines. In late January 2020, Vaxart announced that it had initiated a program to develop an oral vaccine candidate for COVID-19. Its common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and is listed on the NASDAQ Capital Market exchange under the ticker symbol VXRT.

Facts

4. Dobberfuhr worked as Attwill's controller from approximately December 2017 to November 2020. At the time Dobberfuhr started his employment, he signed a non-disclosure and confidentiality agreement that covered technical information including the identities of Attwill's customers. As Attwill's controller, Dobberfuhr owed a duty of trust and confidence to his employer. During the events described in this Order, Dobberfuhr was also subject to Attwill's

employee handbook which required him to protect company information and prohibited him from using his position with Attwill, or any of its customers, for private gain or to advance his personal interests. Dobberfuhr owed a duty to Attwill not to trade securities on the basis of MNPI obtained through his work, including information about potential agreements into which Attwill entered with customers.

5. Attwill and Vaxart first communicated about a potential agreement on June 16, 2020. The following day, the companies signed a non-disclosure agreement that protected each entity's confidential nonpublic information. Over the course of the next week, Attwill and Vaxart discussed the parameters of the agreement, including budgeting, cost estimates, approximate quantity of vaccine production, and other terms of the MOU.

6. Between June 16, 2020 and the morning of June 18, 2020, Dobberfuhr learned Vaxart was a potential customer of Attwill. In that role, Dobberfuhr was privy to confidential information about the potential agreement for Attwill to make its facilities available for production of a large quantity of Vaxart's oral COVID-19 vaccine.

7. On June 18, 2020, Dobberfuhr purchased 19,425 shares of Vaxart stock in two brokerage accounts. Dobberfuhr made these purchases while in possession and on the basis of MNPI he obtained during his employment, in breach of his duty of trust and confidence to Attwill.

8. Dobberfuhr knew, consciously avoided knowing, or was reckless in not knowing that the information he possessed on June 18, 2020 regarding the potential MOU between Attwill and Vaxart was material and nonpublic. Dobberfuhr also knew, consciously avoided knowing, or was reckless in not knowing that by trading on Attwill's MNPI, he breached a duty of trust and confidence to his Attwill.

9. On June 25, 2020, prior to the market open, Vaxart publicly announced that it had entered into the MOU with Attwill, enabling Vaxart to produce a billion or more COVID-19 oral vaccine doses per year through large scale lyophilization, tableting, and coating. Following the Announcement, the price of Vaxart shares increased by approximately 96% from the previous day's close.

10. As a result of the Announcement, Dobberfuhr obtained ill-gotten gains of \$72,827.69.

11. As a result of the conduct described above, Dobberfuhr violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

Disgorgement

11. The disgorgement and prejudgment interest ordered in paragraph IV.B. is consistent with equitable principles, does not exceed Respondent's net profits from his 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.B. shall be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

IV.

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Dobberfuhr cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

B. Dobberfuhr shall, within 14 days of the entry of this Order, pay disgorgement of \$72,827.69, prejudgment interest of \$7,739.25, and a civil money penalty in the amount of \$72,827.69 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). If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. If timely payment of a civil money penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

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 Todd Dobberfuhl 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, Division of Enforcement, Securities and Exchange Commission, 100 Pearl Street, Suite 20-100, New York, NY 10004-2616.

C. 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