

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 98401 / September 14, 2023**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-21668**

**In the Matter of**

**XIA HONG,**

**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 Xia Hong (“Hong” 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 her 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<sup>1</sup> that:

#### Summary

This matter involves insider trading by Hong in: (i) the securities of Coherent, Inc. ("Coherent") in advance of the January 19, 2021 announcement that Hong's employer Lumentum Holdings Inc. ("Lumentum") had entered into an agreement to acquire Coherent (the "Coherent Announcement"), and (ii) the securities of NeoPhotonics Corporation ("NeoPhotonics") in advance of the November 4, 2021 announcement that Lumentum had entered into an agreement to acquire NeoPhotonics (the "NeoPhotonics Announcement").

With respect to the Coherent Announcement, Hong obtained material nonpublic information ("MNPI") about Lumentum's pursuit of an acquisition of Coherent through her employment at Lumentum. On January 13, 2021, in violation of her duties to Lumentum, Hong purchased Coherent stock while aware and on the basis of that MNPI. When Coherent's stock price rose by approximately 30% following the Coherent Announcement, Hong obtained ill-gotten gains of more than \$4,000.

With respect to the NeoPhotonics Announcement, Hong similarly obtained MNPI about Lumentum's pursuit of an acquisition of NeoPhotonics through her employment at Lumentum. From October 13, 2021 to November 1, 2021, in violation of her duties to Lumentum, Hong purchased NeoPhotonics stock while aware and on the basis of this MNPI. Following the NeoPhotonics Announcement, NeoPhotonics's stock price rose by more than 38%, and as a result, Hong obtained ill-gotten gains of more than \$70,000.

#### Respondent

1. **Hong**, age 53, resides in San Jose, California. Hong was employed by Lumentum and its predecessor in various product management roles since approximately 2000, and was a Senior Director of Product Line Management for Lumentum during the relevant period.

#### Other Relevant Entities

2. **Lumentum** is a provider of optical and photonic products incorporated in Delaware and headquartered in San Jose, California. Lumentum's common stock is listed on the NASDAQ Global Select Market, trading under the symbol "LITE."

3. **Coherent** was a provider of laser solutions and optics headquartered in Santa Clara, California. During the relevant time, Coherent's common stock was listed on the NASDAQ

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<sup>1</sup> 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.

Global Select Market and traded under the symbol “COHR.” In March 2021, Coherent terminated its acquisition agreement with Lumentum, and it ultimately entered into an agreement to be acquired by another company; that acquisition closed in July 2022.

4. **NeoPhotonics** was a developer of silicon photonics and advanced hybrid photonic integrated circuit-based lasers, modules and subsystems for communications networks headquartered in San Jose, California. During the relevant time, NeoPhotonics common stock was listed on the New York Stock Exchange (“NYSE”) and traded under the symbol “NPTN.” On August 3, 2022, NeoPhotonics was acquired by Lumentum. In connection with that acquisition, NeoPhotonics’s common stock was delisted from the NYSE and deregistered with the Commission.

### **Facts**

5. Hong was employed by Lumentum and its predecessor from 2000 to April 2022. Since December 2019 and during the relevant period, she was a Senior Director of Product Line Management for Lumentum’s Telecom Transport business unit. During the events described in this Order, Hong was subject to Lumentum’s policies and procedures concerning insider trading and treatment of MNPI obtained in connection with her employment, including news of potential mergers or acquisitions. Under those policies, Hong owed a duty to Lumentum not to trade securities on the basis of MNPI obtained through her work, including information about potential mergers and acquisitions, or to disclose such MNPI without a corporate purpose to persons outside of Lumentum.

6. Lumentum and Coherent first discussed a potential transaction in October 2019. Their conversations ceased in March 2020 and resumed in November 2020, when Lumentum submitted an indication of interest to acquire Coherent. Lumentum submitted several revised offers to Coherent in November and December 2020. On December 27, 2020, Lumentum and Coherent signed an exclusivity agreement. In the following weeks, the firms conducted due diligence and negotiated the terms of the proposed transaction. On January 10, 2021, the Lumentum board met and discussed valuation of Coherent and the terms of the acquisition agreement. On January 19, 2021, Lumentum and Coherent signed a definitive merger agreement under which Lumentum was to acquire Coherent for \$100.00 and 1.1851 shares of Lumentum common stock per share of Coherent stock, for a total equity value of approximately \$5.7 billion.

