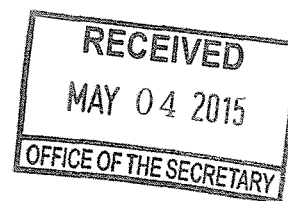


UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION



ADMINISTRATIVE PROCEEDING
File No. 3-16178

In the Matter of

Gregory T. Bolan, Jr. and
Joseph C. Ruggieri,

Respondents.

RESPONDENT JOSEPH C. RUGGIERI'S POST-TRIAL PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW

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I. PROPOSED FINDINGS OF FACT

A. BACKGROUND

1. Joseph C. Ruggieri

1.	Prior to joining Wells Fargo, from June 2001 to August 2009, Ruggieri was first an analyst and then a trader at Bank of America Securities LLC.
	Pre-trial Joint Findings of Fact and Conclusions of Law (“JFOF”) ¶ 10.
2.	Ruggieri was a senior trader of health care stocks in Wells Fargo’s trading department in New York, from August 2009 to April 2011.
	JFOF ¶ 11.
3.	As a trader, Ruggieri worked in Trading, a different department than Bolan, who worked in Wells Fargo’s Equity Research department.
	JFOF ¶ 12.
4.	Ruggieri was not Bolan’s supervisor.
	JFOF ¶ 13.
5.	Wells Fargo terminated Ruggieri in April 2011.
	JFOF ¶ 14.
6.	After leaving Wells Fargo, Ruggieri was a trader of health care stocks at International Strategy & Investment Group LLC from 2011 through 2014.
	JFOF ¶ 16.
7.	Ruggieri has not been the subject of any securities regulatory proceeding except for this case.
	JFOF ¶ 17.
8.	There is no allegation of insider trading in this action prior to March 30, 2010.
	JFOF ¶ 18.

2. Trading at Wells Fargo

9.	The equity-trading desk made markets in securities.
	<p>2 Q Now, equity trading specifically, what 3 did that group at Wells Fargo do? 4 A The equity trading desk made markets 5 in securities.</p> <p>Barlett Tr. 1136:2-5.</p>
10.	The equity trading desk generated order flow that resulted in generating commissions for the firm.
	<p>8 Q Okay. 9 What were the traders' 10 responsibilities? 11 A The traders' responsibilities were to 12 generate order flow that resulted in 13 generating commissions for the firm. 14 Q And how did traders typically do that? 15 A They established markets in their 16 stocks that our firm would then broadcast to 17 the institutional buy side community for their 18 consumption, and then they would interact with 19 us predicated on those markets.</p> <p>Barlett Tr. 1138:8-19.</p>
11.	Among his job duties, Ruggieri executed customer transactions and placed trades on behalf of Wells Fargo by putting Wells Fargo's money at risk ("in a principal capacity"), or in a riskless principal capacity.
	JFOF ¶¶ 11, 20.
12.	For each customer trade Ruggieri placed, Wells Fargo earned a fixed commission.
	JFOF ¶ 21.
13.	For his trades in a principal capacity, Ruggieri could trade any of the health care stocks on his list.
	JFOF ¶ 23.
14.	During the time period that Ruggieri and Bolan overlapped at Wells Fargo, Wells Fargo published approximately 285 equity research reports by Bolan.
	JFOF ¶ 26.

15.	The primary source of revenue generated by Ruggieri for Wells Fargo was from commissions generated from trading on behalf of Wells Fargo's clients.
	JFOF ¶ 47.
16.	Ruggieri's holding of overnight positions did not violate any Wells Fargo policies and procedures.
	<p>10 Q But there is nothing inherently 11 inappropriate or violative that involves any 12 policy or procedure by Mr. Ruggieri holding 13 the number of overnight trades that he did 14 while working for Wells Fargo? 15 A No. Holding a position wouldn't be a 16 violation of any policy.</p> <p>Yi. Tr. 845:10-16;</p> <p>11 Q And do you -- there are no rules at 12 Wells Fargo against holding a trade overnight, 13 are there? 14 A There are not. 15 Q And that was something that you 16 monitored? 17 A Something I monitored.</p> <p>Brown. Tr. 987:11-17.</p>
17.	Yi and Brown looked at a summary chart of Ruggieri's overnight positions and did not see anything unusual.
	<p>14 A I guess I would need sort of -- 15 outliers relative to what Joe would normally 16 do or what other traders would do? I mean are 17 these -- I would say that normal course of 18 business, none of these on its face would 19 cause me alarm.</p> <p>Yi. Tr. 869:14-19;</p> <p>19 Q But in terms of looking at these 20 numbers, nothing strikes you here as being 21 outside the risk? 22 A No.</p>

Brown. Tr. 988:19-22; JR-REB 66.¹

B. THERE WAS NO TIP

1. Ruggieri Did Not Have A Motive to Commit Insider Trading

18.	The trades were for the benefit of Wells Fargo.
	OIP ¶2.
19.	The profits at issue had less than a 1% impact on Ruggieri's loss ratio.
	5 Q. So in terms of the number, this 6 \$117,000 would represent less than 1 percent of 7 the gross commission number that you brought in 8 to Wells Fargo; isn't that right? 9 A. That's correct. And if my loss ratio 10 was 10 or 15 percent, I don't remember exactly 11 what it was, but -- if it was somewhere in that 12 range, I probably lost -- I don't remember 13 exactly -- a million and-a-half dollars or 14 something in P&L, which is around what that 15 percentage would be. 16 So this amount was talking about 17 either, I don't know, a 14 percent loss ratio or 18 a 15 percent loss ratio. That's basically what 19 the difference was. Ruggieri Tr. 2380:5-19.
20.	Ruggieri was a top performer at Wells Fargo.
	15 Joe was a top performer? 16 A In my opinion, Joe was a top 17 performer, yes. Brown Tr. at 973:15-17.
21.	Ruggieri doubled the commissions on the Wells Fargo healthcare desk in 2010.
	16 A. Because we doubled the commissions in 17 healthcare. So they were paying me more than 18 most, but they -- there was a reason for it. We 19 generated a lot more commission revenue.

¹ Brief descriptions of exhibits are provided where it is not apparent from the content of the proposed finding. With respect to emails and other documents that are not easily summarized, we respectfully refer the Court to the Joint Exhibit List and to the document itself.

	Ruggieri Tr. 2445:16-19.
22.	Ruggieri's 2010 compensation was guaranteed, making him the highest paid trader on the trading floor.
	<p>2 Q. In terms of your compensation, you had 3 a guarantee for 2010; correct? 4 A. Correct.</p> <p>Ruggieri Tr. 2444:2-4;</p> <p>13 Q And how did his pay compare to the pay 14 of the other traders in your group? 15 A It was higher.</p> <p>Brown Tr. 953:13-15;</p> <p>13 Q Did he have a -- besides the 14 commission plan, did he have any sort of 15 guaranteed compensation of the type we were 16 talking about before at any time while he was 17 there? 18 A He did.</p> <p>19 Q And, first of all, how did that come 20 about? 21 A Mr. Ruggieri, as I said, was a 22 talented trader, was sought after, and was 23 offered an opportunity by a competitor, and we 24 chose to match that opportunity and we 25 guaranteed his compensation for a period of</p> <p>1 Bartlett -- Direct 2 time.</p> <p>Bartlett Tr. 1162:13-1163:2;</p> <p>9 Q About how much did Mr. Ruggieri earn 10 for that guarantee year? 11 A I think the number was 1.7 million or 12 1.8, right around that ballpark. 13 Q And how did his pay compare to the pay 14 of the other traders in your group? 15 A It was higher.</p> <p>Brown Tr. 953:9-15.</p>
23.	As of June 14, 2010, Ruggieri knew his 2010 salary would be guaranteed.

	<p>12 Any chance in your mind that Joe as of 13 June 14th didn't know that he was going to be 14 guaranteed a salary for 2010? 15 A No, I don't think so.</p> <p>Brown Tr. 969:12-15.</p>
24.	<p>Brown had "no doubt" that Wells Fargo would honor its guarantee.</p>
	<p>12 Q Did you have any doubt that Wells 13 Fargo would honor the guarantee to Mr. 14 Ruggieri for 2010? 15 A No, I didn't have any doubt.</p> <p>Brown Tr. 970:12-15.</p>
25.	<p>Wells Fargo's total return on the trades at issue was 2.41%:</p> <p>PRXL = 1.196% CVD = .8% AMRI = 4.95% EM = .24% ATHN = 6.47% BRKR = 5.01%</p>
	<p>JR-REB-65 (Wells Fargo's Profit and Loss for Trades in the OIP).</p>
26.	<p>Ruggieri lost over \$400,000 on a single trade in Boston Scientific in 2010 and there were no repercussions to his compensation or his promotion to Managing Director.</p>
	<p>19 Q. So you lost almost four times the 20 total profits that were alleged in this action 21 against you in a single trade; isn't that 22 correct? 23 A. That's correct, and the worst part of 24 it, it was December 16th, so it was the end of 25 the year, you know, for the most part, our year</p> <p>2382</p> <p>1 RUGGIERI – CROSS 2 was done, and it -- you know, it had an impact 3 on the desk. 4 Q. Were there any repercussions to you 5 for the Boston Scientific trade? 6 A. No. 7 Q. Did you still get promoted the next</p>

	<p>8 month? 9 A. I did. 10 Q. Did you still get your bonus that you 11 agreed to? 12 A. Yes. 13 Q. The \$1.8 million total compensation? 14 A. I did.</p> <p>Ruggieri Tr. 2381:19– 2382:14.</p>
27.	Ruggieri never traded any of the stocks at issue in his personal account.
	<p>2 Q. Are there any trades in any of these 3 securities that you ever made in your UBS 4 account? 5 A. No.</p> <p>Ruggieri Tr. 2428:2-5.</p>
28.	Ruggieri's principal trading was a minor part of his trading at Wells Fargo.
	<p>7 But trading those ideas relative to my 8 day-to-day trading volume and my focus was a 9 very small part.</p> <p>Ruggieri Tr. 2430:7-9.</p>
29.	Bartlett testified that he had no reason to believe that Ruggieri would wreck his career by trading on inside information.
	<p>12 Q You don't have any reason sitting here 13 today to believe that Mr. Ruggieri would wreck 14 his career by trading on inside information, 15 do you? 16 A I do not.</p> <p>Bartlett Tr. 1192:12-16.</p>

2. The Court Cannot Draw any Inferences from the Wells Fargo Phone Records

a) The Court Cannot Infer that Calls Involved Ruggieri

30.	Wells Fargo's Trading Desk phone number was 212-214-6201.
	JFOF ¶ 30.
31.	212-214-6210 was a Wells Fargo telephone line associated with Ruggieri.

	JFOF ¶ 31.
32.	Wells Fargo did not locate any telephone records for 212-214-6210.
	JFOF ¶ 32.
33.	212-214-6210 was not a private line, and it rang on the phone turrets of other traders, including at least Chip Short.
	<p>2 Q. And did his phone number also ring on 3 your phone turret? 4 A. It did, yes.</p> <p>Short Tr. 3369:2-4;</p> <p>12 We tried -- as a general rule, it's a 13 bad client service to let the phone ring more 14 than, you know, once or twice, because if a 15 client is calling or somebody is calling and 16 wants to put a trade in and that phone is 17 ringing three or four times, they're calling 18 somebody else.</p> <p>Ruggieri Tr. 2410: 12-18;</p> <p>19 Q If the phone is ringing on a personal 20 number or the 6201 trading desk number, is 21 there a policy in terms of how long you let a 22 phone ring before somebody picks up? 23 A You would pick it up very quickly. 24 There is no firm policy, but the junior people 25 would pick up the trading lights quickly.</p> <p>Brown Tr. 974:19-25.</p>
34.	Bolan spoke with someone other than Ruggieri on the 212-214-6210 line at least 41 times.
	JR-REB 67 (Examples of Bolan Calls to 6210 or 6201 when Ruggieri out of office).
35.	If Ruggieri was on the phone, someone else answered the 6210 line.
	<p>16 Q. And if you're on the phone with a 17 client and somebody calls you, let's say Mr. 18 Bolan -- 19 A. Right. 20 Q. What happens? 21 A. I'm on with a client? 22 Q. Yes. 23 A. Typically, somebody else will pick up 24 6210. Hopefully it will be somebody on the 25 healthcare team.</p>

	Ruggieri Tr. 2409:16-25.
36.	Short covered for Ruggieri when he was away from the trading desk.
	<p>10 Chip Short often covered for you on 11 the desk? 12 A. Yes.</p> <p>Ruggieri Tr. 2435:10-12; JR-REB 26.</p>
37.	Short spoke to Bolan if Short happened to pick up the phone, if Ruggieri was absent, traveling, off the desk in the restroom or on vacation.
	<p>22 Now, if Greg would call the desk and I 23 would happen to pick up the phone, I would talk 24 to him in that way, or I would talk to him in 25 Joe's absence if Joe were to be traveling or off 3390</p> <p>1 SHORT – DIRECT 2 the desk in the restroom or on vacation and 3 something were to happen in this space, of 4 course he would call the desk and give me the 5 information on what he thinks could occur that 6 particular day off whatever catalysts may be 7 present within his space.</p> <p>Short Tr. 3389:22-3390:7;</p> <p>9 Q. Did you ever pick up Mr. Ruggieri's 10 6210 line? 11 A. Yes. 12 Q. And how often did you pick it up? 13 A. If he was tied up and doing something 14 else, I would pick it up. If he was on another 15 line or if he was off the desk.</p> <p>Short Tr. 3395:9-15;</p> <p>10 Q. Were there occasions when he went to 11 the bathroom and you picked up the phone? 12 A. Yes, I'm sure there were.</p> <p>Short Tr. 3396:10-12.</p>
38.	In Ruggieri's absence, Short communicated with Bolan to educate himself about stocks Ruggieri covered.
	<p>4 Is it fair to say when Mr. Ruggieri 5 was away from the desk or out of the office that 6 you sometimes would have to communicate with Mr.</p>

	<p>7 Bolan to educate yourself about Joe's stocks? 8 A. Yes.</p> <p>Short Tr. 3427:4-8; JR 67; JR-REB- 229.</p>
39.	<p>In Ruggieri's absence, Short disseminated Bolan's research.</p> <p>JR-REB-227; JR-REB-229.</p>
40.	<p>In Ruggieri's absence, Short traded in stocks covered by Bolan.</p> <p>JR-REB-228.</p>
41.	<p>It was common for Bruce Mackle to listen in on calls with Bolan.</p> <p>4 Q. And did you have any understanding as 5 to how often Mr. Mackle spoke to and interacted 6 with Mr. Bolan compared to the other healthcare 7 analysts? 8 A. I would say it wasn't as much. 9 I don't think they had as much of an 10 interaction in that I just think Greg liked to 11 go directly to Joe and -- not cut Bruce out of 12 it from a personal perspective, but just for 13 Bruce to have to just relay exactly what Greg 14 was telling him, he just would go -- and then in 15 the sense of the phone lines being on our lines, 16 if Bruce picked up Joe's line and listened in on 17 what he was saying, that was something that was 18 common. 19 Q. When who was calling? 20 A. Any analyst, in general.</p> <p>Short. Tr. 3393:4-20.</p>
42.	<p>Short also sometimes listened in on analyst calls with Ruggieri.</p> <p>21 You know, there would be times where 22 even names that I traded, the analyst would call 23 Joe because Joe happened to be talking to a 24 client who was asking about, say, Tenant 25 Healthcare, which is a hospital stock that I was</p> <p>3394</p> <p>1 SHORT – DIRECT 2 assigned. 3 So Joe would ask my analyst the 4 question, and the analyst would call the desk, 5 and I would get the information just by 6 listening in what he had to say, but the</p>

	<p>7 question was asked of Joe.</p> <p>Short Tr. 3393:21-3394:7.</p>
43.	<p>Ruggieri sometimes grabbed lunch with traders who he had worked with at Bank of America.</p> <p>19 Q. You were asked about lunchtime 20 practices. 21 Are you familiar with the fact that 22 Mr. Ruggieri was friends with some of the other 23 traders on the desk from having worked with them 24 back at Bank of America? 25 A. Yes.</p> <p>3412</p> <p>1 SHORT – CROSS 2 Q. Did Mr. Ruggieri ever go and 3 physically grab lunch with Brian Riddel (ph.)? 4 A. I'm sure he did. I don't recall 5 specifically. 6 Q. How about Chris Parker? Would your 7 answer be the same with respect to Chris Parker, 8 that you're sure he did? 9 A. Yeah. I would imagine he did. Yes. 10 Again, I don't remember specifically, but I 11 would imagine they went to get lunch. 12 Q. And would that be the same response, 13 that you're sure he did, with respect to Gary 14 Ramando? 15 A. Yes.</p> <p>Short Tr. 3411:19-3412:15.</p>
44.	<p>When Ruggieri was out of the office or otherwise occupied with something else, it wouldn't be unusual for Bolan to speak to one of the others on the desk.</p> <p>12 Q How often did you call -- did you have 13 an understanding of Mr. Bolan calling those 14 traders as compared to Mr. Ruggieri? 15 A I believe he spoke to Mr. Ruggieri the 16 vast amount of the time, but when Mr. Ruggieri 17 was gone or otherwise occupied with something 18 else, it wouldn't be unusual for him to speak 19 to one of the others on the desk.</p> <p>Evans Tr. 1252:12-19.</p>
45.	<p>Bolan spoke with Ruggieri, Short, and Mackle.</p> <p>21 Q. Who did you speak with on Wells Fargo's 22 trading desk? 23 A. Joe Ruggieri and Chip -- I can't remember his</p>

	<p>24 last name, and then Bruce Mackel. Bolan Tr. (Div. 110) at 54:21-24.</p>
46.	<p>Bolan spoke with Ruggieri the most, but toward the end of his tenure, Bolan spoke to Ruggieri and Mackle equally.</p>
	<p>21 Q. Who did you speak with on Wells Fargo's 22 trading desk? 23 A. Joe Ruggieri and Chip -- I can't remember his 24 last name, and then Bruce Mackel. 25 Q. Did you speak to one of these individuals 55 1 more than the other? 2 A. I spoke to Joe probably towards the end just 3 as much as I spoke to Bruce, Joe probably the most over 4 the past couple of years. Bolan Tr. (Div. 110) at 54:21-55:4.</p>
47.	<p>Bolan spoke with Ruggieri a couple times per week.</p>
	<p>5 Q. How frequently did you communicate with 6 Mr. Ruggieri while you were employed at Wells Fargo? 7 A. I would probably say at least a couple of 8 times a week. Bolan Tr. (Div. 110) at 56:5-8.</p>
48.	<p>Before leaving his desk, Ruggieri waited for Short to return from lunch, for example.</p>
	<p>JR-REB-84.</p>
49.	<p>Scott Yi, who led the trading compliance investigation testified that, as part of his review, his compliance team did not look at the Wells Fargo phone records, because the lines were not recorded and there was a general trading line.</p>
	<p>9 Q And how -- was there any division of 10 responsibility between you and Mr. Friedman? 11 A Well, Mr. Friedman was responsible for 12 research compliance, so I think he was more 13 focused on Greg Bolan's activity, where I was 14 more focused on Joe Ruggieri's responsibility. Yi Tr. 775:9-14; 7 Q Did you look at any phone records as a 8 part of your review? 9 A I didn't. 10 Q Did anyone on your team? 11 A No. 12 Q Any particular reason why not? 13 A I don't think we were focusing on the 14 phone records. None of our phone lines were</p>

	<p>15 recorded. There was -- I believe there was a 16 general trading line, so I don't think we were 17 thinking of using the information to help us 18 glean anything in particular.</p> <p>Yi Tr. 787:7-18.</p>
50.	<p>If an email was sent from Ruggieri's blackberry device, it did not show that, but instead it was as though the email was coming from within the network.</p>
	<p>3 Q. And when you get such e-mails, how can 4 you tell if they're not e-mails within Wells 5 Fargo? 6 A. I mean, I was answering that question 7 in the sense like if my mother sent me an 8 e-mail, I would know -- her address would say -- 9 I don't mean to be sarcastic -- I think so many 10 things nowadays say: "Sent from my iPhone." 11 I think within the Wells Fargo 12 network, when he sends something on his 13 BlackBerry, it was like it was coming from 14 within the network.</p> <p>Short Tr. 3374:3-14.</p>

b) The Court Cannot Infer that Calls Were Not Business-Related

51.	<p>Wells Fargo encouraged its traders and research analysts to interact on a regular basis to help each other understand their industry groups and help work with their buy side clients to generate increased commission dollars.</p>
	<p>22 A We encouraged both the traders and the 23 research analysts to interact on a regular 24 basis to help each other understand their 25 industry groups and help work with our buy</p> <p>1 Bartlett – Direct 2 side clients to generate increased commission 3 dollars.</p> <p>Bartlett Tr. 1153:22-1154:3;</p> <p>16 Q. Now, traders and analysts should talk 17 a lot. 18 Wouldn't you agree with that? 19A. They should be in consistent dialogue, 20 yes.</p> <p>Wickwire Tr.1468:16-20; DIV 107 (Call your trader email)</p>
52.	<p>Good trader/analyst dialogue was viewed as a way to capture more commissions.</p>
	<p>8 Again, context is, at this time, with</p>

	<p>9 commissions dwindling, it was an effort to 10 really make sure we were in front of clients to 11 make sure we captured as much commission volume 12 as we could, and trader/analyst dialogue was 13 viewed by sales and trading management as 14 important to that effort.</p> <p>Wickwire Tr. 1436:8-14.</p>
53.	<p>Some traders were better at talking regularly with their corresponding research analyst than others; some research analysts were better than others.</p>
	<p>16 Q Now, did all of the traders regularly 17 talk with their corresponding research 18 analysts? 19 A No. 20 Q Why not? 21 A Some traders were better at it than 22 others. Some research analysts were better 23 than others, some just weren't equipped to.</p> <p>Bartlett Tr. 1155:16-23.</p>
54.	<p>There was a symbiotic relationship between research and trading.</p>
	<p>24 Q Why was that something that the firm 25 wanted feedback from traders on analysts and 1 Bartlett - Direct</p> <p>2 from analysts on traders? 3 A It was related to the fact that we 4 thought there was a direct correlation to a 5 symbiotic relationship between research -- 6 sales research and trading, and the 7 penetration of accounts which resulted in 8 increased votes, which resulted in increased 9 commission dollars.</p> <p>Barlett Tr. 1157:24-1158:9.</p>
55.	<p>The healthcare trading desk was a team.</p>
	<p>5 Q. Did you view the healthcare desk as 6 being part of a team? 7 A. Yes.</p> <p>Mackle Tr. 3282:5-7.</p>
56.	<p>Research and trading worked as a team, as partners in a shared goal.</p>
	<p>15 Q. So it's fair to say that the trading 16 department and the analyst department worked as 17 a team; isn't that right? 18 A. Yeah, I would say yes.</p> <p>24 Q. And that's because you would agree</p>

