



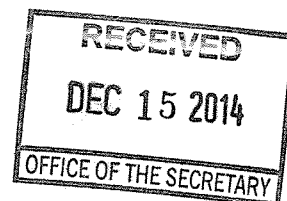
UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
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December 15, 2014

**VIA EMAIL**

The Honorable Jason S. Patil  
Administrative Law Judge  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549  
alj@sec.gov



**Re: *In the Matter of Gregory T. Bolan, Jr. and Joseph C. Ruggieri,*  
AP File No. 3-16178**

Dear Judge Patil:

The Division of Enforcement (the “Division”) respectfully submits this letter in response to Respondents’ letter, dated December 12, 2014, requesting leave to file a motion for summary disposition. The Division opposes Respondents’ request. Respondents rely on the Second Circuit’s decision last week in *United States v. Newman*, which addresses the “personal benefit” requirement for insider trading liability. The Commission’s Order instituting these proceedings (the “OIP”) alleges a pattern of tips in exchange for an objective, concrete, and ultimately pecuniary benefit to the Respondent tipper, which satisfies *Newman*’s standard, even assuming it applies here. A motion for summary disposition is therefore premature and doomed to fail.

As background, the OIP alleges that Respondent Gregory T. Bolan, Jr. (“Bolan”), then a research analyst at Wells Fargo, LLC (“Wells Fargo”), tipped Respondent Joseph C. Ruggieri (“Ruggieri”), then a Wells Fargo trader, with material, nonpublic information. (OIP ¶¶ 1, 8–9, 14, 17, 20, 23, 26, 29.) Bolan published reports on companies in three sub-sectors of the health care industry. (OIP ¶ 4.) Each of his reports recommended that investors buy, hold, or sell the relevant companies’ stock. (OIP ¶¶ 12, 15, 18, 21, 24, 27.) Ruggieri’s responsibilities included placing principal trades in health care stocks on Wells Fargo’s behalf. (OIP ¶ 5.) Wells Fargo determined Ruggieri’s compensation based partially on his monthly net profit or loss for Wells Fargo. (*Id.*)

Wells Fargo’s compliance policies clearly instructed analysts not to preview their recommendations with traders and clearly instructed traders not to trade ahead of analyst reports. (OIP ¶¶ 37–38.) Bolan and Ruggieri received annual training on these policies. (*Id.*)

Bolan occasionally made ratings changes — not on a pre-determined schedule — by upgrading a stock (for example, from hold to buy) or downgrading a stock (for example, from hold to sell). (OIP ¶¶ 12, 15, 18, 21, 24, 27.) During the relevant period, Bolan upgraded a stock, downgraded a stock, or initiated coverage of a stock with a buy or sell rating eight times. (OIP ¶ 5.) At least six of those times, Bolan gave Ruggieri advance notice of the ratings change. (OIP ¶¶ 1, 8–9, 14, 17, 20, 23, 26, 29.) Each time, Ruggieri traded on the advance information. (*Id.*) Each time,

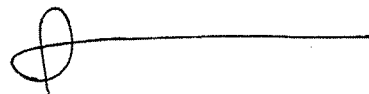
the stock price then rose when Bolan upgraded the stock or dropped when Bolan downgraded the stock. (OIP ¶¶ 13, 16, 19, 22, 25.) In total, Ruggieri's trades on this material, nonpublic information resulted in profits of over \$117,000 for Wells Fargo.

Bolan tipped Ruggieri to his ratings changes six times — in defiance of Wells Fargo's policies — at least in part to curry favor with Ruggieri. (OIP ¶ 36.) As the hearing evidence will show, Bolan and Ruggieri discussed by email how their “partner[ship]” would collectively lift Wells Fargo's health care business. Based in part on Bolan's tips, Ruggieri gave his manager glowing reports of Bolan's performance. (*Id.*) Ruggieri and his managers in turn provided positive feedback to Bolan's manager when he considered Bolan for a promotion to director. (*Id.*) Indeed, Bolan's director nomination form stated: “Greg [Bolan] is among the best analysts in the department in terms of his dialogue with trading. We consistently hear from trading that Greg provides great information flow to the desk and they are able to monetize his efforts. They often hold [him] out as the standard.” (*Id.*) This feedback helped Bolan achieve the promotion and the accompanying raise. (*Id.*)

In *Newman*, the Second Circuit vacated and dismissed with prejudice the criminal convictions of two hedge fund managers — remote tippees several tipping levels removed from the tippers. \_\_\_ F.3d \_\_\_, 2014 WL 6911278, at \*1–2 (2d Cir. Dec. 10, 2014). In part, the court found the trial evidence insufficient to prove beyond a reasonable doubt that the two tippers, who had never been criminally charged, received a personal benefit from their tips. *Id.* at \*2, 9–11. The court held that the required personal benefit had to be an “objective, consequential, and . . . potential gain of a pecuniary or similarly valuable nature” or “suggest[ ] a *quid pro quo* from [the tippee], or an intention to benefit the [tippee].” *Id.* at \*10 (quoting *United States v. Jian*, 734 F.3d 147, 153 (2d Cir. 2013)). Although the Division believes this standard too narrowly defines the required personal benefit, the hearing evidence here will show that Bolan tipped Ruggieri in a “partner[ship]” in which each scratched the other's back to bolster the other's career and earnings. Even *Newman* would require nothing more to satisfy the personal benefit requirement. Given these facts, Respondents' motion for summary disposition cannot succeed and will simply waste time and resources. Respondents should save their arguments about the legal sufficiency of the evidence until after the hearing, when the Court has a full evidentiary record before it.

The Court should therefore deny Respondents' request for leave to move for summary disposition.

Respectfully submitted,



Preethi Krishnamurthy  
Division of Enforcement

cc: Sam Lieberman, Esq. (by email)  
Paul Ryan, Esq. (by email)