7. Lumentum and NeoPhotonics first discussed a potential acquisition in September 2020, and these discussions continued throughout the fall of 2020, overlapping with Lumentum’s negotiations with Coherent. Lumentum’s and NeoPhotonics’s merger discussions were suspended around late December 2020 or early January 2021, when Lumentum determined to focus on Coherent as a higher priority target.

8. Beginning no later than November 25, 2020, Hong learned confidential information about the potential acquisition of NeoPhotonics by Lumentum and was involved in Lumentum’s due diligence during that initial stage of negotiations. Over the next month, Hong participated in

Lumentum's due diligence on NeoPhotonics and had access to a shared digital document folder containing deal-related information.

9. On January 13, 2021, after Lumentum had ceased discussions with NeoPhotonics in favor of pursuing a transaction with Coherent, Hong purchased 100 shares of Coherent stock. Hong made these purchases while aware and on the basis of MNPI concerning Lumentum's potential acquisition of Coherent that she obtained through her work and in breach of her duty of trust and confidence to Lumentum.

10. Following the pre-market-open Coherent Announcement on January 19, 2021, the price of Coherent stock closed at \$197.01 per share, an increase of approximately 29.65% from its closing price on the previous day. As a result, Hong obtained ill-gotten gains of \$4,342.

11. In March 2021, after Coherent terminated its definitive merger agreement with Lumentum, Lumentum contacted NeoPhotonics to determine whether NeoPhotonics would be interested in reengaging in acquisition discussions. Between June and September 2021, Lumentum and NeoPhotonics exchanged several offers and counteroffers, culminating in a September 30, 2021 offer by Lumentum to acquire NeoPhotonics for \$16.00 per share. NeoPhotonics's board approved this proposal on October 5, 2021. From October 10, 2021 to November 3, 2021, Lumentum and NeoPhotonics negotiated the terms of the acquisition agreement and engaged in various due diligence efforts. Before the market opened on November 4, 2021, Lumentum publicly announced its agreement to acquire NeoPhotonics at the agreed upon price of \$16.00 per share.

12. On or about October 12, 2021, Hong's supervisor informed her that Lumentum and NeoPhotonics were again contemplating an acquisition and that she may be asked to participate in the due diligence process in the near future.

13. Hong purchased shares of NeoPhotonics in several brokerage accounts between October 13 and November 1, 2021. During that period, Hong accumulated 12,080 shares of NeoPhotonics. Hong made these purchases while aware and on the basis of MNPI concerning Lumentum's potential acquisition of NeoPhotonics that she obtained through her work and in breach of her duty of trust and confidence to Lumentum.

14. On November 4, 2021, the date of the NeoPhotonics Announcement, the price of NeoPhotonics stock closed at \$15.99 per share, an increase of approximately 38.8% from its closing price on the previous day. As a result, Hong gained a total of approximately \$70,669.84 in illicit profits.

15. Hong knew, consciously avoided knowing, or was reckless in not knowing that the information she possessed on January 13, 2021 regarding the potential acquisition of Coherent and the information she possessed from October 12 to November 3, 2021 regarding the potential acquisition of NeoPhotonics was material and nonpublic. Hong also knew, consciously avoided knowing, or was reckless in not knowing that by trading on Lumentum's MNPI, she breached a duty of trust and confidence to Lumentum.

16. As a result of the conduct described above, Hong 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**

17. The disgorgement and prejudgment interest ordered in paragraph IV.C. is consistent with equitable principles, does not exceed Respondent's net profits from her 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.

### **IV.**

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

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Hong 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. Hong be, and hereby is, barred from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)] for a period of five (5) years from the entry of this Order.

C. Hong shall, within 14 days of the entry of this Order, pay disgorgement of \$75,011.84, prejudgment interest of \$6,672.50, and a civil money penalty in the amount of \$75,011.84 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 Xia Hong 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.

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, she shall not argue that she is entitled to, nor shall she 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 she 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