	<p>25 that the trading and research divisions work 1476</p> <p>1 WICKWIRE - CROSS</p> <p>2 hand in hand to accomplish the goal of Wells 3 Fargo, to make money; is that fair? 4 A. Yes, and I would add that they have 5 direct access to clients who can give us 6 feedback. If Todd Wickwire calls, they're not 7 going to return my call. But if Joe Ruggieri 8 calls, they'll say: Oh, I talk to Joe every day 9 and I'm happy to get feedback. 10 Q. So in that way, the two departments 11 are working as partners in a shared goal; 12 wouldn't you agree? 13 A. Yes.</p> <p>Wickwire Tr. 1474:15-18; 1475:24-1476:13.</p>
57.	<p>Communication with traders is standard practice for analysts.</p>
	<p>22 At or about the time of the calls described 23 in this chart, did you discuss CVD with Ruggieri? 24 A. Again, I probably did, but I don't know if it 25 happened during those calls. Again, it's standard 133</p> <p>1 practice to talk to clients and Joe Ruggieri, who is the 2 health care trader, about the companies that I followed. Bolan Tr. (Div. 110) at 132:22-133:2;</p> <p>16 Q What did you base that understanding 17 on? 18 A It is generally considered good 19 practice to be in regular touch with the 20 trader in your sector to understand just the 21 environment in which -- what is moving stocks 22 that day, those kinds of things. Evans Tr. 1250:16-22.</p>
58.	<p>Best practices included blind copying the sales and trading force on analyst communications with clients.</p>
	<p>7 Q. In terms of best practices, one of 8 those best practices was that when an analyst 9 e-mails a client, that analyst should "bcc" the 10 sales force and the trading force in that 11 sector? 12 A. Correct. 13 Q. And by "bcc," blind copy.</p>

	<p>14 A. Blind copy.</p> <p>Wickwire Tr. 1474:7-14.</p>
59.	<p>Ruggieri tried to effect a better communication paradigm between sales and research with all analysts, not just Bolan.</p>
	<p>12 So I would say based on the 13 conversations I was constantly having with 14 senior management and sales and trading, that 15 Mr. Ruggieri was someone trying to effect a 16 better communication of paradigm between sales 17 and research. 18 Q. And your understanding was that he was 19 trying to effect better communication that would 20 cover not just Mr. Bolan, but all of the 21 analysts in the research department; correct? 22 A. Correct. 23 Q. And Mr. Ruggieri was the head of the 24 trading desk for his sector, and is it also fair 25 to say that this was one of the things that was</p> <p style="text-align: right;">1479</p> <p>1 WICKWIRE - CROSS</p> <p>2 near and dear to Mr. Ruggieri's heart while he 3 worked at Wells Fargo, was increasing that 4 communication between the two divisions? 5 A. Correct.</p> <p>Wickwire Tr. 1478:12-1479:5.</p>
60.	<p>Analysts can learn from their trader counterpart.</p>
	<p>25 Q. And that, in fact, an analyst can</p> <p style="text-align: right;">1480</p> <p>1 WICKWIRE - CROSS</p> <p>2 learn from their trader counterpart; isn't that 3 right? 4 A. In this case, yes. Others, not often. 5 Q. In this case, you mean you would 6 expect Mr. Bolan to learn from Mr. Ruggieri; 7 isn't that right? 8 A. Yes.</p> <p>Wickwire Tr. 1479:25-1480:8.</p>

3. There is No Pattern from which the Court May Infer Insider Trading

a) Three of the Six Trades Do Not Fit the Pattern of Insider Trades

61.	To be profitable, the timing of a trade is critical.
	<p>“The most profitable way to trade in relation to an analyst ratings change would be to buy the stock the day before the change and sell it the day after the change. Of course, such a strategy would only be possible with advance information about the ratings change announcement.”</p> <p>DIV 177 (Dr. O’Neal Report) at 5;</p> <p>11 Q. So the most profitable way to trade is 12 to buy the day before and to sell it the day of; 13 right? 14 A. I mean -- 15 Q. I’m not trying to trick you. 16 A. I think we’re saying the same thing. 17 Q. I just want to make sure we are. 18 If you hold it another day, that’s not 19 so profitable, doesn’t make as much sense? 20 A. It may be just as profitable, but you 21 have your capital at risk for another day. 22 If what you’re trying to do -- I mean, 23 I can’t tell you whether it would be up again 24 that second day. But if you’re just trying to 25 capitalize on the rating change, obviously you</p> <p>1928</p> <p>1 O’NEAL - CROSS</p> <p>2 buy right before the rating change comes out, 3 and then wait for the rating change to come out, 4 the market opens, there’s trading going on, you 5 unload it that day.</p> <p>O’Neal Tr. 1927:11-1928:5.</p>
62.	Instead of purchasing right before the downgrade, Ruggieri held overnight risk in PRXL for eight days leading up to the PRXL downgrade.
	JFOF ¶¶62, 67, 72, 77.
63.	Instead of purchasing right before the upgrade, Ruggieri held overnight risk in BRKR for seven days leading up to the BRKR initiation of coverage.
	JFOF ¶¶ 149, 152, 156, 162, 167.
64.	Instead of selling right after the upgrade, Ruggieri held market risk in AMRI for seven days following the AMRI upgrade.

	JFOF ¶¶107-114.
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b) Ruggieri Didn't Trade in Advance of Half of Bolan's Rating Changes

65.	Between August 2009 and April 2011, Bolan issued 10 ratings changes. Ruggieri did not trade in front of 5 of them.
	DIV 133 (Wells Fargo's List of Bolan's Published Research).

c) Ruggieri Traded in the Opposite Direction of Bolan's Research

66.	Between August 2009 and April 2011, Ruggieri had a position in advance of the release of a Bolan research report on 14 occasions.
	<p>23 Q. With respect to the big ratio that I</p> <p>24 understand from your expert report is, on the</p> <p>25 one hand, you've got the 14, which represents</p> <p>1920</p> <p>1 O'NEAL – CROSS</p> <p>2 the number of times Mr. Ruggieri traded in front</p> <p>3 of any research report in a one-year period;4 right?</p> <p>5 A. Yes.</p> <p>O'Neal Tr. 1919:23-1920:5; DIV 177 (O'Neal Expert Report) at 17.</p>
67.	On September 30, 2010, at the market close, Ruggieri held a 17,500-share short position in CVD in advance of a research report where Bolan increased his valuation range by more than 5%.
	JR-REB 4; DIV-REB 66A.
68.	On February 24, 2011, at the market close, Ruggieri held a 66,052-share long position in ICLR in advance of a research report where Bolan decreased his estimates by 19%.
	JR-REB 4; DIV-REB 66A.
69.	On November 29, 2010, at the market close, Ruggieri held a 5,000 share long position in PRXL advance of a research report where Bolan decreased his EPS estimates by 8%.
	JR-REB 6; DIV-REB 66A.

d) Ruggieri Didn't Trade in Advance of the MDRX Initiation of Coverage With an Out-perform Rating

70.	Ruggieri did not hold any position in MDRX ahead of Bolan's initiation of coverage of MDRX with an outperform rating.
	DIV-REB 66; JR-REB 28

e) Some Trades Took Place Prior to Supervisor Approval of Request to Change Rating

71.	On July 2, 2010, Ruggieri traded long 35,050 shares of AMRI. All trades were completed as of 3:42 p.m.
	JR-REB 107.
72.	On July 2, 2010, at 3:55 p.m., Bolan received Pearlstein's "ok" with respect to Bolan's "request for a ratings change" for AMRI.
	JR-REB 112.
73.	Bolan sent requests to his supervisors for all six of the reports at issue.
	JR-112, DIV 32, DIV 48, DIV 54, DIV 64 and DIV 127.
74.	Bolan believed that he needed to get approval prior to each rating change.
	17 Q. Did Mr. Pearlstein approve your request? 18 A. Yes. 19 Q. To upgrade Emdeon? 20 A. Yes, he did. He had to have. Bolan Tr. (Div. 110) at 159:17-20; <i>see also</i> OIP ¶¶ 17, 26, 29 ("After obtaining approval to ..."), ¶ 23 ("After requesting approval to . . .").
75.	Approval varied and sometimes occurred on the day of publication and other times the week before.
	22 Q. And how far before the actual publishing of a 23 ratings change did you start to develop your thesis that 24 went into the ratings change? 25 A. It varies. It could be the day of, it could 82 1 be a week prior. Bolan Tr. (Div. 110) at 81:22-82:1.
76.	Ratings changes were reviewed by a supervisory analyst and distributed within thirty minutes of receipt.
	21 Q But let's take in 2010 or 2011, 22 reports that had ratings changes, such reports 23 typically, you know, what was the turnaround 24 time between when you would get it and when it 25 would be distributed? 569 1 Madsen – Direct 2 A If the market is open and we are 3 actively releasing research, my goal would be

<p>4 to have things turned around within 30 5 minutes. 6 Q Within 30 minutes? 7 A Yes. 8 Q So just to be clear, for things like 9 ratings changes, when they would come to you, 10 they wouldn't sit around for days or for weeks 11 before they were distributed to the public? 12 A Only if there was some sort of block 13 from the compliance department or some other 14 issues that was keeping it from being 15 released. 16 Q But if there wasn't a block from the 17 compliance department or some other issue to 18 prevent its release, the typical turnaround 19 time was approximately 30 minutes? 20 A Roughly. And as I said, we would not 21 release post 4 p.m., market close. Madsen Tr. 568:21-569:21.</p>
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f) Moskowitz's Trades Don't Support a Pattern

77.	<p>Moskowitz did not trade in front of three out of the six research reports at issue: CVD, ATHN and BRKR. DIV 151.</p>
78.	<p>Bolan and Moskowitz spoke on June 9, 2010, in advance of the CVD report. 24 Q. If you could go back to the 9742. 25 If you look at page -- if you could go 1827 1 WALSTER -- CROSS 2 to June 9th at 7 p.m. Do you see that call, 3 6/09, 7 p.m.? 4 Do you see that? 5 A. Yes. 6 Q. Is that Mr. Moskowitz's work number? 7 A. Yes, it says Time Warner number. Walster Tr. 1826:24-1827:7; DIV 145 (Tolls 9742).</p>
79.	<p>Bolan and Moskowitz spoke six times, in the days leading up to the February 8 ATHN report. 13 Q. So Mr. Bolan and Mr. Moskowitz had 14 five different calls between them on the 6th and 15 the 7th of February, before the upgrade, but Mr. 16 Bolan didn't trade -- but Mr. Moskowitz did not 17 trade; is that correct? 18 A. I agree there are the phone calls</p>

	<p>19 there, and like I said, it's been a long time 20 since I've looked at the Moskowitz trading data 21 to confirm whether or not that's the case, but 22 it was not included in my exhibit.</p> <p>Walster Tr. 1816:13-22; DIV 145 (Tolls 9742).</p>
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g) The Division's Statistical Conclusions are Based on Cherry-Picked Data

(1) Ratings Changes are Not Uniquely Material

80.	<p>Ratings changes are not always material.</p>
	<p>8 Do you believe that your ratings changes 9 while you were at Wells Fargo could reasonably be expected 10 to affect the price of the security in which you are 11 publishing the ratings change? 12 A. Theoretically, yes. 13 Q. What do you mean by "theoretically"? 14 A. Because ratings are changed all the time by 15 hundreds of analysts and many times stocks don't move. In 16 fact, sometimes they go the opposite direction, depending 17 upon what the market does that day. It is entirely 18 different than a company issuing some type of information 19 that would be material in the sense that it has an impact 20 on their future prospects.</p> <p>Bolan Tr. (Div. 110) at 173:8-20.</p>
81.	<p>Whether a rating change is more material than other notes depends on the circumstances.</p>
	<p>20 Q And in terms of the various types of 21 research that were published by Wells Fargo 22 coming out of your operation in Nashville at 23 that time, the ratings changes that were 24 issued, where would you put them in the range 25 of materiality of the various reports that you</p> <p style="text-align: right;">1245</p> <p>1 Evans - Direct</p> <p>2 issued?</p> <p>3 A It can vary widely depending on the 4 circumstances that prompted the ratings 5 change, the notoriety of the analyst within 6 that particular field, whether the ratings 7 change was proactive or whether it was 8 reactive.</p> <p>9 So there is a variety of things that 10 can influence that.</p> <p>11 Q Right.</p> <p>12 I'm comparing it to the other research 13 products that were generated by your group,</p>

14 such as squawks.
15 A Generally ratings changes would be
16 considered more material than other notes.

Evans. Tr. 1244:20-1245:16;

2 Q You were interviewed by the SEC with
3 respect to this matter in March of 2013; isn't
4 that right?

5 A Yes.

6 Q And during that interview, you were
7 asked if you believed rating change was more
8 impactful than other research.

9 Do you remember that?

10 A Yes.

11 Q And you responded and you said it may
12 or it may not be; isn't that right?

13 A Correct.

14 Q In fact, you gave an example to the
15 Division. You said if a company misses a
16 quarter, stock is subsequently downgraded, the
17 ratings change is virtually meaningless
18 because the information is already out there;
19 isn't that right?

20 A Yes.

21 Q And those were your words, "virtually
22 meaningless"; isn't that right?

23 A Yes.

Evans Tr. 1281:2-23;

5 Q. And did you have any understanding as
6 to whether such ratings reports' materiality was
7 equal to all the other research that was issued,
8 or different than?

9 A. Again, I just feel like that just

10 depends on the ratings change, several different
11 factors, whether it's timing, content, if it
12 changes an analyst's thesis.

13 An analyst can put out an in-depth
14 research report about a name and not change its
15 rating, but could maybe change its price target
16 and that may have an effect as well.

17 Sometimes upgrades or downgrades don't
18 have much of a material impact because they can
19 be late, or it's just not timely or it's -- it's
20 maybe a valuation upgrade or downgrade, which is
21 in terms of like a price, they're just getting
22 there.

23 They're rating in line of where the
24 current valuation of the stock is trading.

25 There are just so many different upgrades and

	<p>3352</p> <p>1 SHORT – DIRECT</p> <p>2 downgrades that could occur.</p> <p>Short Tr. 3351:5-3352:2.</p>
82.	<p>More than 50% of rating changes are a reaction to company announcement.</p>
	<p>6 Q And what is your sense of what</p> <p>7 percentage of the ratings changes are based on</p> <p>8 a company just issuing new guidance as opposed</p> <p>9 to new information that is obtained by an</p> <p>10 analyst?</p> <p>11 A By the analyst? That's a good</p> <p>12 question.</p> <p>13 So one responding to company news --</p> <p>14 I'd have to go back and look. I would say --</p> <p>15 I would say, unfortunately, probably more than</p> <p>16 50 percent are probably a reaction to a</p> <p>17 company announcement.</p> <p>Wickwire Tr. 1327:6-17.</p>
83.	<p>Ratings changes provide a long-term perspective.</p>
	<p>3 Q And in a typical year, of the various</p> <p>4 research products that are publicly</p> <p>5 disseminated by an analyst, approximately what</p> <p>6 percentage of those research materials,</p> <p>7 whether squawks, notes or reports, have</p> <p>8 ratings changes?</p> <p>9 A Not initiations, just existing</p> <p>10 research that we're publishing? They are not</p> <p>11 that frequent.</p> <p>12 Again, we're taking a 1 to 18 month</p> <p>13 view, and even though there is information in</p> <p>14 the market that may change our view near term,</p> <p>15 because we are taking a longer view, ratings</p> <p>16 changes don't occur all that often.</p> <p>17 And I would add that our clients look</p> <p>18 unfavorably on analysts that are constantly</p> <p>19 changing ratings, because they want that</p> <p>20 long-term perspective.</p> <p>Wickwire Tr. 1326:3-20.</p>
84.	<p>The market does not always pay attention to analyst reports.</p>
	<p>11 Q And in your interview, the Division</p> <p>12 asked you about analyst reports and whether</p> <p>13 you thought they were market moving and you</p> <p>14 said you thought that the impact of analyst</p> <p>15 reports has diminished over time.</p> <p>16 What do you mean by that?</p>

	<p>17A I don't recall saying that, but I do 18 think it is true, so I probably did say it. 19 I just think that when most analysts 20 publish something that not all of them have a 21 following. It is analyst specific. So 22 sometimes customers don't even pay attention, 23 the marketplace doesn't pay attention, and the 24 stock doesn't even move.</p> <p>Brown Tr. 990:11-24.</p>
85.	<p>Bolan was not an influential analyst in the health care IT sector.</p>
	<p>16 A I don't specifically remember. 17 Q During that interview with the 18 Division, you told the Division that Mr. Bolan 19 was less relevant in the health care IT sector 20 because there were 20 to 25 analysts already; 21 isn't that right?</p> <p>Evans Tr. 1283:16-21.</p>
86.	<p>Bolan was an "up and comer" in CROs and had an average level of influence.</p>
	<p>3 Q Isn't that right? 4 But you also explained to the Division 5 that even there, even with respect to CROs, 6 Mr. Bolan was an up and comer; isn't that 7 right? 8 A Correct. 9 Q And, therefore, had an average level 10 of influence. 11 You would agree with that, wouldn't 12 you? 13 A Yes.</p> <p>Evans Tr. 1284:3-13.</p>
87.	<p>Bolan had virtually no influence in the life science tools sector.</p>
	<p>14 Q And you also told the Division that 15 Mr. Bolan was virtually irrelevant in a life 16 science tool sector; isn't that right? 17 A Yes. 18 Q And, again, "virtually irrelevant", 19 your words, correct? 20 A Correct.</p> <p>Evans Tr. 1284:14-20.</p>
88.	<p>Estimate changes and changes to valuation range as well as ratings changes are material changes that must be included in a note.</p>

	<p>16 Q. Now, you would agree that a ratings 17 change cannot be contained in a squawk; is that 18 right? 19 A. Correct. 20 Q. That needs to go into a note? 21 A. Correct. 22 Q. And is there other information that 23 needs to go into a note? 24 A. Yes. 25 Q. Can you give us some examples?</p> <p>1468 1 WICKWIRE – CROSS 2 A. Estimate changes, a change to the 3 valuation range, any material change to thesis. 4 It may not affect earnings or rating, but it's 5 material information that requires some 6 explanation, elaboration from the analyst.</p> <p>Wickwire Tr. at 1467:16-1468:6; 1477</p> <p>4 Q. And you then, next, of course, remind 5 them that: 6 "If you are contemplating or are in 7 the process of changing your rating, valuation 8 range and/or estimates, you're required to first 9 publish a note before you can discuss those 10 changes with anyone." 11 Do you see that? 12 A. Yes. 13 Q. Why did you include all three of those 14 categories: Rating changes, valuation range 15 changes or changes in estimates? 16 A. Because those are the most material on 17 the spectrum of materiality, where we want 18 people to publish.</p> <p>Wickwire Tr. 1477:4-18; Div. 107 (Call your trader email).</p>
89.	<p>A research report changing valuation can be more important or material than a ratings change.</p>
	<p>15 Q Because you could have a valuation 16 change, for example. 17 Let's take one of the items at issue 18 here. There is an Emdeon ratings change, and 19 in that Emdeon ratings change -- let's make it 20 hypothetical. 21 In the ratings change, the valuation 22 is actually decreased by \$3 from 19 to 16 23 because the stock has been hit so hard, and 24 yet the analyst has upgraded it.</p>

	<p>25 Compare that to, let's say, looking at 837</p> <p>1 Yi – Cross 2 a stock that is already at its highest rating, 3 but you change your evaluation rate by 20 4 percent. But you can't upgrade it any more 5 because it is as high as it can go in terms of 6 its rating. 7 So in a situation like that, you can 8 have a valuation report that is more important 9 or more material than a ratings change; is 10 that fair? 11 A That's possible, yes.</p> <p>(Yi Tr. 836:15-837:11).</p>
90.	Wells Fargo policies define a “material ratings change” to include a “valuation range change”, and “a full-year EPS FFO per share estimate change of 5 percent.”
	DIV 36 at 28; DIV 7 (“You MUST publish a note in instances where there is a change in rating or a material change to estimates”).

(2) Dr. O’Neal Failed to Consider all Material Research and All Trading by Ruggieri

91.	Dr. O’Neal’s report was dependent on the data that he was provided by the Division.
	<p>12 What if one of the trades here, one of 13 the trades, there was no tip? What if one of 14 the trades you can't show that there was any 15 communication between these two guys? Not 16 possible. Would that affect your analysis? 17 A. No. My analysis was simply done on 18 the data that was provided. 19 I didn't -- I didn't know anything 20 about potential tips. I was just given: Here 21 are the alleged trades and here's the data.</p> <p>O’Neal Tr. 1934:12-21.</p>
92.	Dr. O’Neal only considered overnight risk.
	Div. 177 (O’Neal Report).
93.	There is not much difference between overnight risk and intraday risk.
	<p>11 At that time, when you gave testimony, 12 you were asked your opinion about overnight 13 trades, and at that time you said that there was 14 not such difference between overnight risk and 15 intraday risk in your opinion; is that accurate? 16 A. That's correct.</p>

	Short Tr. 3416:11-16.
94.	The content of an analyst report is important: the stronger the justifications provided in the report, the larger the market's reaction to the report.
	JR-REB 103 (NBER Paper) at 2 ("As expected, the stronger the justifications provided in the report, the larger the market's reaction to the report.").
95.	Dr. O'Neal never read the Bolan research reports at issue and the actual content of the reports had no impact on his findings.
	<p>5 Q. When you do your event study of the 6 reports here at issue, do you actually have to 7 read the reports to make your analysis that the 8 rating changes are material? 9 A. I didn't do that, no. 10 Q. Okay. So you don't have to read the 11 reports at all? 12 A. Well, you have to read the report to 13 see if there's a ratings change. 14 Q. But in terms of the why, why an 15 analyst did what he or she did, what their 16 reasoning was, what their argument was, you 17 didn't do that? 18 A. I scanned through those ratings 19 changes, but that didn't impact any of the 20 analysis I did.</p> <p>O'Neal Tr. 1931:5-20;</p> <p>8 So it would be helpful if you weren't 9 talking about the average, but if we were 10 talking about six actual reports, to read the 11 reports, don't you agree? 12 A. It wasn't important for my analysis, 13 no.</p> <p>O'Neal Tr. 1958:8-13.</p>
96.	Dr. O'Neal gave no consideration to Bolan's status as an analyst.
	<p>21 Q. So it doesn't have any -- there's no 22 analysis of who Greg Bolan, the analyst, is in 23 the market; is that right? 24 A. That's correct. 25 Q. So there's no consideration given to 1932</p> <p>1 O'NEAL – CROSS 2 the fact that Greg Bolan is not one of the 3 all-America research team analysts? 4 A. I didn't consider that at all, no.</p>

	<p>5 Q. And there's no analysis as to whether 6 Mr. Bolan was just considered an up and comer in 7 the industry? 8 A. That did not enter into my analysis, 9 no. 10 Q. And there's no analysis that Mr. Bolan 11 works for Wells Fargo, which may not have the 12 most respected equity analyst desk? 13 A. That didn't enter into my analysis. 14 Q. Did you consider whether Mr. Bolan was 15 rated by Greenwich Survey? 16 A. No.</p> <p>O'Neal Tr. 1931:21-1932:16;</p> <p>2 Q. Does it matter who the analyst is? 3 A. Not in this analysis, no. 4 Q. So in terms of whether a trader might 5 think that that was valuable to the market, 6 would it be a factor in your mind that Mr. Bolan 7 had never written an entire -- a single word 8 about the entire sector that Bruker sits in, the 9 life sciences sector? 10 A. That wouldn't affect my analysis, no.</p> <p>O'Neal Tr. 1938:2-10.</p>
97.	Dr. O'Neal did not compare the number of days Ruggieri worked at Wells Fargo to the number of times he held an overnight position.
	<p>25 Q. Did you also look at how many days Mr. 1924 1 O'NEAL – CROSS 2 Ruggieri worked at Wells Fargo and compare it to 3 the number of times he kept an overnight at all? 4 A. I don't think I did that, no.</p> <p>O'Neal Tr. 1923:25-1925:4.</p>
98.	During his tenure at Wells Fargo, Ruggieri's Wells Fargo trading book held overnight positions on approximately 325 instances.
	JFOF ¶ 183.
99.	Dr. O'Neal only analyzed trading in front of ratings changes.
	Div. 213, p. 7 (“If I confine the reports to just those involving ratings changes, I would expect approximately the same likelihood if it is just a matter of chance.”).
100.	Dr. O'Neal did not analyze trading in front of valuation changes or earning estimate changes.

