

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 101379 / October 17, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22267

In the Matter of

UMAPATHI KAKKERA,

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 Umapathi Kakkera (“Umapathi Kakkera” 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 finds¹ that:

Summary

1. This matter involves insider trading by Umapathi Kakkera in the securities of NeoPhotonics Corporation ("NeoPhotonics") in advance of the November 4, 2021 announcement that Lumentum Holdings Inc. ("Lumentum") had agreed to acquire NeoPhotonics (the "Announcement"). Umapathi Kakkera traded based on material nonpublic information ("MNPI") misappropriated by Amit Bhardwaj, then Chief Information Security Officer ("CISO") of Lumentum. Bhardwaj learned material nonpublic information about Lumentum's plan to acquire NeoPhotonics through his work at Lumentum. During the weeks leading up to the Announcement, in breach of his duty of trust and confidence to Lumentum, Bhardwaj tipped three friends including Srinivasa Kakkera, Respondent's brother, to purchase NeoPhotonics securities ahead of the Announcement. Srinivasa Kakkera, in turn, tipped Respondent. Based on this tip, between October 13, 2021 and November 3, 2021, Umapathi Kakkera purchased NeoPhotonics call option contracts. Following the Announcement, Umapathi Kakkera generated more than \$200,000 in profits from his illicit trades.

Respondent

2. **Umapathi Kakkera**, age 46, resides in Monroe, New Jersey. He is employed as an information technology specialist at the New Jersey office of a Belgian manufacturer of chemicals.

Other Relevant Entities

3. **Lumentum**, an SEC-reporting issuer, 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."

4. **NeoPhotonics** was a developer of silicon photonics and advanced hybrid photonic integrated circuit-based lasers, modules and subsystems for communications networks, headquartered San Jose, California. NeoPhotonics was incorporated in Delaware and at the relevant time was an SEC-reporting issuer. NeoPhotonics's common stock was listed on the New York Stock Exchange and traded under the symbol "NPTN." Lumentum's acquisition of NeoPhotonics closed in August 2022 and its shares were delisted from the New York Stock Exchange at that time.

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.

Facts

5. In 2021, Amit Bhardwaj served as the CISO of Lumentum. Bhardwaj was subject to Lumentum's policies and procedures concerning insider trading and treatment of MNPI obtained in connection with his employment, including news of potential mergers or acquisitions. Under those policies, which were in effect during 2021, Bhardwaj was prohibited from trading securities on the basis of Lumentum's MNPI, or from disclosing Lumentum's MNPI without a corporate purpose to persons outside of Lumentum.

6. Between June and September 2021, Lumentum and NeoPhotonics engaged in acquisition discussions. The companies 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 of directors approved this proposal on October 5, 2021.

7. In early October 2021, through his work at Lumentum, Bhardwaj became aware that Lumentum and NeoPhotonics had agreed that Lumentum would acquire NeoPhotonics. By at least October 13, 2021, Bhardwaj tipped his friend Srinivasa Kakkerla about the upcoming acquisition.

8. Srinivasa Kakkerla, in turn, shared the MNPI with his brother Umapathi Kakkerla. Umapathi Kakkerla knew of Srinivasa Kakkerla's friendship with Bhardwaj. Based on his brother's tip, between October 13, 2021 and November 3, 2021, Umapathi Kakkerla paid a total of \$55,222.38 to purchase 480 NeoPhotonics call option contracts across five different options series.

9. On the date of the Announcement, November 4, 2021, NeoPhotonics stock closed at \$15.99 per share, which was an increase of approximately 39% from its closing price on the previous day. As a result of his purchase of NeoPhotonics call options, Umapathi Kakkerla generated \$206,077.62 in illicit profits.

10. Umapathi Kakkerla purchased NeoPhotonics securities while in possession and on the basis of information provided by Srinivasa Kakkerla about Lumentum's upcoming acquisition of NeoPhotonics. Umapathi Kakkerla knew, was reckless in not knowing, or consciously avoided knowing that the information was material and nonpublic, and that it had been obtained in breach of a fiduciary duty or a similar relationship of trust and confidence.

11. As a result of the conduct described above, Umapathi Kakkerla 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 Umapathi Kakkera's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Umapathi Kakkera 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. Umapathi Kakkera shall pay disgorgement of \$206,077.62, prejudgment interest of \$30,715.92 and civil penalties of \$ 206,077.62 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: \$88,574.23 within 14 days of entry of this Order, a second payment of \$118,098.98 within one year of the entry of this Order, a third payment of \$118, 098.98 within two years of the entry of this Order, and a final payment of \$118, 098.98 within three years of the entry of this Order. Payments shall be applied first to post order interest, which accrues pursuant to SEC Rule of Practice 600 and pursuant to 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 Umapathi Kakkera 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, 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