	Div. 213, p. 7 (same).
101.	The National Bureau of Economic Research (“NBER”) is a reputable source.
	17 Q. Have you ever heard of The National 18 Bureau of Economic Research? 19 A. Yes. 20 Q. Are they a reputable outfit? 21 A. Yes. O’Neal Tr. 1940:17-21.
102.	The market reacts significantly and positively to changes in recommendation levels, earnings forecasts, and price targets.
	JR-REB 103 at Abstract (“This paper investigates the market reaction to the information released in security analyst reports. It shows that the market reacts significantly and positively to changes in recommendation levels earnings forecasts, and price targets.”).
103.	Valuation range changes (or price targets) and changes in estimates are both important to the market.
	JR-REB 103 at Abstract (“While changes in price targets and earnings forecasts both provide information to the market, revisions in price targets have a larger and more significant impact than comparable revisions in earnings forecasts.”).
104.	Earnings forecast revisions and recommendation revisions are significantly and positively associated with the market’s reaction at the time the security analyst report is released.
	JR-REB 103 at at 24 (“Using a database constructed from security analyst reports issued between 1997 and 1999, we replicate the findings in prior research that earnings forecast revisions and recommendation revisions are significantly and positively associated with the market’s reaction at the time the security analyst report is released.”).
105.	The changes in a firm’s price target, earnings forecasts and the strength of a report’s arguments are all positively correlated with the market’s response.
	JR-REB 103 at 3.
106.	Earnings revisions, upgrades, down grades, and valuation changes, have a significant market effect.
	12 Q. So the earnings revision has a P value 13 of 2.27; the upgrade has a P value of 2.24; the 14 downgrade has a P value of negative 3.09; and 15 the target revision has a P value of 7.06. 16 A. Right. So they’re all significant, 17 yes. 18 Q. They’re all significant? 19 A. Yes. O’Neal Tr. 1950:12-19; JR-REB 103, Table 2 at 31-32.

107.	Between March 30, 2010 and March 31, 2011, there were at least 61 significant reports by Bolan.
	<p>3 Q. Could we filter this document -- let's 4 just filter this document by the subject. 5 We're going to choose the earnings 6 estimate revised down, the earnings estimate 7 revised up. We're going to choose the 8 initiations of coverage. We're going to choose 9 valuation change -- valuation rate change and 10 valuation range change at the bottom. 11 Would you agree those are the ones 12 that are covered by this working paper that we 13 just looked at? 14 A. Again, I haven't read the working 15 paper. 16 Q. Okay. 17 But would you agree they refer to 18 earnings estimates and valuation changes? 19 A. Again, I've seen the abstract and a 20 table, so I'm hesitant to answer any questions 21 about anything more in that article than that. 22 Q. Can we get a grand tally of how many 23 we have? 24 A. 61</p> <p>O'Neal Tr. 1954:3-24; Div. 101.</p>
108.	During the time period that Ruggieri and Bolan overlapped at Wells Fargo, Wells Fargo published at least 94 equity research reports by Bolan containing at least 106 instances of Bolan initiating coverage or changing a rating, valuation range or estimated earnings.
	JR 212.

4. Ruggieri's Trading Activity Was Transparent and There was No Conduct Evidencing a Cover Up

109.	Ruggieri was surprised to be terminated by Wells Fargo.
	<p>7 Q And now did he say anything to you? 8 A Yeah, I think -- I recall him being a 9 little surprised that it reached this end, but 10 I don't recall much else than that.</p> <p>Bartlett Tr. 1183:7-10.</p>
110.	Bolan and Ruggieri spoke once soon after both left Wells Fargo and discussed "frustration, disappointment in Wells Fargo"; "frustration with how the firm treated [them] at the end".
	<p>24 Q. What did you discuss with Mr. Ruggieri about 25 your time at Wells Fargo after you left Wells Fargo?</p> <p>33</p>

	<p>1 A. A sense of frustration, dissatisfaction in 2 Wells Fargo. That's pretty much it. 3 Q. Frustration about the events leading up to 4 your departure from the firm? 5 A. Frustration with regard to how the firm 6 treated us at the end. 7 Q. Prior to your departure? 8 A. Correct.</p> <p>Bolan Tr. (Div. 110) at 32:24-33:8.</p>
111.	Ruggieri assumed his calls on the trading desk were taped.
	<p>24 Did you think the calls were taped? 25 A. You know, I assumed -- as a trader, 2415</p> <p>1 RUGGIERI – CROSS 2 you always assume calls are taped. I didn't 3 know either way necessarily. I didn't really 4 think about it until after this, but I know the 5 last firm I was at, the calls were taped, 6 because I know that we went back and checked a 7 couple of things with a client before, but it's 8 not something you regularly talked about or -- 9 but as a trader, I would assume that your calls 10 would be taped and monitored, sure.</p> <p>Ruggieri Tr. 2414:24 – 2415:10.</p>
112.	Ruggieri's belief that the Wells Fargo calls were taped was reasonable.
	<p>19 My question to you is: Would it be 20 reasonable for a trader like Joe to have 21 thought the calls were taped? 22 A Yes, he might have thought that.</p> <p>Brown Tr. 1074: 19-22.</p>
113.	Bartlett, head of equity sales and trading, could see all of the traders' positions and their profit and loss on the order management system.
	<p>23 When you said the risk positioning, 24 what was it that you saw on your screen? 25 A We had something called an order 1133</p> <p>1 Bartlett – Direct 2 management system that allowed me to view all 3 of our traders' positions, their P&Ls, and the 4 capital committed second by second. 5 Q And just to be clear, when you say 6 P&L, you mean profit and loss?</p>

	<p>7 A Profit and loss, yes. I'm sorry. Bartlett Tr. 1132:23-1133:7.</p>
114.	<p>Bartlett looked at traders P&L daily because he monitored risk.</p>
	<p>9 Q Did you typically look at the P&L of 10 traders on your system on your monitor? 11 A Absolutely. 12 Q How often? 13 A Daily. 14 Q And why? 15 A Because I was monitoring the risk the 16 desk was taking, and I wanted to see who was 17 performing and who wasn't. Bartlett Tr. 1143:9-17.</p>
115.	<p>Brown could see all aspects of Ruggieri's trading at all times.</p>
	<p>13 Q Was there any aspect of Joe's trading 14 that was hidden from you? 15 A No. 16 Q You were able to view all of Joe's 17 trades? 18 A That's correct. Brown Tr. 977:13-18.</p>
116.	<p>Short could see Ruggieri's orders and trading positions on his screen.</p>
	<p>2 Q. Now, in that system, since you're on 3 the healthcare desk, could you look at the 4 trades that were in Mr. Ruggieri's pad of the 5 healthcare business? 6 A. I could see what orders -- I could -- 7 as I spoke to earlier, the inventory that we 8 were assigned, I could drop his inventory into 9 my screen and see the orders that would come 10 into him as well and what he was working. I 11 believe I could see his positions. 12 I couldn't see his commissions or his 13 run, his P&L. That was personal to him, but I 14 could see his orders that he was working and he 15 could see mine, and I could see his positions, 16 I'm pretty sure. 17 Q. When you typically looked at your 18 computer screen, did you have securities listed 19 associated with your ID? 20 A. Yes. 21 Q. And did you generally also have up 22 simultaneously securities listed associated with 23 Mr. Ruggieri's ID? 24 A. Yes.</p>

<p>25 Q. And how often did you look at the 3387</p> <p>1 SHORT – DIRECT 2 securities that were listed under Mr. Ruggieri's 3 ID?</p> <p>4 A. It was constant that I kept -- we kept 5 each other up on our screens, so if one of us 6 were to step off the desk, or if one of us 7 needed help, we could jump right in and help the 8 other one.</p> <p>9 Q. But the times that he was not away 10 from the desk and the times that you both were 11 at the desk, did you have any need to look at 12 the securities that were under his ID as opposed 13 to your ID?</p> <p>14 A. I wouldn't necessarily say there was a 15 need but I could see them constantly.</p> <p>Short Tr. 3386:2-3387:15</p>
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5. Wells Fargo's Compliance Investigation Did Not Relate to Insider Trading

a) Bolan Tried to Be Compliant

117.	Bolan asked questions and tried to comply with internal policies.
	<p>19 Is it fair to say that Greg Bolan was 20 trying to be compliant going forward with 21 respect to media requests? 22 A It appears that, yes.</p> <p>Madsen Tr. 618:19-22.</p>
118.	Bolan sought media approval from Hughes.
	JR-REB-74.
119.	Bolan asked run of the mill questions about how to do things correctly.
	<p>13 Q You field a lot of run-of-the-mill 14 questions from analysts as part of your job; 15 isn't that right? 16 A Yes.</p> <p>17 Q And Mr. Bolan's was no different than 18 any other analyst who asked you 19 run-of-the-mill type of questions. 20 Is that fair to say? 21 A That Bolan asked me run-of-the-mill 22 questions? Presumably.</p> <p>Madsen Tr. 622:13-22.</p>

120.	Bolan asked questions about rules regarding the underperform rating.
	<p>23 MS. SERPE: If we can put up JR-REB 47. 24 Q Mr. Madsen, this is an e-mail dated 25 November 2, 2010 from yourself to Mr. Bolan</p> <p>623 1 Madsen – Direct 2 responding to an e-mail that Mr. Bolan sent to 3 you below. 4 Do you see this document? 5 A Yes. 6 Q In this document, in this e-mail, 7 Mr. Bolan was asking you some questions about 8 the underperform rating; isn't that right? 9 A Yes.</p> <p>Madsen Tr. 622:23-623:9; JR-REB 47.</p>
121.	Bolan asked questions about whether he could own stock that he covered as an analyst.
	<p>14 Q So it is fair to say that Mr. Bolan 15 was attempting to be compliant with the Wells 16 Fargo policy regarding whether an analyst 17 could own a stock that he covers? 18 A Yes.</p> <p>Madsen Tr. 624:14-18; JR-REB 49.</p>
122.	Bolan sought guidance on the dissemination of a transcript of a conference call that Wells Fargo hosted with certain experts.
	<p>23 Q Mr. Madsen, this e-mail is – this 24 document, this exhibit are e-mail chains 25 between yourself and Mr. Bolan in 2010. I'll</p> <p>625</p> <p>1 Madsen – Direct 2 have you take a look at page 4 of this e-mail. 3 The subject line reads "Question for 4 you", from Mr. Bolan. Mr. Bolan says, "I've 5 received several questions from company 6 management teams to get the transcripts from 7 the JENSME conference calls. Can I send them 8 the transcripts or is that forbidden?" 9 Do you see that, Mr. Madsen? 10 A Yes. 11 Q And then if you look at page 3, you 12 have some follow-up questions, and ultimately 13 you respond and give Mr. Bolan guidance. 14 Is that fair to say? 15 A Can I see the rest of the string? 16 Q Sure.</p>

	<p>17 A Yes, that's correct. 18 Q And is it fair to say that this 19 Exhibit JRRAB51 is another example of 20 Mr. Bolan trying to be compliant with Wells 21 Fargo's internal policies? 22 A Yes. Madsen Tr. 624:23-625:22.</p>
123.	Evans did not receive timely compliance training.
	JR-REB-76 (Email from Hughes to Evans stating "Tim – I am not sure how I missed your compliance orientation session.").

b) Ruggieri's "Protecting You" Email Does Not Evidence Any Wrongful Conduct

124.	<p>Clients sometimes got angry when an analyst issued a ratings change.</p>
	<p>25 And so the analyst could even at times 1474 1 WICKWIRE – CROSS 2 warn a trader: Look, this particular client is 3 angry about my ratings change, so beware. 4 Doesn't that happen sometimes? 5 A. Yes. Or they agree with it and 6 they're maybe selling, so stay on top. Wickwire Tr. 1473:25-1474:6;</p> <p>19 Q. So some clients were upset. 20 You talked this morning about the 21 "protecting you" e-mail that you had sent as 22 part of the channel check, which I don't think 23 we need to bring it up, it's Exhibit 15, and 24 we've seen it enough times. 25 And you had said "protecting you" 2580 1 RUGGIERI – CROSS 2 meant simply protecting you from having to deal 3 on your own with the wrath of angry clients; is 4 that correct? 5 A. That's correct. Ruggieri Tr. 2579:19-2580:5.</p>
125.	When Ruggieri said "protecting you", he meant protecting Bolan from potential negative feedback from clients about his research.
	<p>19 Q. So some clients were upset. 20 You talked this morning about the</p>

21 "protecting you" e-mail that you had sent as
22 part of the channel check, which I don't think
23 we need to bring it up, it's Exhibit 15, and
24 we've seen it enough times.

25 And you had said "protecting you"

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1 RUGGIERI – CROSS

2 meant simply protecting you from having to deal
3 on your own with the wrath of angry clients; is
4 that correct?

5 A. That's correct.

6 Q. Is there anything else you could have
7 meant in the context of these channel checks?

8 What conceivably could you have been
9 protecting him from in terms of trying to hide
10 his name or his existence on these -- on the
11 channel check?

12 A. I don't know. Nothing.

13 Q. I mean, was there some exposure? Were
14 you trying to hide the fact that he was
15 disseminating information?

16 A. No, definitely not.

17 Q. It was nocuous, the protecting you,
18 wasn't it?

19 A. What do you mean by that?

20 Q. Harmless. You didn't mean anything by
21 it. It was nothing more than not having to deal
22 with the wrath you had to deal with last month,
23 after the athena upgrade?

24 A. Correct.

25 Q. Would you, yourself, disseminate

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1 RUGGIERI – CROSS

2 material nonpublic information under your own
3 name to protect Greg Bolan from doing it?

4 A. Absolutely not.

5 Q. What's the theory?

6 A. It's ridiculous.

Ruggieri Tr. 2579:19-2581:6.

c) Whether Channel Checks are Material is a Grey Area

126.	Wells Fargo's channel check policy was implemented in August 2011, after Ruggieri and Bolan had left the firm.
	<p>3 Q Now, as a result of both of these, did</p> <p>4 Wells Fargo change any of its policies or</p> <p>5 procedures?</p> <p>6 A Wells Fargo clarified some procedures,</p> <p>7 changed some procedures, yes.</p> <p>8 Q And you said "clarified".</p> <p>9 What did you mean by that?</p> <p>10 A We went more granular in the areas of</p> <p>11 investment surveys and consultants and channel</p> <p>12 checks, that general area. We went more</p> <p>13 granular than we normally do and we revised</p> <p>14 the e-mail review policy.</p> <p>15 MS. KRISHNAMURTHY: Mr. Chan, if you</p> <p>16 could put up DIV105 please.</p> <p>17 Q Mr. Friedman, have you seen this</p> <p>18 before?</p> <p>19 A Yes, I have.</p> <p>20 Q And what is this?</p> <p>21 A This was or is the revised policy and</p> <p>22 procedures on research surveys and channel</p> <p>23 checks. I shouldn't say it was a revised</p> <p>24 policy, I apologize. It was the issue policy.</p> <p>Friedman Tr. 387:3-24.</p>
127.	None of the internal policies or training materials during the time in question specifically addressed channel checks.
	Div. 5, 6, 7, 17, 18, 30, 36, 69, 80-A, 98, 108.
128.	Under the existing internal policies at the time in question, an analyst could disseminate information on a "contemporaneous basis" to only those clients who had a perceived interest.
	Div. 7 at 2 (Compliance Bulletin) ("All research MUST be adequately disseminated on a contemporaneous basis to all customers who having [sic] a perceived interest in the report.").
129.	Friedman agreed that clients could participate in certain channel check calls.
	<p>6 Q So it was your testimony then and it</p> <p>7 is your testimony now that in certain</p> <p>8 circumstances, a client can participate on a</p> <p>9 channel check call; is that correct?</p> <p>10 A If it met certain circumstances, yes.</p>

	Friedman Tr. 406:6-10.
130.	Internal policies dictated that clients had to have access to any information that was material simultaneously.
	<p>9 Q Why was the process that distribution 10 went to all clients as opposed to a subgroup 11 first? 12 A It was a policy that clients need to 13 have access to anything that would be deemed 14 material simultaneously.</p> <p>Evans Tr. at 1249:9-14.</p>
131.	It was not clear whether the information that Bolan was sending to clients in his channel checks was considered material.
	<p>10 Q And what about that information 11 concerned you? 12 A It was not clear to me whether the 13 material that he was sending to these clients 14 would have been considered immaterial. 15 So I was concerned that it might be -- 16 it might be some sort of selective 17 dissemination problem. Evans Tr. at 1255:10-17;</p> <p>9 Q Now, let's talk about channel checks. 10 You have testified to that. It wasn't 11 clear to you at first whether the channel 12 checks that Mr. Bolan sent out needed, in 13 fact, to be published research; isn't that 14 right? 15 A It was unclear at first, yes.</p> <p>Evans Tr. 1295:9-15.</p>
132.	Whether channel check research is material depends on its content.
	<p>16 Q And that's because whether or not 17 something is material and needs to be 18 published is a gray area. 19 Wouldn't you agree? 20 A Sometimes. 21 Q And whether a channel check is 22 material or not depends on the content of it; 23 isn't that right? 24 A Correct. 25 Q And, in fact, you told the Division 1296 1 Evans – Cross</p>

	<p>2 that the channel checks that were typically 3 done by Mr. Bolan were not even meaningful 4 because they were of private companies; isn't 5 that right? 6 A The content of those e-mails – or 7 excuse me, of the conversations we had with 8 those companies I thought were questionable 9 utility, yes. It was Mr. Bolan's opinion that 10 raised my concern.</p> <p>Evans Tr. at 1295:16-1296:10.</p>
133.	<p>Evans told the Division that these channel checks were not even meaningful because private companies such a small percentage of overall market. The Division did not ask about this in his deposition.</p>
	<p>12 But you told the Division that it is 13 precisely because the private companies are 14 such a small percentage of the overall market 15 that you, in your opinion, didn't think that 16 these channel checks were even meaningful; 17 isn't that right? 18 A Correct.</p> <p>Evans Tr. at 1296:12-18;</p> <p>19 Q And during your sworn deposition 20 testimony, the Division didn't elicit that 21 opinion from you; isn't that right? 22 A Correct.</p> <p>Evans Tr. at 1296:19-22.</p>
134.	<p>Evans didn't know whether Bolan had cleared the channel checks through compliance.</p>
	<p>5 Why did you say the words "claims have 6 been cleared through compliance"? 7 A. I did not verify that he had spoken to 8 someone about the issue. 9 Q Were you skeptical that he hadn't? 10 A. I simply didn't know. Evans Tr. at 1259:5-10.</p>
135.	<p>Evans described himself as a very cautious analyst who tended to take a very strict interpretation of rules.</p>
	<p>24 A I tend to take a very strict 25 interpretation of rules. I tend to be very 1262</p> <p>1 Evans – Direct 2 cautious. And the gist of this conversation 3 was that I felt that he was not being</p>

	<p>4 cautious, not being careful, and it made me 5 uncomfortable.</p> <p>Evans Tr. at 1261:24-1262:5.</p>
136.	<p>Evans did not have a concern at the time of a client participating on a channel check call, and couldn't remember whether the client had been announced or not.</p>
	<p>14 Q And did you participate on the call 15 with Mr. Sylvester? 16 A. I believe I was also on the call. 17 Q And do you recall if Mr. Gilliam was 18 announced on the call? 19 A. I do not recall. 20 Q Did you have any concern regarding 21 this activity of Mr. Gilliam participating on 22 the call or listening in on the call to 23 Mr. Sylvester? 24 A Not particularly at that time, no. 25 Q Why didn't you have a concern? 1266</p> <p>1 Evans – Direct 2 A It is not unusual for clients to 3 participate in conversations with company management teams. For instance, one might be 5 at a conference or something with a client, 6 the company management team walks up, and 7 you're all having a conversation together. 8 So it didn't strike me as a potential 9 violation that this phone call happened.</p> <p>Evans Tr. 1265:14-1266:9.</p>
137.	<p>When Evans called Wickwire about his concerns with Bolan, Wickwire educated him and told him material pieces of research needed to be published.</p>
	<p>24 And when you called Mr. Wickwire to 25 discuss with him your discomfort, it's fair to 1300</p> <p>1 Evans – Cross 2 say that Mr. Wickwire educated you about what 3 research needed to be published; isn't that 4 right? 5 A Yes.</p> <p>Evans Tr. 1299:24-1300:5;</p> <p>10 Q Mr. Wickwire told you, did he not, 11 that material pieces of research needed to be 12 published; isn't that right?</p>

	<p>13 A Yes. Evans Tr. 1301:10-13;</p> <p>11 Q. "We then discussed the situation 12 further, and I told Greg that any material piece 13 of research needs to be put in writing via a 14 squawk and/or a note before he can discuss it 15 with anyone, including both trading and 16 clients." Wickwire Tr. at 1446:11-16.</p>
138.	<p>Wickwire believed that Evans knew that Bolan was being investigated for a potential compliance violation for previewing research, and that Evans was concerned about his own situation.</p>
	<p>17 A. I think he had heard -- in some way 18 had obtained information as to what was going 19 on, that Greg was discussing with compliance a 20 potential preview of research, and Tim indicated 21 he was very concerned about his own situation 22 here and expressed that he had not been part of 23 any of that activity. Wickwire Tr. at 1447:17-23.</p>
139.	<p>Deciding whether research is material or not is often a gray area.</p>
	<p>5 Q. And one of the reasons why it's so 6 complex is because it involves deciding whether 7 information is material or not? 8 A. Correct. 9 Q. And that can often be a gray area, 10 wouldn't you agree? 11 A. Yes. Wickwire Tr. 1460:5-11.</p>
140.	<p>When Bolan spoke with Wickwire, he was genuine, concerned, apologized and explained that he had not contemplated doing a squawk at the time he sent the email regarding the channel check because of the nature of the material – channel checks with private companies.</p>
	<p>22 Q. If you see about halfway through, the 23 sentence begins with: 24 "He indicated that at the time he 25 spoke with trading he had not contemplated doing 1464 1 WICKWIRE – CROSS 2 a squawk, given the nature of the material. 3 Channel checks with private companies." 4 That's something that Mr. Bolan 5 indicated to you; correct? 6 A. Yes.</p>

	<p>7 Q. And when he said that to you, you 8 found him to be genuine, didn't you? 9 A. Yes. 10 Q. You took him at his word; isn't that 11 right? 12 A. I took him at his word and viewed that 13 as his opinion. 14 Q. And if you scroll down a few more 15 sentences, it begins: 16 "When then discussed the situation 17 further, and I told Greg that any material piece 18 of research needs to be put in writing via 19 squawk and/or note before he can discuss it with 20 anyone, including both trading and clients." 21 Is it fair to say that that, again, 22 was your attempt to explain to Mr. Bolan the 23 importance of publishing material information? 24 A. Correct. 25 Q. If we go down to two sentences later, 1465 1 WICKWIRE – CROSS 2 I believe, beginning with, "I then informed Greg 3 that compliance would follow-up with him, as 4 they are reviewing the matter," the next 5 sentence: 6 "Greg was very concerned about the 7 situation and apologized for what occurred." 8 Is that an accurate description of 9 your conversation with Mr. Bolan? 10 A. Yes. 11 Q. And you took his apology as genuine, 12 didn't you? 13 A. Yes. 14 Q. And you took the fact that Mr. Bolan 15 was very concerned as genuine, didn't you? 16 A. He was concerned.</p> <p>Wickwire Tr. 1463:22-1465:16; Div. 15 at 4.</p>
141.	<p>Wells Fargo's internal policies allowed analysts to communicate short terms views if consistent with prior published research.</p>
	<p>Div. 30 at 22 ("Do not communicate short-term views unless they are published").</p>
142.	<p>The current Wells Fargo policy governing channel checks recognizes that not all material collected through channel checks is material, and allows an analyst to selectively disseminate that information to select clients.</p>
	<p>Div. 105 at p. 4 ("However, it is understood that not all data and information collected via channel checks is either material or useful to a Research Analyst's broad client base. In reconciling this critical distinction, so long as any material information underlying a Research</p>

Analyst's recommendation is initially presented and disseminated through the standard and appropriate publication process, a Research Analyst is permitted to follow-up with clients who express a desire to discuss more detailed points stemming from their channel check").

d) Ruggieri Did Not Violate any Wells Fargo Policies

143.	After Ruggieri's termination, Wells Fargo filed a CRD with the following statement: "Loss of confidence due to failure to escalate issues regarding the inappropriate dissemination of information."
	DIV 13 (CRD) at 14.
144.	Ruggieri's CRD Form accurately reflects the reason he was terminated.
	8 Wells Fargo was accurate in its 9 description of why it terminated Mr. Ruggieri; 10 is that correct? 11 A Referencing the written reason on his 12 U5? 13 Q Yes. 14 A I would say that that's accurate. Yi Tr. 870:8-14; DIV 13 (CRD) at 14.
145.	Yi and his team found no communications evidencing any tip from Mr. Bolan to Mr. Ruggieri.
	3 Q And you found zero communications that 4 showed a tip; isn't that correct? 5 A We found -- we did not find 6 communications that would indicate that 7 Mr. Bolan had indicated to Mr. Ruggieri that a 8 research report was coming. Yi Tr. 839:3-8.
146.	Ruggieri never had a compliance issue prior to his termination.
	6 Q Is that because prior to the events 7 that led to his termination, Mr. Ruggieri had 8 had no compliance issues whatsoever? 9 A That would be correct. Yi Tr. 832:6-9.
147.	Yi reached no conclusion that Ruggieri violated any Wells Fargo policies and procedures.
	15 Q And you did not conclude that Mr. 16 Ruggieri had violated any specific Wells Fargo 17 policies and procedures, correct? 18 A. I did not conclude that.

	Yi Tr. 831:15-18.
148.	Yi did not conclude that Ruggieri knowingly disseminated research prior to publication.
	<p>19 Q Did you conclude that Mr. Ruggieri 20 forwarded Mr. Bolan's channel check to clients 21 knowing that Mr. Bolan intended to later 22 publish a squawk? 23 A. I don't believe I found or concluded 24 that fact.</p> <p>Yi Tr. 831:19-24.</p>
149.	Ruggieri never thought Bolan intended to publish his channel check.
	<p>17 And I didn't think there was anything 18 wrong with that. I had never thought when he 19 sent me the first e-mail he would be publishing 20 a note later. Never crossed my mind.</p> <p>Ruggieri Tr. 2384:17-20;</p> <p>19 Q So when you said he saw unpublished 20 research, you did not mean to imply that Mr. 21 Ruggieri knew that it was going to be 22 published later? 23 A. I did not mean to imply that.</p> <p>Yi Tr. 851:19-23.</p>
150.	No one at Wells Fargo had ever expressed any concern to Ruggieri about Bolan's channel checks.
	<p>3 Q. Had anyone at Wells Fargo ever 4 expressed any concern that you were aware of 5 about Mr. Bolan's channel checks? 6 A. Absolutely not.</p> <p>Ruggieri Tr. 2391: 3-6.</p>
151.	Bolan sent information gathered from channel checks to Short and Graichen prior to Ruggieri's tenure at Wells Fargo.
	<p>18 Q. Is this an example of information 19 being sent from Greg Bolan that he received 20 through a channel check? 21 A. I would say yes.</p> <p>Short Tr. 3422:18-21; JR-Reb 220.</p>
152.	In Ruggieri's absence, Short sent out information Bolan gathered through channel checks to clients.
	<p>7 Q. And that would not have been an 8 unusual practice, to forward information from 9 channel checks out to clients?</p>

	<p>10 A. If I saw that he had sent it out 11 already, then I would have thought it's safe to 12 send out, as well as I would have sent it out in 13 Joe's absence. 14 So I would go back and check that day 15 to see if he was in or out, but if he was in, he 16 would have sent it out.</p> <p>Short Tr. 3425:7-16; JR-Reb 225.</p>
153.	<p>Mackle disseminated Bolan's channel checks to clients.</p>
	<p>22 Q. And did you distribute channel checks 23 to clients of Wells Fargo? 24 A. I can't recollect a specific e-mail, 25 but, yes, I would think that if he sent them to 3271 1 MACKLE - CROSS 2 me, then I would send them out to my 3 distribution list.</p> <p>Mackle Tr. 3270:22-3271:14.</p>
154.	<p>Yi did not agree with Friedman that the instant message in DIV 15 supported Friedman's conclusion that Ruggieri and Bolan were coordinating efforts.</p>
	<p>22 Q Now, Mr. Friedman concluded that this 23 e-mail or IM strongly indicates that Bolan and 24 Ruggieri were coordinating efforts to 25 distribute Bolan's work, removing Bolan as 850 1 Yi – Cross 2 author, and that they both believed that it 3 would have a positive effect on the market. 4 Do you feel that it was reasonable to 5 conclude that Mr. Bolan and Ruggieri were 6 coordinating efforts based on this IM? 7 A Based on the IM, I wouldn't have 8 reached that conclusion.</p> <p>(Yi Tr. 849:22-850:8).</p>

6. Bolan and Ruggieri Credibly Denied a Tip

155.	<p>Bolan did not discuss his thoughts about ratings changes with Ruggieri. Bolan only discussed rating changes with Todd Wickwire and his associate(s) Eric Hebert and Tim Evans.</p>
	<p>2 Q. While you were at Wells Fargo, did you 3 discuss your thoughts about a ratings change with anyone 4 prior to the publishing of that ratings change? 5 A. It would only be Todd Wickwire. Yes, Todd</p>

	<p>6 Wickwire, and my associate, of course. 7 Q. Who was that? 8 A. Well, at the time it was Tim Evans. During 9 this date range -- no, it would have been Eric Hebert and 10 then Tim Evans. 11 Q. Who is Eric Hebert? 12 A. He was my first associate at Wells Fargo. Bolan Tr. (Div. 110) at 82:2-12;</p> <p>22 Q. Have you ever discussed a plan to issue a 23 ratings change prior to publishing that change with anyone 24 outside of the research departments in which you were 25 employed at the time you made the ratings change? 125 1 A. No. Bolan Tr. (Div. 110) at 124:22-125:1.</p>
156.	<p>Bolan did not know that Ruggieri could engage in proprietary trading for Wells Fargo and believed that all banks had shut down their proprietary trading desks.</p>
	<p>23 Q. Are you aware of whether Ruggieri established 24 end of day short positions in PAREXEL in the ten days 25 prior to your downgrading the security? 101 1 A. No, because -- that's irrelevant because they 2 don't -- they don't allow prop trading in it. I didn't 3 think they allowed prop trading at Wells Fargo. 4 Q. Describe what you mean? 5 A. It's the proposed vocal rule. Everyone was 6 shutting down their prop trading desk. We were led to 7 believe that Wells Fargo did not trade, other than an 8 agent for a client. 9 Q. What do you mean by "prop trading"? 10 A. Using the firm's capital. 11 Q. To trade? 12 A. To trade. Bolan Tr. (Div. 110) at 100:23-101:12.</p>
157.	<p>Bolan did not discuss or signal that he was going to change his rating in PRXL, CVD, AMRI, ATHN, or EM with anyone outside of Wells Fargo's research department.</p>
	<p>8 At or about the time of the calls described 9 in this chart, did you discuss your plan to downgrade 10 PAREXEL with Ruggieri?</p>

11 A. No.

12 Q. At or about the time of the calls described

13 in this chart, did you discuss any nonpublic information

14 about any security with Ruggieri?

15 A. No.

16 Q. Do you see that based on the chart contained

17 in Exhibit 50, Ruggieri established end of day short

18 positions in PAREXEL shortly before your PAREXEL

19 downgrade?

20 A. I do.

21 Q. Do you have any explanation for why Ruggieri

22 established the short positions prior to your PAREXEL

23 downgrade?

24 A. I do not.

25 Q. Is there any way that you may have signaled

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1 to him that you plan to downgrade PAREXEL?

2 A. No.

Bolan Tr. (Div. 110) at 107:8-108:2;

3 Q. Prior to your publication of the CVD upgrade,

4 did you discuss the fact that you were bullish on CVD with

5 Ruggieri?

6 A. No. Like I said, only consistent with my

7 market perform rating.

8 Q. Which is not a bullish view; correct?

9 A. Correct.

10 Q. Prior to your publication of the CVD upgrade,

11 did you discuss the fact that you expected the price of

12 CVD to rise?

13 A. No.

14 Q. Based on this chart, Ruggieri established a

15 long position in CVD on the trading date prior to your CVD

16 upgrade; correct?

17 A. Correct.

18 Q. Do you have any explanation for why Ruggieri

19 established this position?

20 A. No.

21 Q. Is there any way that you may have signaled

22 to him that you planned to upgrade CVD?

23 A. No.

Bolan Tr. (Div. 110) at 133:3-23;

8 Q. Did you discuss with anyone outside of Wells

9 Fargo's research department your plan to upgrade AMRI in

10 the week prior to the publication of the AMRI upgrade?

11 A. No.

	<p>Bolan Tr. (DIV 110) at 139:8-11;</p> <p>7 Q. Did you discuss with anyone outside of Wells 8 Fargo's research department your plan to upgrade ATHN in 9 the week prior to the publication of your ATHN upgrade? 10 A. No</p> <p>Bolan Tr. (DIV 110) at 154:7-10;</p> <p>22 Q. Did you discuss with anyone outside of Wells 23 Fargo's research department your view -- strike that. 24 Did you discuss with anyone outside of Wells 25 Fargo's research department your plan to upgrade Emdeon in 1 the week prior to the publication of your Emdeon upgrade? 2 A. No, I wouldn't do that.</p> <p>Bolan Tr. (Div. 110) at 160:22-161:2;</p> <p>24 Q. Is there any way that you may have signaled 25 to him that you planned to upgrade Emdeon?</p> <p>1 A. No. 2 Q. Did you say or do anything that may have led 3 him to conclude that Wells Fargo was going to upgrade 4 Emdeon? 5 A. No.</p> <p>Bolan Tr. (Div. 110) at 164:24-165:5.</p>
158.	<p>Ruggieri did not receive a tip.</p> <p>12 Q. Is it fair to say that although you 13 may not have remembered exactly why you traded, 14 that you knew that you hadn't done it because 15 you'd received a tip; is that correct? 16 A. Yes.</p> <p>Ruggieri Tr. 2501:12-16.</p> <p>17 Q. Did Mr. Bolan break the cardinal rule 18 for any analyst in the business and give you a 19 tip about an upgrade?</p> <p>20 A. No.</p> <p>Ruggieri Tr. 2658:17-20.</p>
159.	<p>Yi and his team found no communications evidencing any tip from Bolan to Ruggieri.</p>

	<p>3 Q And you found zero communications that 4 showed a tip; isn't that correct? 5 A We found -- we did not find 6 communications that would indicate that 7 Mr. Bolan had indicated to Mr. Ruggieri that a 8 research report was coming. Yi Tr. 839:3-8.</p>
160.	Evans never witnessed Bolan providing information to Ruggieri about any upcoming analyst reports.
	<p>25 You, Mr. Evans, you have never 1306 1 Evans – Redirect 2 witnessed Mr. Bolan providing information to 3 Mr. Ruggieri about any upcoming analyst 4 reports; isn't that right? 5 A Correct. Evans Tr. 1305:25-1306:5.</p>

7. Ruggieri Had A Clear Trading Thesis for Each Trade

a) Ruggieri Refreshed His Recollection in Preparation for Trial

161.	When Ruggieri testified before the Division in June 2013, he had no access to any Wells Fargo emails, trading or phone records.
	<p>25 Q. Did you have any access to your Wells 2499 1 RUGGIERI – CROSS 2 Fargo e-mails? 3 A. No. 4 Q. Did you have any access to your Wells 5 Fargo IMs? 6 A. No. 7 Q. Did you have any access to your Wells 8 Fargo trading records? 9 A. No. 10 Q. Did you have any access to anything 11 concerning your employment at Wells Fargo? 12 A. No. Ruggieri Tr. 2498:25-2499:12.</p>
162.	Between the time Ruggieri left Wells Fargo to the time he was gave his investigative testimony, he had made approximately 2 billion trades.

	<p>15 THE COURT: I have one quick question 16 and then we could stop. 17 That chart we were just looking at, 18 the last thing in it was at some point in 2011, 19 between then and the time that you gave your 20 investigative testimony to the SEC, how many 21 trades had you done at your interim employer, 22 ISI, between 2011, when you leave Wells Fargo, 23 and 2013, when you provided your investigative 24 testimony, approximately how many trades had you 25 made in that period?</p> <p>1 RUGGIERI – CROSS 2 THE WITNESS: I mean -- 3 THE COURT: Estimate. 4 THE WITNESS: I probably did about 5 5 million shares a day at ISI, so that was a 6 little more than two years. 220 trading days. 7 Is that right? 450 days times 5 million shares. 8 That's a lot, 2 billion shares or something. Ruggieri Tr. 2502:15-2503:8.</p>
163.	Ruggieri had a clear thesis for each of the trades at issue.
	<p>9 Q. And is it fair to say that you had a 10 good reason for every one of these trades? 11 A. Absolutely. Ruggieri Tr. 2502:9-11.</p>
164.	A trader develops ideas from a number of sources, including client trading flows, and speaking with analysts.
	<p>21 Q. In terms of your overnight trade or 22 your -- let's call it your principal trading, 23 where you are developing your own ideas, how do 24 you develop ideas on the trades that you make? 25 A. A lot of different ways. 2421</p> <p>1 RUGGIERI – CROSS 2 Conversations with clients. Flow – I 3 mean, getting a feel for the stock, knowing 4 where the supply and demand is, knowing the 5 stories, knowing the drivers, talking to 6 clients, talking to analysts, talking to 7 sometimes my -- Bruce, on the desk, or whoever 8 it may be. 9 You know, but generally, just getting 10 a sense from -- sometimes the flows can give me 11 some intelligence into how the stock feels or 12 what direction it's going to go in. A lot of 13 different ways.</p>

	Ruggieri Tr. 2420:21-2421:13.
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b) PRXL

165.	PRXL is a healthcare company in the Contract Research Sector (“CRO”).
	JFOF ¶48.
166.	Ruggieri traded PRXL in a principal capacity approximately 102 days while at Wells Fargo.
	JFOF ¶25.
167.	On April 7, 2010, Wells Fargo published Bolan’s equity research report titled “PRXL: Downgrading to Market Perform Optimism Running High and Valuation Running Even Higher.”
	JFOF ¶81.
168.	Bolan downgraded PRXL because, among other things, the street’s expectations were “baked into the current share price” and because the strengthening U.S. Dollar would “limit potential upside” to PRXL’s revenue.
	JR 55.
169.	On March 22, 2010, Bolan published a squawk, “CROs: Stronger USD Creates Headwind” which noted the following: <ul style="list-style-type: none">• “The stronger USD hurts the top line growth for CROs.”• “Our intra quarter analysis indicates the biggest negative impact for PRXL and CVD.”• “Parexel FY 2010 revenue negatively impacted by \$20 million; fiscal year 2010 EPS negatively impacted by \$0.02.”
	JR 14 (Squawk contained in email at 10:37 a.m. at page 1).
170.	Ruggieri viewed the information contained in Bolan’s squawk as potentially bad news for PRXL’s share price.
	16 Q. And, in fact, you responded to Mr.

	<p>17 Hebert and Mr. Bolan that very morning; correct? 18 A. Yes. 19 Q. And what did you write? 20 A. I said, "Do these guys hedge? Does 21 this account for hedging?" 22 Q. Again, what exactly were you asking? 23 A. I was asking, do these numbers, do 24 these estimates that they put in the note, does 25 it account for hedging. Do these companies</p> <p>2690 1 RUGGIERI - CONT'D CROSS 2 hedge their currency exposure to offset the 3 currency headwind, or do they not, which leaves 4 them -- there's a term, "naked exposure," 5 without hedging. They'll have more exposure if 6 the currency moves against them. 7 Q. So if they don't hedge, that could be 8 bad for the stock price? 9 A. Correct.</p> <p>Ruggieri Tr. 2689:16-2690:9;</p> <p>23 Q. What is this telling you about 24 Parexel? 25 A. It says that they did not hedge their</p> <p>2691 1 RUGGIERI - CONT'D CROSS 2 currency exposure. 3 Q. So you, as a very experienced trader 4 in Parexel, read this as potentially bad news 5 for Parexel's stock price? 6 A. Could be, yes.</p> <p>Ruggieri Tr. 2690:23-2691:6.</p>
171.	Brown viewed Ruggieri's question about hedging exposure as an important one.
	<p>7 Q So do you think Joe's question is an 8 important one? 9 A I do. I assumed it is because he 10 asked it.</p> <p>Brown Tr. 997:7-9; JR 14.</p>
172.	On March 22 – the evening of Bolan's squawk – Ruggieri hosted a Wells Fargo dinner with

	healthcare dedicated hedge fund clients. Ruggieri reported this to Brown and Bartlett.
	<p>2 Who are the funds that attended? 3 A. These are all hedge funds, healthcare 4 dedicated, for the most part dedicated 5 healthcare hedge funds. 6 Q. So the funds that he lists in his 7 e-mail on the 23rd at 7:02, those are all 8 dedicated healthcare hedge funds? 9 A. Correct. 10 Q. What does that mean? 11 A. That means they specialize in 12 healthcare, so either their whole firm is 13 healthcare only, or their odd PM and analyst 14 team does healthcare only. 15 Q. Are these funds that buy and sell 16 these companies? 17 A. Yes. These are -- hedge funds are 18 long/short, so they can buy and short 19 securities. 20 Q. What do you mean by long/short? 21 A. It means they can buy stocks long -- 22 mutual funds are long only. They can only buy 23 and sell stocks. 24 Hedge funds cannot only buy stocks and 25 sell stocks, but they can short stocks when they</p> <p>2694</p> <p>1 RUGGIERI - CONT'D CROSS 12 Q. But the hedge funds, like the ones you 13 met with that night, they can also short stocks? 14 A. Yes. 15 Q. And they can short stocks like 16 Parexel? 17 A. Correct. They are typically more 18 short-term oriented traders. They pay attention 19 to the data points on a short-term basis, and -- 20 while the vanilla mutual funds are much more 21 long-term oriented.</p> <p>Ruggieri Tr. 2693:2-2694:21; JR 17.</p>
173.	The attendees of the March 22 Wells Fargo dinner were the experts in the sector.

	<p>25 Q And would it be fair to describe this 999 1 Brown - Cross 2 group as smart money? 3 A I would describe them as smart money, 4 yes.</p> <p>Brown Tr. 998:25-999:4;</p> <p>14 Q And what is smart money? 15 A It is kind of a loose term in the 16 industry defined as people who seem to really 17 have a good handle on it and have a strong 18 opinion on it and would be experts within that 19 space, that sector, on where the stock was 20 going to go.</p> <p>Brown Tr. 1028:14-20.</p>
174.	<p>On March 22, the experts in the sector communicated to Ruggieri that they were short in PRXL's sector, CROs.</p>
	<p>6 Q. So does this mean that most of these 7 dedicated hedge funds were short in Parexel? 8 A. It seemed like they were set up short 9 in the groups. 10 Q. What do you mean by "set up short"? 11 A. Well, they -- either they were short 12 or they had a negative kind of sentiment on the 13 space, so we thought the groups were going to 14 contract.</p> <p>Ruggieri Tr. 2696:6-14; JR 18.</p>
175.	<p>It is reasonable to develop a trading thesis based on what smart investors are doing.</p>
	<p>14 Q. What about trading flows? If you're 15 on the desk, and you see what clients are doing 16 in a particular security, is it an important 17 input for you in developing a thesis? 18 A. It is -- I mean, it is a -- it is an 19 important piece. 20 Q. Explain, please.</p>

	<p>21 A. I mean, you know, oftentimes there are 22 flows that are skewed one way or the other. 23 And if you see, for instance, there 24 are a number of healthcare sector-dedicated 25 hedge funds out there, which many of whom are</p> <p>3269</p> <p>1 MACKLE - CROSS 2 regarded as very smart investors. 3 And so if you see a number of these 4 very smart healthcare investors all trading the 5 same way in a stock, then, yes, it's something 6 to take note of.</p> <p>Mackle Tr. 3268:14-3269:6.</p>
176.	Ruggieri shorted 5,000 shares of PRXL on March 23.
	JFOF ¶ 51.
177.	On March 24, Ruggieri learned that PRXL was <i>not</i> a crowded short.
	<p>25 Q Can you tell me what a "crowded short" 1001</p> <p>1 Brown - Cross 2 is?</p> <p>3 A Crowded short is when too many people 4 have the same short on, and the fear is that 5 it will go higher and everybody rushes to 6 cover it at the same time.</p> <p>Brown Tr. 1000:25-1001:6.</p> <p>18 Q. So short covering can cause stock to 19 go up? 20 A. Yes.</p> <p>21 Q. And is that what's known as a crowded 22 short? 23 A. No. I would say that phenomenon can 24 happen with stocks that are crowded shorts.</p> <p>Mackle Tr. 3283:18-24;</p> <p>18 Q On March 24th at 13:42 p.m., Mr.</p>

	<p>19 Ruggieri writes "Is Parexel a crowded short" 20 to Mr. Bolan, "Deuschler asking. I think not 21 because guys route long through Ray Jay." 22 My reading is that Joe says he does 23 not think Parexel is a crowded short. Is that 24 your reading? 25 A That's correct, I would agree.</p> <p>Brown Tr. 1001:18-25; JR-20.</p>
178.	<p>Since it was not a crowded short, PRXL was not likely to go down, and a short position was less risky.</p>
	<p>14 Is it reasonable for Mr. Ruggieri to 15 have taken from this e-mail that Parexel is 16 not a crowded short? 17 A Yes.</p> <p>Brown Tr. 1002:14-17;</p> <p>25 Q. One week before Mr. Bolan even seeks 2697 1 RUGGIERI - CONT'D CROSS 2 permission to downgrade the stock. 3 If we could go to JR 20, this is the 4 day after you've taken a short position, 5,000 5 shares, in Parexel; correct? 6 A. Yes. 7 Q. And we've seen a lot of this term, but 8 here it is again. 9 On Wednesday, March 24th, you ask Mr. 10 Bolan, "Is PRXL a crowded short"; right? 11 A. Yes. 12 Q. Meaning if it's a crowded short, what? 13 A. Probably don't want to short it. 14 Everybody's already there. The stock is 15 expecting -- there's too many shorts in the 16 stock and you don't want to be short a -- a 17 crowded short because it could go higher in your 18 face. 19 So I was trying to understand -- the 20 client was asking. It seemed like given the 21 flows and the conversations, the clients were 22 focused on PRXL in this headwind conversation, 23 and I think that I was testing to see if this 24 was a crowded short or not. 25 Q. You were short already yourself?</p>

	<p>2698</p> <p>1 RUGGIERI - CONT'D CROSS 2 A. Correct. 3 Q. And so you wanted to be sure, am I too 4 late to this party? 5 A. Exactly. 6 Q. And should I get out? 7 A. Exactly. 8 Q. And if Greg Bolan had told you, this 9 is a crowded short, what would have you done? 10 A. I probably would have not shorted the 11 stock any more and gotten out of it. 12 Q. But Mr. Bolan didn't tell you that 13 Parexel was a crowded short, did he? 14 A. Correct. 15 Q. If we look at the top e-mail, he says: 16 "Honestly, I've just started hearing 17 that folks are shorting. For the most part, up 18 until about a month ago, as greenback continued 19 to rip" -- that's the U.S. dollar? 20 A. Correct. 21 Q. -- "I've really spoken to folks who 22 are buying or already long." 23 So in your understanding, is Parexel, 24 as of March 24th, a crowded short? 25 A. No. In fact, probably just the</p> <p>2699</p> <p>1 RUGGIERI - CONT'D CROSS 2 opposite. 3 Q. And that day, the 24th, you doubled 4 your position short in Parexel? 5 A. Yes. 6 Q. Almost a week, six days before the 7 analyst, Greg Bolan, even seeks approval; isn't 8 that correct? 9 A. That's right.</p> <p>Ruggieri Tr. 2696:25-2699:9; JR 20.</p>
179.	<p>After learning that PRXL was not a crowded short, Ruggieri doubled his short position to 10,000 shares.</p>
	<p>JFOF ¶54.</p>

180.	On March 25, 2010, PRXL's share price traded lower and Ruggieri exited his short position.
	JR 56 (PRXL price chart).
181.	On March 26, PRXL's share price opened at \$23.40 and closed at \$23.18.
	JR 56 (PRXL price chart).
182.	On March 29, PRXL's share price opened at \$23.31 and closed at \$22.29.
	JR 56 (PRXL price chart).
183.	When a stock price goes lower, a short trade is less attractive. The lowering of PRXL's share price between March 25th and March 30 th made a short trade in PRXL less attractive.
	<p>12 Q. Now, between the 24th and the 30th, 13 you got flat in Parexel? 14 A. Yes, I did. 15 Q. Why? 16 A. I think the stock traded lower, if I'm 17 not mistaken, in that time period, from where 18 the first squawk happened, and the market got 19 the information about the FX headwinds. I 20 probably made some money in that trade, got to a 21 level where the buyers were, and I felt like 22 that was a good place to be flat in the stock. 23 Q. Why would you want to be flat in the 24 stock? 25 A. Because if it was trading in a range</p> <p>2704</p> <p>1 RUGGIERI - CONT'D CROSS 2 and got to a level where the demand was, then 3 there's a chance it could go back up and, you 4 know, you may have a chance to revisit the short 5 position if it went back up, but that's all part 6 of trading the stock.</p>

	<p>7 Q. So it depends a lot on what the stock 8 price is doing day to day? 9 A. Correct.</p> <p>Ruggieri Tr. 2703:12-2704:9.</p>
184.	<p>Ruggieri's active trading on behalf of clients gave him good visibility into who was trading in PRXL and whether they were long or short.</p>
	<p>10 Q. And on the 29th, when you had, that 11 day where you sold here 500,000 shares of 12 Parexel, you had good visibility into who was 13 doing the trading? 14 A. Yes.</p> <p>Ruggieri Tr. 2704:10-14;</p> <p>15 What does this mean? 16 A. For one thing, it means we had nine, I 17 think -- nine clients trading the stock, so we 18 had a lot of people involved. 19 It also -- I remember Deerfield, I 20 think, was short the stock and they were 21 covering. And Fidelity, obviously, is one of 22 these vanilla long-only funds. 23 But I think at the time, Wellington 24 was the number one holder in PRXL, and they were 25 selling. And I had two hedge funds shorting the</p> <p>2706</p> <p>1 RUGGIERI - CONT'D CROSS 2 stock. 3 So I think throughout most of this 4 time period I was better for sale in the stock. 5 Q. What does that mean? 6 A. It means you have more supply than you 7 have demand, or you have more sellers than you 8 have buyers.</p> <p>Ruggieri Tr. 2705:15-2706:8; JR 23.</p>
185.	<p>On March 29, Ruggieri sent an email to a client, Fidelity, informing it that PRXL was trading as low as it had in a few weeks.</p>

	<p>10 What happened with Fidelity on the 11 29th? Let's look at JR 25. 12 You're sending an IM to -- is that a 13 Bloomberg? 14 A. Yes. 15 Q. And who's Mike Kopfler? 16 A. Mike Kopfler was a trader at Fidelity. 17 Was this the day I was flat, by the way, I 18 think? 19 Q. You went short again on the 30th. 20 A. Right. So this was a heads-up. I 21 think Fidelity may have been a buyer at some 22 point recently, and probably around that 22, 23 22-and-a-half level, and the stock had obviously 24 been trading higher and it had come in in the 25 last few days.</p> <p>2707</p> <p>1 RUGGIERI - CONT'D CROSS 2 Q. The stock had gone down? 3 A. Yes. And I was given a heads-up to 4 the Fidelity trader that PRXL's at 22 5 and-a-half. I haven't seen these levels in a 6 few weeks, meaning it's been higher and it's 7 getting back to the level where he cared as a 8 buyer. These are the things you do as a trader 9 to try to get an order. 10 He could be focusing on a million 11 different things, and if you give him a heads-up 12 that the stock is trading back at a level that 13 he cares as a buyer, he's going to tell his 14 portfolio manager that, and he'll look good and 15 if he gets an order, hopefully we'll get it.</p> <p>Ruggieri Tr. 2706:10-2707:15; JR 25.</p>
186.	<p>On March 30, before the market opened, Raymond James, a competitor of Wells Fargo, upgraded PRXL to a strong buy.</p>
	<p>21 Q. So here we are, it's March 30th. It's 22 eight days after Bolan's squawk. You've had all 23 these conversations. You've gone short twice 24 already, the 23rd and 24th.</p>

	<p>25 On the 30th, what happens?</p> <p>2709</p> <p>1 RUGGIERI - CONT'D CROSS</p> <p>2 A. Raymond James, which was a competitor,</p> <p>3 upgraded PRXL to strong buy.</p> <p>4 Q. Raymond James upgrades PRXL to strong</p> <p>5 buy.</p> <p>6 And as you say, they're a competitor?</p> <p>7 A. Yes.</p> <p>Ruggieri Tr. 2708:21-2709:7; JR 26.</p>
187.	<p>Ruggieri concluded that the Raymond James upgrade did not contain any new information that would change his thesis and could cause PRXL stock to go up in the short term, therefore making a short trade more attractive.</p>
	<p>17 I think that, the key to PRXL at the</p> <p>18 time, and part of the reason why people were set</p> <p>19 up short, I think it was in a previous document</p> <p>20 you showed, was expectations were too high and</p> <p>21 people thought that they were going -- the</p> <p>22 management was bullish, they were going to beat</p> <p>23 numbers, and I think the Street already expected</p> <p>24 them to get the numbers.</p> <p>25 So this just kind of reiterated the</p> <p>2712</p> <p>1 RUGGIERI - CONT'D CROSS</p> <p>2 thesis that was already out there, so to me, it</p> <p>3 wasn't like a transformational fundamental</p> <p>4 change.</p> <p>5 Q. And what did you think the Raymond</p> <p>6 James upgrade represented for you as someone who</p> <p>7 was looking to short Parexel?</p> <p>8 A. I thought it was a gift.</p> <p>9 Q. Why?</p> <p>10 A. Because the stock came back in from --</p> <p>11 Q. What do you mean "the stock came back</p> <p>12 in"?</p> <p>13 A. The stock had come in from wherever it</p> <p>14 was trading, 23, or 24, to 22 and-a-half or so,</p> <p>15 and this upgrade was, I think -- if it got the</p> <p>16 stock to go back up on this note, then it would</p>

	<p>17 possibly give an opportunity to revisit the 18 short thesis.</p> <p>Ruggieri Tr. 2711:17-2712:18.</p>
188.	<p>At 7:07 a.m. on March 30th, Ruggieri forwarded the Raymond James upgrade to Bolan. The "Importance" level of the email was filled in as "High".</p>
	<p>JR 26.</p>
189.	<p>At 7:10 a.m., Bolan called the 6210 line.</p>
	<p>JFOF ¶56.</p>
190.	<p>All analysts, as part of their constant dialogue with trading, had been directed to call their trader after any competitor upgrade.</p>
	<p>DIV 107 (page 2, first bullet).</p>
191.	<p>At 7:17 a.m., on March 30th, Ruggieri told a client that he viewed the Raymond James upgrade as an opportunity to sell short PRXL stock.</p>
	<p>15 Q. And you said: 16 "I think people will take advantage of 17 strength to sell." 18 What does that mean? 19 A. I think people will take advantage of 20 the strength and the stock if it's up on this 21 upgrade to sell more. 22 Q. So you were predicting on the 30th 23 that the upgrade would cause the stock to go up 24 and that people would sell? 25 A. Yes.</p> <p>Ruggieri Tr. 2713:15-25; JR 33.</p>
192.	<p>On March 30, following the upgrade by Raymond James, as Ruggieri predicted, PRXL's share</p>

	price opened up by 3.5%. JR 56 (PRXL price chart).
193.	On March 30, at 11:20 a.m., Bolan called the 6210 for a call lasting 2 minutes.
	JFOF ¶57.
194.	At the time of the 11:20 call, Bolan was in between client meetings, travelling in Boston.
	JR-REB 111, 111A.
195.	It would have been unusual for Bolan not to have called Ruggieri to update him in this circumstance.
	11 Q. Would it be unusual for Mr. Bolan to 12 call you between meetings to give you an update 13 on what he was talking about with your clients? 14 A. Yes, and check in, probably with what 15 was going on at the desk and we're still active 16 in the stock. 17 Q. I said would it be unusual for him to 18 call, and you're saying it would not be unusual? 19 In other words, you would expect him to call in 20 between those meetings? 21 A. Yes. Ruggieri Tr. 2715:11-21.
196.	Ruggieri wrote in his midday report that clients have been selling PRXL despite the Raymond James upgrade.
	JR 29.
197.	On March 30, Ruggieri shorted PRXL 5,000 shares. All other calls related to PRXL in DIV 194 occurred after this trade.
	JFOF ¶ 61.
198.	On March 31, in the last 25 minutes of the trading day, Ruggieri purchased 215,000 shares of PRXL on behalf of Fidelity.

	JR 37.
199.	Ruggieri's purchase on behalf of Fidelity represented 22% of the total volume in the stock that day. JR 56 (PRXL price chart).
200.	The way the market responded to Ruggieri's purchase on behalf of Fidelity told him that it was easy to purchase PRXL because there was a lot of supply in the stock.
	JR 37.
201.	When there is a lot of supply in a stock, it means the stock will likely go down.
	<p>5 Q What does it mean to say there is a 6 lot of supply in a stock? 7 A It means there is a lot of sellers in 8 the stock, it is probably going to go down. 9 Q Why is that? 10 A Because there is more supply than 11 demand, and it is simple a economics and 12 equilibrium theory.</p> <p>Brown Tr. 981:5-12.</p> <p>3 Q. What about trading supply? What does 4 supply of a stock tell you? 5 A. That it's for sale. 6 Q. What does that mean? 7 A. That there's a lot of -- supply means 8 that there's a lot of stock out there in the 9 marketplace, so there aren't enough buyers to 10 buy up the supply of stock. 11 Q. And does that sometimes suggest that 12 the stocks could go down? 13 A. Yes.</p> <p>Mackle Tr. 3270:3-13.</p>
202.	Ruggieri communicated to Bolan that PRXL stock was probably going lower.

	<p>25 Q. He's not reporting to you. You're 2724 1 RUGGIERI - CONT'D CROSS 2 reporting to him? 3 A. Correct, I think the stock is probably 4 going lower. 5 Q. You're telling Mr. Bolan you think the 6 stock is going lower? 7 A. Yes. 8 Q. You think that could have had any 9 influence on Mr. Bolan's end as to why he 10 downgraded? 11 A. I don't know. It may have.</p> <p>Ruggieri Tr. 2723:25-2724:11.</p>
203.	<p>On March 31, Ruggieri doubled his short position in PRXL to 10,550 shares.</p>
	<p>JFOF ¶ 67.</p>
204.	<p>On April 5th, the next trading day, PRXL shares traded higher and Ruggieri increased his short position to 27,550 shares.</p>
	<p>JR 56; JFOF ¶72.</p>
205.	<p>On April 5, 2010 at 7:39 p.m., Bolan called Ruggieri's cell phone for a call lasting approximately 18 minutes.</p>
	<p>JFOF ¶73.</p>
206.	<p>At 7:54, and 7:55, during the call, Bolan sent Ruggieri four emails, each containing contact information for San Francisco-based portfolio managers.</p>
	<p>JR 45, 45A, 46, 46A, 47, 47A, 49, 49A.</p>
207.	<p>Ruggieri traveled to San Francisco on business four days later.</p>
	<p>24 Q. In fact, on Friday, April 9th, you 25 went to San Francisco; isn't that correct? 2728 1 RUGGIERI - CONT'D CROSS 2 MR. RYAN: We'll look at Division 3 Exhibit 145, and the 7591. If we could scroll</p>

	<p>4 to page 161. 5 BY MR. RYAN: 6 Q. While we're waiting, why were you 7 going to San Francisco? 8 A. To see clients. 9 Q. And why would Mr. Bolan be forwarding 10 you the vCards for San Francisco portfolio 11 managers? 12 A. Because we were probably talking about 13 my trip and I wanted to meet some clients that 14 he spoke to, and he was giving me contact 15 information for clients that he had a dialogue 16 with in San Francisco.</p> <p>Ruggieri Tr. 2727:24-2728:16.</p>
208.	<p>On April 6th, before the market opened, Ruggieri reported to his client that the street's expectations for PRXL were too high going into the quarter.</p>
	<p>17 Q. On April 6th -- and this is JR 53 -- 18 in the middle you write at 5:08 a.m., so this is 19 before the market opens, to Craig Weingart. Who 20 is that? 21 A. Craig Weingart is the head of the 22 research sales office in San Francisco, so he 23 covers a lot of the clients that I would be out 24 there to see. 25 Q. And you write to him: "Agree, ICLR,</p> <p>2730</p> <p>1 RUGGIERI - CONT'D CROSS 2 PRXL expectations too high going into the 3 quarter." 4 What do you mean by that? 5 A. It means the expectations for both of 6 those stocks are too high, going into the 7 quarter.</p> <p>Ruggieri Tr. 2729:17-2730:7; JR 53.</p>
209.	<p>On April 6, right after the market opened, Ruggieri told another client about the recent Fidelity trade, that he had seen other short players in the market, and that he disagreed with the recent Raymond James upgrade.</p>

	<p>8 Q. On JR 54, you respond: 9 "Feels like it. Have heard ICLR 10 bookings may be low end of their guidance. 11 Vanilla has been adding PRXL but have seen 12 shorts here since 23. Expectations so high. 13 Probably pricing in another raise and not sure 14 we get it." 15 Not sure we get what? 16 A. The raise, the guidance raise. 17 Q. So you are telling your client that 18 you think Parexel is going to be short on the 19 6th of April. 20 A. Right. 21 Q. And you're short? 22 A. Correct.</p> <p>Ruggieri Tr. 2732:8-22; JR 54.</p>
210.	<p>On April 6, Ruggieri told another client that he did not like PRXL.</p>
	<p>JR 51.</p>
211.	<p>On April 6th, Ruggieri nearly doubled his short position and held a 52,500-share short position. He did so because he had a high conviction, and the stock price of PRXL was as high as it had been in months, making a short trade more attractive.</p>
	<p>23 Q. Why did you keep doubling your short 24 position on this one? 25 A. I had conviction that through</p> <p>2733</p> <p>1 RUGGIERI - CONT'D CROSS 2 everything I was seeing and all the flows, that 3 the stock was -- it's exactly what I said: 4 Expectations were too high and it felt like it 5 was going to go lower.</p> <p>Ruggieri Tr. 2732:23-2733:5;</p> <p>18 Why did you increase your position 19 over time?</p>

20 A. As I see here with the chart, the
21 first -- I'm trying to think of the chronology
22 now -- I was short 10,550 shares I think on the
23 5th. I had increased that to 27.2 I think on
24 the 5th, and then 52.5 on the 6th.
25 The stock went from, April 1, 23.58,

3008

1 RUGGIERI - RECROSS

2 to the 5th, 24.68.

3 I think as you just said, if I liked

4 the short at 23, I better love the short at

5 24.68. The stock went up a dollar. And that

6 would be perfectly reasonable -- reason why I

7 would increase my short position that day.

8 The next day I increased to 52.5. The

9 stock didn't go down. It stayed at that level,

10 which I felt like was a really attractive level

11 to be short the stock.

12 I think that's the highest -- that 5th

13 and 6th is the highest price this stock -- can

14 you scroll up, please -- the highest stock I can

15 see on this table -- keep going, keep going.

16 It's way, way lower now.

17 We're now back to September 2009.

18 Keep going.

19 That's as far as it goes.

20 So that's the highest price the stock

21 was, and as far as this chart goes back.

22 Q. That's your tenure at Wells Fargo.

23 A. So that's the highest price the stock

24 was in my tenure at Wells Fargo. The days I

25 increased my short position 27.2 and 52.5.

3009

1 RUGGIERI - RECROSS

2 So if you like the short because you

3 think the stock is going to go lower or that

4 expectations are too high and it reaches the

5 highest price in my tenure at Wells Fargo, I

6 think, if anything, that gives me more

7 conviction in my position.

Ruggieri Tr. 3007:18-3009:7; JFOF ¶ 77; JR 56.

212. The reasons that Bolan gave for downgrading PRXL were the same concepts that had been

	<p>in the market since his March 22 squawk, and the same concepts that Ruggieri had been communicating with clients.</p>
	<p>12 Q. Now, if we could look closely at the 13 first paragraph of Parexel, we saw that your 14 client, Ms. McMeekin, was saying are 15 expectations built in, is that what she said? 16 A. Correct. 17 Q. And -- so that's public, that's public 18 discussion with clients on the 6th? 19 A. Correct. 20 Q. Mr. Bolan, two lines down from where 21 he says, on the fourth line: 22 "The crux of our downgrade is 23 predicated on three points." 24 And under the first point, he says: 25 "We believe expectations for strong bookings is</p> <p>2734</p> <p>1 RUGGIERI - CONT'D CROSS 2 already baked into the current share price." 3 So you had already been having these 4 precise discussions initiated by your clients -- 5 not by you -- about whether or not the 6 expectations were built in; correct? 7 A. Right. 8 Q. And for number two, he says: 9 "The strengthening USD" -- U.S. 10 dollar -- "versus the euro and GBP should limit 11 the potential upside to Parexel's CY10 revenue 12 and EPS guidance." 13 Is there anything new in that? 14 A. No. It's similar to the squawk he put 15 out a couple of weeks prior. 16 Q. The same public information that Mr. 17 Bolan put out two weeks ago and that you talked 18 to your clients about; correct? 19 A. Yes.</p> <p>Ruggieri Tr. 2733:12-2734:19.</p>
213.	<p>On April 7, 2010, Ruggieri forwarded the PRXL downgrade to Brown.</p>
	<p>JR-REB 100.</p>

214.	On April 7, 2010, Short emailed Bolan, "I like the downgrade as well. I think it's a good time to do it."
	JR 57.

c) CVD

215.	CVD is the ticker symbol for Covance, a contract research organization (CRO).
	<p>22 And Covance is what kind of company? 23 A. It's a CRO. 24 Q. And that's the contract research 25 organization that you were talking about?</p> <p>2606</p> <p>1 RUGGIERI - CROSS 2 A. Yes.</p> <p>Ruggieri Tr. 2605:22-2606:2.</p>
216.	Ruggieri traded CVD in a principal capacity on approximately 51 days while at Wells Fargo.
	JFOF ¶26.
217.	In addition to the overnight positions preceding the ratings change at issue, Ruggieri's Wells Fargo trading book held an overnight position in CVD stock on approximately 15 trading days while he was employed by Wells Fargo.
	JFOF ¶ 178.
218.	On June 15, 2010, Mr. Bolan upgraded CVD shares to outperform, raising his valuation range to \$62-62 from \$58-59. He stated: "we believe Covance's historical premium valuation is warranted and we feel quite comfortable advising investors to actively accumulate shares of CVD at these price levels." CVD closed the previous night at \$54.29.
	JR 80, 81 (CVD price chart).
219.	On April 29, 2010, Bolan issued a squawk for CVD following an earnings call. Bolan noted that CVD would be more attractive to buy at a lower price – in the low 50s. CVD had closed the previous day at \$60.5.
	JR 64; JR 81 (CVD price chart)

220.	CVD's stock price dropped over the course of the next few weeks and dropped below \$50 on June 8 th .
	JR 81 (CVD price chart).
221.	The \$50 threshold for CVD was an important one for Ruggieri, and he wanted to make sure the stock would hold at that level.
	<p>19 Q. In fact, the stock hit \$50 on 20 June 8th. 21 Why did you buy CVD stock when the 22 stock hit June 8th? After all, Mr. Bolan said, 23 "low 50s, get interested." 24 A. Yes. Well, I think there may have 25 been -- there might be something missing from</p> <p>2614</p> <p>1 RUGGIERI - CROSS 2 this chart. 3 But the stock first got to 50 as I 4 mentioned, I think, yesterday, this was a 5 crowded short. I'm not sure if the shortage was 6 as high as ATHN, but there was -- \$50 is a big 7 psychological level that investors had been 8 focused on, it was a big level, technical level 9 that I had been watching and looking for and 10 talked to clients about. 11 And when the stock got to 50, that was 12 -- you wanted to see if it was going to hold 13 that 50 level, or if the shorts were going to 14 try to press the stock lower and see if it 15 dropped lower. 16 I think there may have been some sort 17 of check or something around the same time.</p> <p>Ruggieri Tr. 2613:19-2614:17.</p>
222.	On June 9, 2010, CVD stock opened at \$50.84. Bolan disseminated a negative channel check regarding CVD.
	22 So June 9th, the stock on June 9th

23 opened at \$50.84, so you're right at that \$50
24 threshold you were discussing.
25 And Mr. Bolan sends out an e-mail,

2615

1 RUGGIERI - CROSS

2 news from Madison, and this is another one of
3 his channel checks.

4 A. Yes.

5 Q. And this looks to be unpublished?

6 A. It looks -- yes, it looks that way.

7 Q. And do you know whether or not Mr.

8 Bolan published a later note with this CVD
9 information?

10 A. I don't think he did. I don't know

11 for sure, but I don't think so.

12 Q. And on balance, did you view this

13 channel check as being positive or negative?

14 A. I think on the margin it read

15 negative.

16 Q. And where did you get that?

17 A. Well, just reading it, as we did

18 yesterday, even in the first paragraph here,

19 this consultant, or VP of program management

20 said the man is coming back. This guy is

21 normally very bullish and doesn't hesitate to

22 brag about his accomplishments, but he was very

23 humble and reserved and so...

24 Q. In the second paragraph, do you see in

25 the third line where it says, "You certainly

2616

1 RUGGIERI - CROSS

2 don't sense the same confidence that was

3 displayed in the past. Sounds like layoffs hit

4 DA and Madison. Not Chandler (ph.) Don't know

5 about Europe"?

6 A. Right.

7 Q. Do you see that?

8 A. Yes. Clearly, at the first line,

9 clearly they aren't swamped with work. So this

10 kind of read from one of these toxicology

11 facility checks that things may have slowed down

12 a little bit, which I think is a reasonable --

13 is a reason to give some pause when the stock

	<p>14 hit 50 and see if it was going to break 50 or 15 hold that level. 16 Q. So as someone who is thinking of -- 17 what were you thinking was going to happen to 18 CVD? 19 A. Well, I thought this could potentially 20 make the stock continue to go lower, or break 21 the stock through 50.</p> <p>Ruggieri Tr. 2614:22-2616:21; JR 70.</p>
223.	<p>Ruggieri wanted to see whether Bolan's negative channel check might cause CVD's stock to drop further.</p>
	<p>16 Q. So as someone who is thinking of -- 17 what were you thinking was going to happen to 18 CVD? 19 A. Well, I thought this could potentially 20 make the stock continue to go lower, or break 21 the stock through 50.</p> <p>Ruggieri Tr. 2616:16-21.</p>
224.	<p>On June 9, 2010, Ruggieri communicated with DE Shaw, one of the largest shorts of CVD, to test his thesis about CVD.</p>
	<p>2 Q. And so why were you IM'ing with her? 3 A. We -- I love Susie -- sorry. 4 Q. You can't help yourself. 5 A. She was great. Susie was -- she was a 6 good client. We spoke about stocks a lot, but I 7 also know that DE Shaw was one of the largest 8 shorts in CVD, and this -- I was testing my 9 thesis here with her to see if I could get it</p> <p>10 out of her that she might be -- they might be 11 looking to cover their short, now that the stock 12 had gotten to 50, which is a level we've spoken 13 about before.</p> <p>Ruggieri Tr. 2620:2-13; JR 71.</p>
225.	<p>In fact, CVD's stock stabilized after the channel check.</p>

	<p>25 Q. Did the stock break 50?</p> <p>2617</p> <p>1 RUGGIERI - CROSS 2 A. I think it broke 50 briefly. 3 It may have traded 49 and-a-half or 4 somewhere in there, but it held 50 and 5 stabilized and started to go higher.</p> <p>Ruggieri Tr. 2616:25-2617:5; JR 81 (CVD price chart).</p>
226.	<p>On June 10, 2010, Ruggieri learned that in spite of Bolan's negative channel check, one of his clients, and one of the largest holders of CVD, was increasing its position in CVD.</p>
	<p>23 Q. And he says, "Greg Bolan talked to Cap 24 World Healthcare, PM, Rich Wolf, about his 25 channel checks. He thinks that they are selling</p> <p>2618</p> <p>1 RUGGIERI - CROSS 2 PPDI, if they haven't sold already, and they are 3 going to add a lot more to their CVD position." 4 What was the significance of this news 5 to you? 6 A. I think that's an important data 7 point, to say the least. I think they were, if 8 not the top holder, one of the top holders in 9 CVD.</p> <p>Ruggieri Tr. 2617:23-2618:9; JR 73.</p>
227.	<p>Ruggieri was focused on the upcoming Goldman Sachs healthcare conference on June 15 at which CVD was scheduled to make a presentation.</p>
	<p>21 There was an event coming up that was 22 going to be important for CVD at this time? 23 A. Yes. They were presenting at the 24 Goldman Sachs healthcare conference the 25 following Tuesday.</p>

	<p>2623</p> <p>1 RUGGIERI - CROSS 2 Q. Tuesday, June 15th? 3 A. June 15th, yes. 4 Q. Which is the same day as it turns out 5 as the upgrade; correct? 6 A. That's right. They were presenting, I 7 think, at 10:30 in the morning, and there had 8 been some speculation in the market that they 9 might tweak their guidance lower, or something, 10 and people might wait for that to see if the 11 stock comes in to cover.</p> <p>Ruggieri Tr. 2622:21-2623:11; JR 72, 74.</p>
228.	<p>A trader's assessment of what a company is going to present at a conference is a reasonable thesis for a trade.</p>
	<p>25 What do you look at to generate</p> <p>3267</p> <p>1 MACKLE - CROSS 2 trading ideas? 3 A. It's a variety of things. 4 I mean, sometimes it's -- I mean,</p> <p>5 oftentimes it's from gathering sentiment from 6 conversations with clients over a period of</p> <p>7 time. If you get the sense that it's heavily 8 skewed in terms of sentiment one way or the 9 other, maybe you think to be a contrarian. 10 You know, you look at potential 11 catalysts of stocks coming up that may move the 12 needle.</p> <p>13 Q. What do you mean by catalysts coming 14 up? 15 A. So there's -- in any company, 16 particularly companies in the healthcare sector 17 that may have clinical data, et cetera, there 18 are often throughout the year any number of what 19 we call catalysts that can impact the share 20 price one way or the other, whether it's</p>

	<p>21 producing clinical data at a scientific meeting, 22 whether it's management speaking at a healthcare 23 conference, et cetera, et cetera. 24 So there's any number of catalysts for 25 most companies over the course of the year.</p> <p>3268</p> <p>1 MACKLE - CROSS 2 Q. For example, let's take management 3 speaking at a healthcare conference. 4 That would be company management 5 speaking at an upcoming conference? 6 A. Correct. 7 Q. And you might get an idea to place a 8 trade on that company given your own assessment 9 of what you think management is going to say? 10 A. Yes. 11 Q. And that would be a reasonable thesis 12 for a trade? 13 A. Yes.</p> <p>Mackle Tr. 3266:25-3268:13.</p>
229.	<p>On June 14th, 2010, before the market opened, Bristol Meyers Squibb ("BMY") announced a deal with PRXL and ICLR, two other CRO companies.</p>
	<p>JR 78.</p>
230.	<p>One of the losers in the BMY announcement was PPDI.</p>
	<p>JR-REB 17.</p>
231.	<p>The BMY announcement was an important data point for the CRO sub-sector.</p>
	<p>23 Q. Was that an important data point for 24 you in terms of your looking at CROs in general, 25 and CVD in particular? 2647</p> <p>1 RUGGIERI - CONT'D CROSS 2 A. CROs, yes. 3 Q. Why?</p>

	<p>4 A. Because a partnership announcement 5 like this was particularly positive for PRXL and 6 ICLR, because those were the two companies that 7 I think Bristol partnered with, and I think PPDI 8 was the company that was left out. 9 And so directly, those were the 10 companies that were affected. But any time you 11 have an announcement like this, it can cause a 12 lot of peripheral movement in the stocks, 13 especially when stocks move in a direction 14 against the way investors are positioned and 15 could force them to act accordingly.</p> <p>Ruggieri Tr. 2646:23-2647:15.</p>
232.	<p>Following the BMY announcement, on June 14th, the share prices for ICLR, PRXL and CVD went up 4%, 6.3% and 3% respectively.</p>
	<p>JR 77.</p>
233.	<p>On June 14, 2010, Ruggieri purchased 40,000 shares of CVD and held the shares overnight.</p>
	<p>JFOF ¶¶ 89 and 90.</p>
234.	<p>In addition to his CVD trade, Ruggieri held overnight short positions in PPDI and PRXL.</p>
	<p>DIV REB 66A.</p>
235.	<p>Ruggieri shorted PRXL because he thought the market overreacted and PRXL had gone up too high following the BMY announcement, a rationale he shared with his client.</p>
	<p>9 So this was a pretty aggressive move 10 for Parexel to move 6 and-a-half percent in a 11 day. And I shorted the stock, likely because it 12 was -- I felt it was an over-reaction.</p> <p>Ruggieri Tr. 2652:9-12; JR-REB 235.</p>
236.	<p>Ruggieri's trade in CVD was based on his prediction that CVD would not lower guidance at</p>

	<p>the Goldman Sachs investor conference and that the stock would trade higher. On June 14, 2010, Ruggieri shared this thesis with his clients.</p>
	<p>3 And what happened at the Goldman Sachs 4 -- Goldman Sachs was having a conference on the 5 15th? 6 A. Yes, their healthcare conference. I 7 think they were presenting at 10:30. 8 Q. Who was presenting? 9 A. CVD. 10 Q. And what were they presenting? 11 A. They were doing their presentation to 12 investors. And I think I learned at some point 13 that day on Monday that they were also doing an 14 investor dinner Monday night. 15 And that was important to me because 16 the investors were focused on the presentation 17 the next day and whether they would be tweaking 18 guidance, or lowering guidance, or whatever it 19 was, and that was a worry. 20 And the fact that they were doing an 21 investor dinner the night before the 22 presentation was pretty telling to me, with a 23 management team that's typically bullish, I 24 don't think would be doing an investor dinner 25 before the presentation if they were going to 2654 1 RUGGIERI - CONT'D CROSS 2 have a negative presentation the next day. 3 So I felt like, people were -- that 4 was part of the reason the stock was moving 5 higher. People were recognizing that this was 6 probably not going to be a negative presentation 7 and the stock was going to continue to move 8 higher. 9 Q. And we saw you predicting yesterday in 10 the document that that's what was going to 11 happen, didn't we? 12 A. Yes. 13 Q. And as it turns out, you were right; 14 isn't that right? 15 A. That's right.</p> <p>Ruggieri Tr. 2653:3-2654:15; JR 76.</p>

237.	Bolan issued his CVD upgrade the same day as the Goldman Sachs conference. They both occurred on June 15 th .
	JR 76; 72.
238.	On June 15, 2010, CVD stock price opened at \$55.48, traded at a high of \$55.85, a low of \$53.85 and closed at \$54.59.
	JR 81 (CVD price chart).
239.	On June 15, 2010, Ruggieri forwarded the CVD upgrade to Brown.
	JR-REB 98.
240.	After the market closed on June 15, 2011, Bolan told Ruggieri that he was embarrassed that CVD's stock was down even though the market was up.
	JR 82.
241.	Having reviewed JR 64, 73, 75, 77, 78, Brown testified that he would not be "the slightest bit surprised" to learn that Ruggieri traded long in CVD on June 14, 2010.
	<p>24 Q And if Mr. Ruggieri purchased CVD on 25 June 14th and held it overnight, would you be 1042 1 Brown - Cross 2 in the slightest bit surprised? 3 A No. 4 Q And would your lack of surprise be 5 further bolstered by the fact that he was also 6 long in Parexel the same night and short in 7 PPD the same night? 8 A No. 9 Q It would all be part of a very clear 10 thesis, wouldn't you agree? 11 A I would.</p> <p>Brown Tr. 1041:24-1042:11.</p>

	<p>11 Now, given what I have told you about 12 and what you have looked at and observed, as 13 Mr. Ruggieri's supervisor and given all of 14 your years of experience as a trader, do you 15 have any question as to whether or not 16 Mr. Ruggieri had a sound reasonable thesis for 17 his CVD trade? 18 A I do not.</p> <p>Brown Tr. 1044:11-18.</p>
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d) **AMRI**

242.	AMRI is the ticker symbol for Albany Molecular, a CRO.
	<p>14 What is AMRI? 15 A. Albany Molecular. It was a microcap 16 pharma services CRO. 17 Q. What sector -- the sector is 18 healthcare? 19 A. Yes.</p> <p>Ruggieri Tr. 2506:14-19.</p>
243.	Ruggieri traded AMRI in a principal capacity on approximately 68 days while at Wells Fargo.
	JFOF ¶27.
244.	On July 6, 2010, Bolan upgraded AMRI shares to outperform, increased his 2010 and 2011 EPS estimates, while maintaining his valuation range of \$7-9 per share.
	JR 95.
245.	On June 23, 2010, Bolan issued a squawk announcing that AMRI had just announced a \$10 million share buyback program.
	JR 87.

246.	For AMRI, \$10 million represented approximately 1.8 million shares, or 6% of all outstanding shares.
	JR 87.
247.	AMRI's average daily volume in June 2010 was 126,000 shares.
	JR 96 (AMRI price chart).
248.	On June 24, 2010 (six trading days before the trade), Bolan informed Brown, Bartlett and Ruggieri that AMRI would be utilizing Wells Fargo to execute the share repurchase program and that he believed AMRI would exhaust the entire repurchase plan.
	JR 87.
249.	Brown reviewed JR 87 where Ruggieri was informed that AMRI was using Wells Fargo for its share repurchased program, and he was able to deduce that the AMRI ratings change was an upgrade.
	<p>14 Q And if you look at the next page, the</p> <p>15 first page of JR87, let's look at the e-mail</p> <p>16 from Jerome Peter or Peter Jerome from AMRI</p> <p>17 Global to Greg Bolan and Eric Hebert.</p> <p>18 And Mr. Jerome informs Greg Bolan,</p> <p>19 "Also wanted to let you guys know that we will</p> <p>20 be using your trading desk at NYC to execute</p> <p>21 the repurchase program."</p> <p>22 And that gets forwarded up to Joe</p> <p>23 Ruggieri at the top. "Great stuff. Thanks</p> <p>24 Greg."</p> <p>25 Do you see that?</p> <p>1 Brown - Cross</p> <p>2 A Yes.</p> <p>3 Q Do you think, do you know one of</p> <p>4 the -- one of the research reports at issue in</p> <p>5 this case is AMRI.</p> <p>6 Sitting here, can you guess whether</p> <p>7 AMRI we're talking about an upgrade or a</p> <p>8 downgrade?</p> <p>9 A I would say we're talking about an</p>

	<p>10 upgrade.</p> <p>Brown. Tr. 1010:14-1011:10.</p>
250.	<p>On June 24, 2011, Ruggieri notified Wells Fargo's buyback desk of the AMRI's buyback plan and asked the desk to keep him informed of when the buyback started.</p>
	<p>11 Q. Why did you want them to let you know 12 if they saw it? 13 A. Because that would help me know when 14 the buyback is in the market and there's support 15 for the stock, and give me a sense of -- that 16 the stock is probably going to go up, or at 17 least not go down once the buyback is in the 18 market.</p> <p>Ruggieri Tr. 2516:11-18; JR 89.</p>
251.	<p>This was the one and only time during Ruggieri's tenure that AMRI had used the Wells Fargo buyback desk to implement a share repurchase program.</p>
	<p>5 Q. And that was, you testified, because 6 that was the only time that AMRI announced a 7 share buyback. 8 Is that what you said? 9 A. I don't think it was. 10 Q. Okay. We can check the transcript, 11 but I'm pretty sure that's what Mr. Ryan asked 12 you and that was your answer. 13 A. No. I think what I meant by that was 14 we were controlling the buyback, and that was my 15 understanding, that the buyback was in the 16 market, and I think that was the only time that 17 we had the buyback. 18 Not saying that's the only time that 19 AMRI announced a buyback or had a buyback.</p> <p>Ruggieri Tr. 2747:5-19.</p>
252.	<p>Ruggieri believed the share buyback program would cause AMRI shares to rise.</p>
	<p>8 A. Because it trades about a hundred 9 thousand shares a day, so a company, if you're 10 buying back stock, is never going to be a 11 significant part of the volume. I don't know 12 exactly what the restrictions are. It might be</p>

	<p>13 25 percent or something like that, that they 14 can't buy more than 25 percent of the volume in 15 a day. 16 So that's going to take, at 100,000 17 shares a day, it's going to take quite a while 18 to buy back the stock. In other words, it seems 19 that they're going to be supporting the stock 20 for a while. 21 Q. What's the significance in terms of 22 the stock price if AMRI is purchasing the stock 23 in the market? 24 A. It should support the stock. There's 25 -- probably, the stock should go higher</p> <p>Ruggieri Tr. 2514:8-25.</p>
253.	<p>Ruggieri believed the use of Wells Fargo's buyback desk for the repurchase program would allow Wells Fargo to sell the stock to customers and also get involved principally.</p>
	<p>13 Q. What is the significance of the fact 14 to you that AMRI is going to be using the Wells 15 Fargo buyback desk? 16 A. It's good, because we'll now, when 17 they're in the market, and hopefully we can get 18 flow from that and be involved in the stock. 19 Q. How would you be able to become 20 involved in the stock when AMRI is buying the 21 stock? 22 A. Well, you could trade it principally, 23 you can shop a buyer to the Street to try and 24 capture a seller. There's a few different ways.</p> <p>Ruggieri Tr. 2515:13-24.</p>
254.	<p>On June 27, 2010, Bolan was hospitalized [REDACTED], and he was likely out of the office until June 30 or July 1.</p>
	<p>JR 90.</p>
255.	<p>On July 1 at 6:08 p.m., Ruggieri's cell phone records show that he placed a 10-minute call to his mother.</p>
	<p>DIV 145.</p>

256.	At 6:14, Bolan blind-copied Ruggieri on a client email with his ranked view of crowded shorts and longs for 6 stocks (none AMRI).
	DIV 57.
257.	At 6:15, Bolan called Ruggieri's Wells Fargo blackberry from his home phone (Ruggieri was still on the phone with his mother). The Bolan call lasted 39 seconds.
	DIV 220.
258.	At 6:16, Ruggieri emailed Bolan "Call you right back."
	DIV 57.
259.	At 6:18, Bolan replied, "Cool, call my home."
	DIV 57.
260.	There is no record of any phone call between 6:18 p.m. on July 1 and the time Ruggieri initiated his AMRI trade.
	JR-REB 108.
261.	The 39-second call to Ruggieri's Wells Fargo blackberry is the only call from Bolan to any number associated with Ruggieri between June 26 and July 6.
	JR-REB 108.
262.	On July 2, 2010, AMRI's closing price was \$5.41, and on July 6, 2010, AMRI's stock price opened at \$5.70, traded at a high of \$5.70, and a low of \$5.38 and closed at \$5.40.
	JFOF ¶ 103.
263.	Ruggieri completed his AMRI trade prior to the time Bolan received an "ok" from his

	supervisor regarding his request for a ratings change.
	FOF ¶199; JR-REB 112.
264.	Ruggieri traded AMRI on July 2, because that was the first day the buyback was in the marketplace.
	<p>19 Q. And why did you buy the stock of AMRI 20 on July 2nd? 21 A. I think -- from looking at the IMs, it 22 looks like that was the first day the buyback 23 was in the marketplace.</p> <p>Ruggieri Tr. 2516:19-23;</p> <p>6 Q. So on July 2nd at 12:16, what do you 7 see? 8 A. I see a list of stocks I'm marketing 9 to the Street, and AMRI is one of those stocks. 10 Q. And what does that tell you? 11 A. Well, looking at my trading records 12 and seeing -- I didn't see I had any customer 13 flow buying the stock, it told me that the 14 buyback was likely in the market that day. 15 Q. So that told you on July 2nd that the 16 AMRI buyback was starting? 17 A. Right. 18 Q. And that gave you confidence? 19 A. Yes. It gave me confidence it was 20 probably going to be around for a bit and the 21 risk of the stock going down was very low.</p> <p>Ruggieri Tr. 2517:6-21; R-91</p>
265.	Brown reviewed JR 87, 91, JR-REB 77 and 93 and concluded that when Ruggieri purchased AMRI on July 2 1014, he probably traded because of the buyback.
	<p>16 A I think he probably placed it because 17 of the pending buyback and the flows that he 18 saw.</p> <p>Brown Tr. 1014:16-18.</p>

266.	<p>On July 6, 2010, Ruggieri marketed a buyer of AMRI over the day. Over the day is how a buyback is usually executed.</p>
	<p>10 Q. This is dated July 6th, the day of Mr. 11 Bolan's report, the day in which you sold 15,000 12 shares. 13 What are you doing in this IM?</p> <p>14 A. Yes, I thought this was pretty -- when 15 I saw this, it was pretty telling to me, and 16 further confirmed that the buyback was there 17 because -- so I'm marketing a buyer to the 18 Street. I'm saying AMRI back buyer 35,000 over 19 -- OTD, means over the day. 20 And the fact that I said "back buyer" 21 told me that the buyer was there the previous 22 day. And over the day, just meant that's how 23 buyback is usually executed, over the day, and 24 slash ITW, which is "in touch with" a seller at 25 \$6. Which means there's an indicated seller,</p> <p>2533</p> <p>1 RUGGIERI - CROSS 2 maybe it was my position, maybe I had a customer 3 seller at the \$6 level. 4 But it's -- it's -- it's strange, if a 5 buyer weren't there, I don't think I would be 6 shopping a buyer because I was already long the 7 stock. I would be looking to sell the stock or 8 trim the stock, so I would be more likely to 9 find a buyer, if I didn't have a buyer to 10 support the stock and if I was long the stock, 11 in order to flatten my position, I would need to 12 sell the stock. 13 I already had inventory and I could 14 sell the stock, so if I didn't know there was a 15 buyer around, I would be looking for a buyer 16 because I already had inventory. 17 The fact that I was long the stock and 18 marketing a buyer -- in other words, looking for 19 a seller -- that was clear to me that I knew the 20 stock had support and there was a buyer around. 21 Because, otherwise, it wouldn't make sense. If 22 you're looking for a seller and you caught a</p>

	<p>23 seller, then that would -- that would make you 24 even -- the stock could go down, and I was long. 25 That would put me at more risk and make me lose</p> <p>2534</p> <p>1 RUGGIERI - CROSS 2 money. It just didn't make sense. 3 So this IM confirmed what I had</p> <p>4 thought the day before, was that the buyback was 5 there for support.</p> <p>Ruggieri Tr. 2532:10-2534:5; JR 93.</p>
267.	<p>Ruggieri held AMRI shares overnight for 6 days following Bolan's July 6th upgrade.</p>
	<p>JFOF ¶¶ 107, 109, 112.</p>
268.	<p>Brown testified that the fact that Ruggieri did not sell out of his entire position was additional evidence of a trading thesis based on AMRI's share buyback program.</p>
	<p>16 Q One of the things I didn't tell you 17 yesterday is that following the -- it's a 18 stipulated fact that Mr. Ruggieri purchased 19 35,050 shares of AMRI prior to the AMRI 20 upgrade on July 6th. 21 On July 6th, Mr. Ruggieri only sold 22 20,000 shares of his 35,000 share position and 23 retained 15,000 shares of AMRI, and this is a 24 stipulated fact in this case. 25 Does that fact suggest to you that Mr.</p> <p>1031</p> <p>1 Brown - Cross 2 Ruggieri was retaining shares because of the 3 continuation of the buyback? 4 A Sure. He likely felt the stock was 5 going to go higher. 6 Q And he continued to hold shares of 7 AMRI until July 10, four days later. 8 Does that further support the thesis 9 that Mr. Ruggieri was trading not because of 10 an upgrade of AMRI, but because of the share</p>

	<p>11 buyback? 12 A Sure, yes.</p> <p>Brown Tr. 1030:16-10:31:12.</p>
269.	<p>On July 6, 2010, Ruggieri forwarded Bolan's upgrade of AMRI to Brown.</p>
	<p>7 Q. So you forwarded the research report 8 to your boss? 9 A. Yes.</p> <p>Ruggieri Tr. 2519:7-9; JR-REB 96.</p>
270.	<p>Ruggieri continued to be aware of the buyback program and told Bolan that when it ended, AMRI stopped buying back the stock as part of the share repurchase program, and the stock price went down.</p>
	<p>JR-REB 77.</p>
271.	<p>The total profit on Ruggieri's AMRI trade was \$9,334.</p>
	<p>JR-REB 65.</p>
272.	<p>The profit on the AMRI trade was less than .29% of Ruggieri's loss ratio.</p>
	<p>14 Q. Now, incidentally, do you take any 15 issue with the accuracy of the 9,334 number as 16 far as the profit to Wells Fargo? 17 A. I do, if it's -- I'm not sure how it's 18 calculated. That's my only question. If it was 19 calculated for that first day, or it was for the 20 full five to six days, considering the stock 21 went up to close to \$6 when I sold the balance, 22 I'm not sure how that's calculated. 23 Q. The announcement was on July 6th, and 24 the stock continued to go up on the night -- you 25 then continued to hold it. That gain should</p>

	<p>2545</p> <p>1 RUGGIERI - CROSS 2 have been included, shouldn't it? 3 A. I don't think so. 4 Q. And just getting back to the loss 5 ratio theory, that you were trying to increase 6 or decrease your loss ratio? 7 A. Right.</p> <p>8 Q. Your loss ratio was approximately 9 what? 10 A. I think around 10 percent or so. 11 Q. This \$9,000, do you know what 12 percentage that this would represent in terms of 13 your loss ratio, considering that you traded 14 \$12 million in commissions? .29 percent? 15 A. Yes. I was going to say 1/10 of 16 1 percent or something.</p> <p>Ruggieri Tr. 2544:14-2545:16.</p>
273.	<p>Brown testified that Ruggieri probably traded in AMRI pursuant to a trading thesis about the buyback.</p>
	<p>12 Q Do you think Mr. Ruggieri placed his 13 AMRI trade the night before because of this 14 pending upgrade or because of the AMRI shared 15 buyback? 16 A I think he probably placed it because 17 of the pending buyback and the flows that he 18 saw.</p> <p>Brown Tr. 1014:12-18.</p>

e) EM

274.	<p>EM is the ticker symbol for Emdeon, a healthcare IT company.</p>
	<p>17 Q. What sector was Emdeon in? 18 A. Healthcare IT. 19 Q. Were you knowledgeable when it came to 20 that sector? 21 A. Yes.</p>

	Ruggieri Tr. 2665:17-20.
275.	Ruggieri traded EM in a principal capacity approximately 46 days while at Wells Fargo.
	JFOF ¶28.
276.	On August 16, 2010, Bolan upgraded EM shares to outperform. At the same time, Bolan <i>lowered</i> his 2010 EPS estimate, and he dropped his valuation range 17%.
	JR 105.
277.	On August 13, 2010, a slow trading day, Ruggieri traded less than 1 million shares in total. He traded nearly 400,000 shares in a principal capacity.
	9 Q. So tell me, what kind of a day was 10 that on the trading desk? 11 A. That is as slow as it gets Ruggieri Tr. 2668:9-11; JR-REB 95 (EM trade chart).
278.	Brown encouraged Ruggieri to make principal trades when the market was slow.
	13 Q. What did Matt Brown talk to you, 14 generally speaking, about slow days like this? 15 A. When it's slow, trade principally, 16 think about ideas, look at opportunities, 17 dislocations in the market. 18 Q. What's a dislocation in the market? 19 A. When the stock is -- has dislocated, 20 it's gone pretty extremely against where it was 21 trading. Ruggieri Tr. 2668:13-21.
279.	On August 13, Ruggieri bought 10,000 shares of EM and held it overnight.
	JFOF ¶ 122.

280.	<p>Ruggieri made this trade because EM's share price was down nearly 25% in a week and he viewed the price as being inappropriately low.</p>
	<p>2 A. I would say it was probably the most 3 dislocated stock in my universe that week. 4 Q. Why is that? 5 A. The reported earnings the week before, 6 I think the 5th or the 6th, the stock was done 7 20 or 25 percent after earnings, and continued 8 to be down that week. 9 And it's typical on a day like this, 10 as I'm scanning my screens and looking for 11 outsized moves like that, this one would 12 certainly show up as an outlier. 13 Q. And you purchased 10,000 shares? 14 A. I did. 15 Q. And how much was this stock trading 16 at? 17 A. I think the stock was trading 18 somewhere around 9 or 10. 19 Q. So you invested approximately \$100,000 20 in Emdeon? 21 A. Yes. 22 Q. Or traded approximately 100,000 in 23 Emdeon that day? 24 A. That's right. 25 Q. And in terms of the grand scheme of</p> <p>Ruggieri Tr. 2669:2-2669:24.</p>
281.	<p>Brown testified that he viewed the EM trade as an "extremely low" overnight risk.</p>
	<p>18 Q Does that look to you to be a 19 particularly meaningful overnight risk? 20 A No. 21 Q In fact, it is extremely low, isn't 22 it? 23 A Yes. 24 Q The Division and their case is 25 suggesting, has said that Mr. Ruggieri placed 1049 1 Brown - Cross 2 this trade in anticipation of this research</p>

	<p>3 report. 4 Given the size of this trade, does 5 that sound plausible? 6 MS. KRISHNAMURTHY: Objection, your 7 Honor. 8 THE COURT: Overruled. 9 A I mean the research reports looks 10 pretty meaningless to me, so --</p> <p>Brown Tr. 1048:18-1049:10.</p>
282.	Ruggieri forwarded the EM upgrade to Brown.
	JR-REB 99.
283.	On August 16, the day of the upgrade, Bolan described the EM upgrade as having the significance of a "mouse fart in the wind."
	JR 108.
284.	No reasonable investor would have traded in anticipation of the Emdeon report.
	<p>16 Q. Would any trader in his right mind 17 ever think that a report like this would move 18 the market? 19 A. No.</p> <p>Ruggieri Tr. 2677:16-19.</p>
285.	Ruggieri teased Bolan about his upgrade.
	<p>10 Q. And, in fact, you made fun of Mr. 11 Bolan about this ratings change, didn't you? 12 A. Yes. 13 MR. RYAN: If we could look at JR 109. 14 BY MR. RYAN: 15 Q. It starts with, Mr. Bolan says: "EM</p>

16 sucks at 10:51."
17 And you write: "Ha ha, nice UG, Bro."
18 What does that mean, "nice upgrade"?
19 A. Yes.
20 Q. Why are you making fun of Mr. Bolan's
21 upgrade?
22 A. I was just busting his chops.
23 Q. Did you think it was a meaningful or
24 important upgrade?
25 A. No.

2679

1 RUGGIERI - CONT'D CROSS

2 Q. Why not?

3 A. Because it was a maintenance reactive
4 upgrade, and the market doesn't seem to really
5 care about those.

Ruggieri Tr. 2678:10-2679:5.

Reactive research was much less valued by Wells Fargo than proactive research.

15 THE COURT: I'm sort of interested --
16 does positive feedback, does it have -- to what
17 extent it relates, not just to promotion, but if
18 there's anything else, and if there's not, I
19 mean, it's probably not relevant. I'm just
20 curious.

21 THE WITNESS: It's very relevant.

22 Your Honor, may I --

23 THE COURT: Please.

24 THE WITNESS: So you can see on page
25 -- wherever the ranks were, page 5, Greg's sales
1413

1 WICKWIRE - CONT'D DIRECT

2 rank at number 8 and impact rank at number 14,
3 we produce an annual scorecard at the end of the
4 year for all the analysts, and they're evaluated
5 on where they rank with sales, what their impact
6 rank is, how their stock picking has been -- we
7 use a service that says they're a good stock
8 picker, bad stock picker.

9 We also look at the volume of research

<p>10 they actually publish, and we actually then 11 dissect that to say how much is reacting to news 12 versus how much is proactive, and we obviously 13 want them a lot more proactive. 14 If an analyst writes 200 reports a 15 year and 199 are reactive, that is a low score. 16 We want them to actually be outproducing 17 research.</p> <p>Wickwire Tr. 1412:15-2413:17.</p>
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f) ATHN

286.	ATHN is the ticker symbol for Athenahealth, a healthcare technology company.
287.	Ruggieri traded ATHN in a principal capacity approximately 114 days while at Wells Fargo.
	JFOF ¶29.
288.	In addition to the overnight positions preceding the ratings change at issue, Ruggieri's Wells Fargo trading book held an overnight position in ATHN stock on approximately 9 trading days while he was employed by Wells Fargo.
	JFOF ¶ 181.
289.	On February 8, 2011, Bolan upgraded ATHN shares to outperform, raising his estimates and valuation change. He stated that "The impetus for these actions is our belief that ATHN may be on the cusp of adding a growing number of large group practices."
	JR 133.
290.	On January 7, 2011, Bolan issued a report increasing to ATHN's valuation range. In it, Bolan stated his thesis: "While we like athena's unique business model, in which the company's financial success is directly correlated with that of its clients, we have limited visibility on short-term net new physician additions. Thus we rate the share's market perform."
	JR 120.
291.	More news about adding physician practices would mitigate the risk of trading in ATHN.

	<p>22 Q. What does it mean if your near-term 23 visibility is poor on doc adds, what is it that 24 you, as someone who trades in the stock, is 25 looking to learn? 2554 1 RUGGIERI - CROSS</p> <p>2 A. Well, you would like this -- I'd like 3 to see some more visibility on doc adds. If you 4 saw that, that would mitigate the risk.</p> <p>Ruggieri Tr. 2253:22-2254:4.</p>
	<p>Mackle testified that the two most important metrics he looked at with regard to ATHN were additions of physician practices and enterprise pipelines.</p>
	<p>17 Q. Is it fair to say that the two most 18 important metrics that you look at on a 19 quarterly basis for athena are additions of 20 doctors and enterprise pipeline? 21 A. For most quarters, yes, that's true. 22 Q. Those are very important metrics to 23 look at? 24 A. Yes.</p> <p>Mackle Tr. 3273:17-24.</p>
292.	<p>On January 11, 2011, Ruggieri – at the request of a client – asked Bolan for the “most crowded longs and shorts into this quarter.” Bolan listed ATHN as the most crowded short.</p>
	<p>JR-REB 2.</p>
293.	<p>In contrast to PRXL, which Bolan reported was <i>not</i> a crowded short, the implications for ATHN as the most crowded short was that the stock would likely go up.</p>
	<p>23 Q And do you see that ATHN or Athena is 24 listed as the most crowded short in the space? 25 A Yes.</p> <p>1065</p> <p>1 Brown - Cross</p>

	<p>2 Q And what does that suggest to you 3 about Athena's future performance? 4 A I think it suggests that Greg is 5 concerned that the stock could go higher 6 because too many people are short.</p> <p>Brown Tr. 1064:23-1065:6.</p>
294.	<p>On January 18, 2011, Ruggieri wrote to Mackle that he would not be short on ATHN because the company had several physician practice deals in the pipeline.</p>
	<p>7 Q. Why are you sending an e-mail to Bruce 8 Mackle? 9 A. I don't know if we were both on the 10 phone or what the deal was, but it looks like a 11 conversation that we had. 12 Q. What do you say and what does he say? 13 This is January 18th at 1:40 p.m. 14 A. Yes. It sounds like, I'm saying, 15 "athena management sounds bulled up, enterprise 16 position practice deals in pipeline, 52 versus 2 17 last year." 18 It seems consistent with the Piper 19 note as well. Those numbers that were in the 20 Piper note. 21 "Bolan getting bullish. Don't think 22 run over, would not be short." 23 Q. So you're saying on June 18th you 24 don't think the run is over. 25 What does that mean?</p> <p>2560</p> <p>1 RUGGIERI - CROSS 2 A. I think -- 3 THE COURT: Sustained. You're talking 4 about June now? 5 MR. RYAN: January 18th. 6 THE COURT: You said June and counsel 7 objected. 8 MR. RYAN: I'm sorry. January 18th. 9 Sorry for misspeaking. 10 BY MR. RYAN: 11 Q. On January 18th, you said, "Don't 12 think run over."</p>

	<p>13 What did you mean by that? 14 A. I think that was just referring to the 15 move that athena had and just continued to go 16 higher.</p> <p>Ruggieri Tr. 2559:7-2560:16,; DIV. 120.</p>
295.	<p>An analyst can be warmer on a stock without changing a rating.</p>
	<p>17 Q. And can an analyst's opinion go up and 18 down within the same rating on a day-to-day 19 basis? 20 Some days you might be more bullish 21 than others, is it fair to say, for an analyst? 22 A. I wouldn't say it swings around on a 23 day-to-day basis, but is it possible to become 24 more bullish on a stock you have been lukewarm 25 on? Yes.</p> <p>3266</p> <p>1 MACKLE - CROSS 2 Q. Without changing your rating? 3 A. It's possible to feel that as an 4 analyst, but you're not -- that's not you're 5 published rating, so you can't -- you're -- as 6 an analyst, my understanding is, you're not 7 supposed to talk against your rating. 8 Q. And you saw that e-mail that said 9 "Bolan becoming bullish." 10 In your opinion, is that talking 11 against his rating, if he had a market perform 12 rating? 13 A. Not if that's -- it's okay -- 14 analysts -- there are plenty of instances where 15 analysts will say to clients, you know: I'm 16 warming up on the story. 17 Q. Without changing a rating? 18 A. Yes.</p> <p>Mackel Tr. 3265:17-3266:18, DIV 120.</p>
296.	<p>On February 4, 2011, ATHN issued a press release announcing an agreement adding a physician network.</p>

	<p>13 Q. So athena on February 4th is actually 14 issuing a press release? 15 A. Yes.</p> <p>16 Q. What is the significance of issuing 17 this press release? 18 A. This is exactly what we were talking 19 about. This is an agreement that athena is 20 adding a physician network to their software 21 system.</p> <p>Ruggieri Tr. 2563:13-21; JR 130.</p>
297.	<p>On February 4, 2010, at 2:20 p.m. Bolan called the 6210 line for a call lasting 41 seconds. There are no further calls on DIV 194 between Bolan and any line associated with Ruggieri prior to Ruggieri's trade in ATHN on February 7.</p>
	<p>JR-REB 108; DIV 194.</p>
298.	<p>On February 7, 2011, beginning at 10:13 a.m., Ruggieri purchased 13,500 shares of ATHN. The stock was up \$.90 by 11:45 a.m.</p>
	<p>13 Q. And when you started purchasing the 14 shares, they were \$46; correct? 15 A. Right. 16 Q. If you go forward an hour and-a-half 17 later to about 11:45 -- 18 A. Yes. 19 Q. -- line 30. 20 The stock is up \$0.90, to \$46.90. 21 Do you see that? 22 A. Yes. 23 Q. Is that a significant move in an hour 24 and a half? 25 A. It's a pretty good move.</p> <p>2568</p> <p>1 RUGGIERI - CROSS 2 Q. And Mr. Bolan hadn't issued any 3 upgrades of athena stock at this point? 4 A. No. 5 Q. So it has to be something else that's</p>

	<p>6 causing this move in the market; correct? 7 A. Right.</p> <p>Ruggieri Tr. 2567:13-2568:7; JR-REB 81; JR 134.</p>
299.	<p>Ruggieri maintained an overnight position because he thought the stock would continue to go up.</p>
	<p>24 Q. So why did you keep the shares on the 25 7th overnight? Why not sell out? 2571</p> <p>2 A. Because the stock was working. We had 3 made money and I felt like the stock was going 4 to continue to go higher.</p> <p>Ruggieri Tr. 2570:24-2571:4.</p>
	<p>On February 8, 2011, before the market opened, Ruggieri forwarded Bolan's upgrade of ATHN to Brown and Mackle.</p>
	<p>JR-REB 3.</p>
300.	<p>Just after the market opened on February 8, Brown asked Ruggieri about his profitable trade in ATHN. Ruggieri told him "Bruce and I both long." Brown responded: "Nice. What I wanted to hear."</p>
	<p>24 Q. Matt Brown has got the upgrade in his 25 inbox, your position on his screen, he sees you</p> <p>2576</p> <p>1 RUGGIERI - CROSS 2 made money and you tell him what? 3 A. I told him it was a position. 4 Q. And then what? 5 A. "Bruce and I both long." 6 Q. And what does that mean? 7 A. That Bruce and I both long the stock. 8 We had -- I assume that meant Bruce -- he had 9 some theoretical book or something he did. He 10 put some positions in a spreadsheet once in a 11 while and kept track of the performance, but --</p>

	<p>12 or it could have meant Bruce and I discussed 13 this, this was our position. We discussed the 14 thesis and I didn't want to take credit for it 15 all myself. 16 Q. And you and Bruce, we saw in the 17 January 18th IM that you were e-mailing him</p> <p>18 about Bolan being bulled up and about physician 19 practices improving; isn't that right? 20 A. Yes. 21 Q. And Mr. Brown responded: 22 "Nice. What I wanted to hear." 23 A. That's right. 24 Q. So Mr. Brown, e-mail, it's in his 25 inbox that there's an upgrade. He sees it,</p> <p>2577</p> <p>1 RUGGIERI - CROSS 2 you've made money. You told him you're long, 3 and he says: "Nice. What I wanted to hear."</p> <p>Ruggieri Tr. 2575:24-2577:3; JR 139.</p>
301.	<p>Mackle also had a long position in ATHN prior to the upgrade.</p>
	<p>7 Q. Did you have any position in athena on 8 or about February 8th in your fantasy trading 9 book? 10 A. It seems based on this that I did.</p> <p>Mackle Tr. 3256:7-10; JR 139.</p>
302.	<p>On February 8, 2011, ATHN stock price opened at \$48.74 closed at \$48, on volume of 1,037,600 shares, after closing at \$46.13 the day before.</p>
	<p>JFOF ¶ 140.</p>
303.	<p>Brown believed that Ruggieri's ATHN trade was a reasonable one.</p>
	<p>17 Q And based on your experience as a 18 trader and as Joe's boss, do you believe that</p>

	<p>19 this Athena trade was a reasonable trade? 20 A I do.</p> <p>Brown Tr. 1070:17-20.</p>
304.	<p>Many of Ruggieri's clients were short ATHN and were unhappy about Bolan's upgrade.</p>
	<p>5 Q. Now, didn't, in fact, the upgrade turn 6 out to be controversial? 7 A. Sure did. 8 Q. How so? 9 A. Got a lot of nasty feedback from 10 clients who were short the stock. 11 MR. RYAN: If we could turn to JR 135, 12 the middle e-mail. 13 BY MR. RYAN: 14 Q. You sent an e-mail that morning to 15 Lesley Kelly and Paul Lee. 16 Who are they? 17 A. Lesley Kelly is the head of the desk 18 at Visium Funds, V-I-S-I-U-M. 19 It's a large healthcare dedicated 20 hedge fund, and Paul Lee and Justin Lee were 21 traders there, too. 22 Q. Were they short athena? 23 A. Yes. 24 Q. And you forwarded them the upgrade, 25 didn't you?</p> <p>2578</p> <p>1 RUGGIERI - CROSS 2 A. Yes, I did. 3 Q. What did you said to them? 4 A. I said: "I know this probably won't 5 be popular one there. Think Bolan in your 6 office today. Meeting with Kevin, Ted, et 7 cetera." 8 MR. RYAN: If we could go to 137, 9 which is the continuation of that exhibit we're 10 just looking at now. 11 BY MR. RYAN: 12 Q. Lesley Kelly responds to you -- 13 A. "No, def not" -- "definitely not."</p>

	<p>14 Q. Mr. Bolan is not going to be too 15 popular in their office? 16 A. Right. 17 Q. And you forwarded it to Mr. Bolan; 18 correct? 19 A. Yes. 20 Q. And Bolan responded to you: 21 "Dude, I don't want to go in there." 22 Do you see that? 23 A. Yes. 24 Q. What did you respond? 25 A. I said -- I laughed:</p> <p>2579</p> <p>1 RUGGIERI - CROSS 2 "Ha ha. I could have told you that, 3 Bro. Good timing. Stand up. Be a man. It's 4 controversial. Love it. Kevin is a good dude. 5 Harmless. 6 "I can't wait to hear how this goes. 7 And FYI, sounds like their dipping toes in CROs. 8 Traders been asking about PRXL, et cetera. Get 9 in there." 10 Q. I don't see you thanking him here for 11 his great tip. 12 Is that because he didn't tip you? 13 A. That's right. 14 Q. And then what does he respond? 15 A. He says: "Yeah, yeah. I'm all over 16 it. Just going to be watching over my shoulder 17 the whole time I'm in that office. I feel like 18 an outlaw dodging a lynch mob." Mackle Tr. 2577:5-2579:18; JR 135, 137.</p>
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g) BRKR

305.	BRKR is the ticker symbol for Bruker, a Life Science Tools diagnostics company.
	<p>14 Q. Bruker, what is Bruker? 15 A. Bruker is a life sciences tools 16 diagnostics company.</p> <p>Ruggieri Tr. 2586:14-16.</p>
306.	Ruggieri traded BRKR in a principal capacity approximately 100 days while at Wells Fargo.

	JFOF ¶30.
307.	On March 29, 2011, after the market closed, Bolan initiated coverage of BRKR with an outperform rating.
	JFOF ¶168.
308.	Prior to initiating coverage in BRKR, Bolan had never issued a research report about any Life Sciences company.
	12 Q. Prior to that, had he ever issued any 13 report on any company in the life sciences 14 space? 15 A. No. Ruggieri Tr. 2600:12-15.
309.	Evans testified that, at the time of the BRKR report, Bolan's research was "virtually irrelevant" in the Life Science tool sector.
	14 Q And you also told the Division that 15 Mr. Bolan was virtually irrelevant in a life 16 science tool sector; isn't that right? 17 A Yes. 18 Q And, again, "virtually irrelevant", 19 your words, correct? 20 A Correct. Evans Tr. 1284:14-20.
310.	According to Brown, an initiation of coverage by an analyst who had never covered the space would not be impactful.
	6 Q What if the analyst had never issued 7 any report in the entire space? 8 A I wouldn't think that it would be too 9 impactful. Brown Tr. 1056:6-9.

311.	Beginning on March 23, Ruggieri purchased 5,000 shares of BRKR per day for five consecutive days.
	JFOF ¶¶ 149, 152, 156, 162, and 167.
312.	Brown testified that if Ruggieri were planning to trade on the basis of the release of the BRKR initiation of coverage, he would have had bigger positions and he would not take the market risk days ahead of time.
	<p>15 A Well, I wouldn't expect him to do it, 16 but if he were planning on doing it, I would 17 have bigger positions and I wouldn't take the 18 market risk days ahead of time.</p> <p>Brown Tr. 1059:15-18.</p>
313.	Ruggieri forwarded the BRKR initiation of coverage to Brown.
	JR-REB 97
314.	The BRKR trade was made within a week of Wells Fargo's compliance investigation so it was clearer in Ruggieri's memory.
	<p>20 Q. The Bruker trade came in very close 21 proximity to your interview with Wells Fargo and 22 its counsel; correct? 23 A. Correct. 24 Q. The Bruker trade occurred on the 29th, 25 and you were interviewed within a week or two;</p> <p>2590</p> <p>1 RUGGIERI - CROSS 2 correct?</p> <p>3 A. Correct. 4 Q. So this trade was fresh in your mind? 5 A. Yes. 6 Q. So you have a little bit more clear of 7 a memory of why you made this trade; is that 8 correct?</p>

	<p>9 A. That's correct. Looking back at some 10 of the documents, it refreshed my memory of what 11 happened in that month -- a few-week span.</p> <p>Ruggieri Tr. 2589:20-2590:11.</p>
315.	<p>Ruggieri attended a client dinner at a healthcare conference in Washington, D.C. approximately two weeks prior to trading in Bruker, and Bruker had been a client's favorite long for the next year.</p>
	<p>12 Q. What had happened prior to your 13 purchase of Bruker? 14 A. I remember attending a conference, it 15 was another toxicology conference in D.C., 16 Washington, D.C. I think at the time, a couple 17 of weeks prior, and we had a dinner with a 18 consultant, unrelated to Bruker. It was about 19 probably CROs or something. 20 But there were probably 10 or 15 21 clients there, and we had drinks beforehand, and 22 I remembered there was a client there -- as we 23 usually do, having cocktails, you talk about 24 ideas and favorite longs and shorts, and it 25 stood out to me that Bruker was their favorite</p> <p>2591</p> <p>1 RUGGIERI - CROSS 2 long for the next, you know, twelve months or 3 so, and had the best growth of any stock in the 4 space. 5 And that stood out to me, and I 6 remember coming back -- I think it's something 7 that I followed up on and did some more work on.</p> <p>Ruggieri Tr. 2590:12-2591:7; JR 112 (Ruggieri Expense Records filtered for City – Washington, D.C.).</p>
316.	<p>Bolan was surprised by the fact that BRKR's share price went up following the initiation and did not credit it to his research report.</p>
	<p>2 Bruker did anything after his upgrade, and let's 3 look -- we're going to look at JR Rebuttal 14. 4 This is an IM on April 1st between Mr. 5 Bolan and Mr. Evans.</p>

	<p>6 Mr. Bolan enters the IM and says "Holy 7 BRKR" -- "Holy Bruker," probably? 8 A. Yes. 9 Q. And Evans responds, "Yeah, I know. 10 I'm a little surprised, actually." 11 And G. Bolan says, "Tactical 12 momentum." 13 Now, the way you described it before 14 is all these analysts love to think they're the 15 cause of the great move in the stock; right. 16 A. Right. 17 Q. And here we have G. Bolan, he's not 18 even tooting his own horn; right? 19 A. Yes. 20 Q. Because he knows he had nothing to do 21 with the change in Bruker's stock price; isn't 22 that correct? 23 A. It looks that way.</p> <p>Ruggieri Tr. 2604:2-23.</p>
317.	<p>When the Division took Ruggieri's testimony in June 2013, no one asked Ruggieri a single question about BRKR.</p>
	<p>21 Q. Did the Division ever ask you about 22 Bruker? Does that refresh your recollection? 23 A. No. It seems they did not.</p> <p>Ruggieri Tr. 2999:20-23.</p>

8. An Experienced Traded Would Never Trade in Advance of the Reports at Issue

318.	<p>Ruggieri viewed analyst research as a way to generate business with clients.</p>
	<p>17 Q. How do you, as a trader, utilize the 18 research to generate commissions? 19 A. Well, it gives us something to talk 20 about, and that's every day we're trying to talk 21 to clients. That's every day. Every day try to 22 generate business, get orders in the door, and 23 it was something to talk to clients about. 24 We're always looking for a data point or 25 something where we can say, "Hey, we've got this</p> <p>2464</p> <p>1 RUGGIERI – CROSS</p>

	<p>2 research out, what do you think?" 3 Or sometimes it was meaningless, but 4 it would at least give us a chance to get on the 5 phone and talk about something else and 6 hopefully get an order out of it.</p> <p>Ruggieri Tr. 2463:17-2464:6.</p>
319.	<p>Ruggieri routinely disseminated all kinds of research to his clients.</p>
	<p>10 A. It's fair to say I disseminated most 11 research. It may not have happened all the 12 time. If there was really reactive, meaningless 13 research, but, again, any chance we got to 14 connect to our clients, I was going to 15 disseminate that.</p> <p>Ruggieri Tr. 2467:10-15.</p>
320.	<p>Ruggieri did not view ratings changes as the only kind of important analysts publications.</p>
	<p>16 Q. Okay. We talked about upgrades and 17 downgrades yesterday in your testimony, and 18 that's why we're here. 19 Did you view upgrades and downgrades 20 as the only kinds of important information in 21 the market? 22 A. No.</p> <p>Ruggieri Tr. 2467:16-22.</p>
321.	<p>Ruggieri would never have based a trading decision on a pending analysts report.</p>
	<p>13 Q. Did traders ever talk to each other 14 about what analysts' reports are going to be 15 like or what analysts are going to do? 16 A. I mean, do we speculate on – you 17 know, the thought maybe crossed somebody's mind, 18 sure. We speculate about a lot of things, 19 whether a buyer -- a client is buying or selling 20 stock, whether a company is going to beat 21 earnings. We talked all the time, but in no way 22 would we ever base a decision to trade on that, 23 no.</p> <p>Ruggieri Tr. 2468:13-23.</p>
322.	<p>Discussions with analysts are one input among many.</p>
	<p>10 Q. So is it fair to say that 11 conversations with Mr. Bolan or other analysts 12 is one input among many? 13 A. Yes, definitely. 14 Q. And what other kinds of inputs are</p>

	<p>15 there? 16 A. Same -- the ones I mentioned. 17 The sentiment, technicals, client 18 feedback, psychology of the stock, how to field 19 liquidity. A lot of different reasons. Ruggieri Tr. 2470:10-19.</p>
323.	<p>When Ruggieri told Bolan that he was "still moving stocks," it was months after their departure from Wells Fargo, and he was doing so to stroke Bolan's ego.</p>
	<p>13 Q. Yesterday you looked at Division 114. 14 This was an e-mail where you said to 15 Mr. Bolan "still moving stocks" and this is 16 August 31, 2011, so Mr. Bolan and you are no 17 longer working together anymore? 18 A. That's correct. 19 Q. Why did you tell Mr. Bolan, "still 20 moving stocks"? 21 A. This is the ultimate kind of 22 stroke-an-analyst-ego thing to say. 23 Every analyst has a high opinion of 24 himself, that he's the reason that stocks are 25 moving. And to tell the analyst: Hey, man, 2484 1 RUGGIERI -- CROSS 2 your stock is up, nice job moving that stock, it 3 makes him feel like: Yeah, that was me doing 4 that. 5 So "still moving stocks," makes him 6 feel like, man, you know, I'm important or I'm 7 doing this. Ruggieri Tr. 2483:13-2484:7.</p>
324.	<p>Brown testified that the importance of an analyst report depends on who the analyst is.</p>
	<p>11 Q. And in your interview, the Division 12 asked you about analyst reports and whether 13 you thought they were market moving and you 14 said you thought that the impact of analyst 15 reports has diminished over time. 16 What do you mean by that? 17 A. I don't recall saying that, but I do 18 think it is true, so I probably did say it. 19 I just think that when most analysts 20 publish something that not all of them have a 21 following. It is analyst specific. So 22 sometimes customers don't even pay attention, 23 the marketplace doesn't pay attention, and the 24 stock doesn't even move.</p>

C. THERE WAS NO BENEFIT

**1. There is No Evidence of a Meaningfully Close Personal Relationship
between Bolan & Ruggieri**

325. Ruggieri did not often socialize with Bolan and never outside of a work context.

19 Q. About how many times each year did you
20 socialize with Mr. Ruggieri while you were employed at
21 Wells Fargo?

22 A. When you say "socialize," you mean talk to or
23 to hang out?

24 Q. Let me clarify that.

25 A. Yeah.

30

1 Q. Good point.

2 Did you socialize with Mr. Ruggieri outside
3 of the workplace while employed at Wells Fargo?

4 A. Yes.

5 Q. How frequently did you socialize with
6 Mr. Ruggieri outside of the workplace while employed at
7 Wells Fargo?

8 A. I'd say probably about three times in 2010,
9 maybe, four times. Three or four times.

10 Q. What about in 2009?

11 A. I'd say probably once, maybe twice.

12 Q. And in 2011?

13 A. I'd say zero, maybe once.

14 Q. Take us through what you did at each of these
15 visits with Mr. Ruggieri.

16 A. Well, we would go to the bar and we would
17 discuss work and we'd discuss family, and we just would be
18 guys.

19 Q. Was it just the two of you?

20 A. Typically, no.

21 Q. Typically, who else was there?

22 A. Other colleagues from Wells Fargo.

23 Q. Who?

24 A. Salespersons.

25 Q. Who?

31

1 A. I don't recall. I can recall a couple of

2 names: David Foerstch at Wells Fargo. It's been a while.

3 I don't recall. Sometimes clients would join us.

4 Q. Did you and Mr. Ruggieri develop a
5 friendship?

6 A. I would say so.

Bolan Tr. (DIV 110) at 29:19-31:6;

9 Q. Have you ever gone fishing with Mr. Ruggieri?

10 A. Yes.

11 Q. When was that?

12 A. I would say it was a striped bass contest.

13 It had to have been sometime in '10, end of '10 or

14 beginning of '11, something like that.

15 Q. Was that a work-related event?

16 A. Yes.

17 Q. Were other folks from Wells Fargo at that

18 event?

19 A. Yes. It was a Wells Fargo-sponsored event.

20 Q. Where did that event occur?

21 A. I think right off Long Island, Long Island

22 Sound.

23 Q. Was everyone on one boat for that event?

24 A. No. There were probably -- I don't even know

25 how many boats. There were a lot of boats.

34

1 Q. Were you on one boat?

2 A. Yes.

3 Q. Who was on your boat?

4 A. Myself, Joe Ruggieri and then another guy,

5 and I don't remember who it was. I think it was a client.

6 Q. Was this event some sort of competition?

7 A. Yes.

8 Q. What was the competition?

9 A. Whoever got the biggest fish won a monetary

10 prize.

11 Q. Were you on any team as part of this event?

12 A. Yes -- well, it was our boat, so the boat is

13 the team.

14 Q. So you, Mr. Ruggieri and one other person?

15 A. Yes. As far as I could remember, yes, it was

16 one other person.

17 Q. I will take Exhibit 40 back from you.

18 A. Okay.

19 (Handed.)

20 Q. Have you ever -- strike that.

21 Have you ever golfed?

22 A. Yes, I golf.

23 Q. Have you ever golfed with Mr. Ruggieri?

24 A. Yes.

25 Q. When?

35

1 A. It was Wells Bridge, Alabama. I'm terrible

2 with dates. I would say probably in '10 sometime, 2010

	<p>3 sometime. 4 Q. Was that a work-related event?</p> <p>5 A. Yes. 6 Q. Were there other folks from Wells Fargo at 7 that event? 8 A. Yes. 9 Q. Did you golf with one other person as part of 10 a pairing? 11 A. We were all together, actually. 12 Q. Who was in your group? 13 A. Me, Joe Ruggieri, Beau Valli (phonetic) at 14 Wells Fargo, David Foerstch at Wells Fargo, some guy I 15 don't know, and then -- and then his name slips me right 16 now, Richard Adams from SAC.</p> <p>Bolan Tr. (Div. 110) at 33:9-35:16.</p>
326.	<p>Ruggieri and Bolan met in person approximately 15 times.</p>
	<p>18 Q. How many times have you met Mr. Bolan 19 in person while you were at Wells Fargo? 20 A. Jeez -- I don't know for sure. I 21 mean, he came to New York to market maybe once a 22 month -- maybe 15 times, something like that, 15 23 times, I'm not sure.</p> <p>Ruggieri Tr. 2471:18-23.</p>
327.	<p>Ruggieri had closer relationships with 10 to 15 other at Wells Fargo colleagues.</p>
	<p>16 I have a question for the respondent. 17 Mr. Ruggieri, how many people, if anyone, at 18 Wells Fargo, during your tenure, did you 19 consider that you were better friends with than 20 your friendship that you noted with Mr. Bolan? 21 THE WITNESS: Plenty. I mean, I think 22 -- you know, I think Chip and Bruce -- I 23 actually hung out with those guys outside of 24 work contacts -- Chip and I had dinner with our 25 wives once, I don't remember when exactly it 2478</p> <p>1 RUGGIERI -- CROSS 2 was, but to just try and build a better 3 relationship. We got drinks together sometimes. 4 You know, some of our sales traders, I 5 mean -- Carla Melman. I dealt with these 6 people. They covered clients. Chris Parker. I 7 mean, there was a handful of guys I worked with 8 at B of A. Chris Parker, Chris Mueller, Gary 9 Ramando (ph.) These guys I had drinks with, 10 went to their house.</p>

	<p>11 Chris Parker and I came over to Wells 12 Fargo together, we came over from Merrill 13 together, we had breakfast together every 14 morning, I met his kid and been to his house. 15 Chris Mueller, you know, went to 16 Carolina. He's 20 years older than me, but I've 17 been to his house before. We've been to 18 Carolina games together. 19 So, you know, if I had to guess, maybe 20 10 or 15.</p> <p>Ruggieri Tr. 2477:16-2478:20.</p>
328.	Ruggieri never visited Bolan in Tennessee.
	<p>16 Q. Did Mr. Ruggieri ever come out to Tennessee? 17 A. No.</p> <p>Bolan Tr. (Div. 110) at 28:16-17.</p>
329.	Mackle discussed visiting Bolan in Tennessee in March 2011.
	<p>13 Q. So you and Mr. Bolan were having a 14 conversation about your coming down to visit him 15 in Tennessee on March 15, 2011? 16 A. I don't know what we were referring 17 to, but that's what it looks like.</p> <p>Mackel Tr. 3312:13-17; JR-REB 244.</p>
330.	Bolan communicated with Ruggieri infrequently after they left Wells Fargo.
	<p>7 Q. Did you continue to communicate with 8 Mr. Ruggieri after you left Wells Fargo? 9 A. Yes. 10 Q. How frequently? 11 A. Infrequently. 12 BY MR. RIELY: 13 Q. How frequently? 14 A. I would say after that, after Wells Fargo, in 15 2011, probably quite a bit for the first couple of months 16 because I was potentially going to go to ISI where he 17 actually found employment. And then it kind of died off 18 after I went to Madison Williams. It's been extremely 19 infrequent since then. 20 BY MR. SATWALEKAR: 21 Q. Did you interact socially with Mr. Ruggieri 22 after you left Wells Fargo? 23 A. Socially? 24 Q. Correct. 25 A. Once after the event happened, after we left</p> <p>32</p>

	<p>1 Wells Fargo, and then after that, no. I think -- oh, one 2 time last year we had drinks. 3 Q. When was that last year? 4 A. Middle of last year, I think. 5 Q. What did you discuss when you met with 6 Mr. Ruggieri in the middle of last year? 7 A. Family and work. 8 Q. What about work? 9 A. "How things going?"</p> <p>Bolan Tr. (DIV 110) at 31:7-32:9.</p>
331.	<p>They communicated "quite a bit" for the first few months after leaving Wells Fargo because Bolan was potentially going to work for ISI where Ruggieri worked. Ruggieri and Bolan's communications "died off" after Bolan went to work at Madison Williams.</p>
	<p>13 Q. How frequently? 14 A. I would say after that, after Wells Fargo, in 15 2011, probably quite a bit for the first couple of months 16 because I was potentially going to go to ISI where he 17 actually found employment. And then it kind of died off 18 after I went to Madison Williams. It's been extremely 19 infrequent since then.</p> <p>Bolan Tr. (Div. 110) at 31:13-19.</p>
332.	<p>Bolan stayed in Ruggieri's apartment for interviews once for three days, but never met Ruggieri's wife.</p>
	<p>7 Q. Have you ever been to Mr. Ruggieri's 8 residence? 9 A. Yes. After I left Wells Fargo, I stayed up 10 here at his apartment for interviews. 11 Q. How long did you stay at his apartment? 12 A. I think like three days. 13 Q. Was he there while you were at his apartment? 14 A. Yes. 15 Q. Have you ever met -- strike that. 16 Have you ever met any members of 17 Mr. Ruggieri's family? 18 A. No. In fact, I never even met his wife. 19 Q. While you stayed at Mr. Ruggieri's apartment, 20 did you spend time together? 21 A. Yes. 22 Q. What did you do? 23 A. Well, went running, got fruit juice and went 24 to dinner, I think. 25 Q. Is this with Mr. Ruggieri?</p> <p>68</p> <p>1 A. Yes.</p>

	Bolan Tr. (Div. 110) at 67:7-68:1.
333.	Bolan stayed at Ruggieri's apartment in order to save on hotel costs while interviewing for jobs in New York City.
	<p>4 Q. You state in the third e-mail down, "Si, 5 yeah, I still have the keys." Is that a reference to 6 having the keys to Mr. Ruggieri's apartment? 7 A. Yes, because I had stayed there once before. 8 Q. When was that? 9 A. Right after the Wells Fargo event, so it 10 would have been probably late April. 11 Q. Why did you stay at Mr. Ruggieri's place in 12 late April? 13 A. Interviewing, to save on a hotel cost.</p> <p>Bolan Tr. (Div. 110) at 71:4-13.</p>
334.	Ruggieri met Bolan's wife once because she happened to be in DC while Bolan and Ruggieri attended a conference that Wells Fargo hosted.
	<p>6 Q. Had Mr. Ruggieri ever met any members of your 7 family? 8 A. He met my wife. 9 Q. When was that? 10 A. March of 2010 or '11, in Georgetown. 11 Q. In DC? 12 A. Yeah. 13 Q. Why did you all meet there? 14 A. I hosted events at a Society of Toxicology. 15 It's a conference that I cover. 16 Q. What was that about? 17 A. Society of Toxicology, it's an industry 18 conference for CROs. 19 Q. Why was your wife there? 20 A. She wanted to vacation and I had to work.</p> <p>Bolan Tr. (Div. 110) at 68:6-20.</p>
335.	Bolan is a loner who doesn't maintain close relationships. This fact was not elicited from Mr. Evans during his deposition or trial testimony.
	<p>22 Q So when you were interviewed by the 23 Division in March of 2013, you told the 24 Division that Mr. Bolan is a loner and he 25 doesn't maintain close relationships; isn't</p> <p>1293 1 Evans – Cross 2 that right? 3 A Yes. 4 Q And later you gave sworn testimony to</p>

5 the Division, and you weren't asked to
6 describe Mr. Bolan's personality or the
7 strength of his friendships; isn't that right?
8 A Correct.
Evans Tr. 1292:22-1293:4-8.

2. There is No Evidence of an Exchange or Quid Pro Quo

336. Ruggieri did not give Bolan positive feedback in exchange for material non-public information.

13 Q. Well, hearing that theory, do you have
14 any basis to believe that when Joe Ruggieri gave
15 you positive feedback about Greg Bolan, that the
16 reason why he provided you with that feedback
17 was because he was doing it in exchange for
18 having received tips from Mr. Bolan?
19 A. I'll answer if I can elaborate.
20 Q. Sure.
21 A. I don't believe that.
22 I do believe that Greg and Joe
23 developed a very close relationship that
24 contained a significant amount of dialogue, more
25 than is -- was normal for our department, and
1558

1 WICKWIRE - CONT'D CROSS
2 that there was a close relationship of two
3 professionals supporting one another. That was
4 my view of it.

Wickwire Tr. 1557:13-1558:4;

12 Q You don't have any reason sitting here
13 today to believe that Mr. Ruggieri would wreck
14 his career by trading on inside information,
15 do you?
16 A I do not.

Bartlett Tr. 1192:12-16;

2 Q. Did you and Mr. Bolan ever get
3 together and make an agreement in which he would
4 give input or advance notice of research
5 reports, and you would give feedback to your
6 bosses for Mr. Bolan in exchange for that
7 report?

8 A. Absolutely not.

9 Q. You never sat together and made an
10 agreement, "Greg, if you could just give me
11 those upgrades and downgrades, I'll tell me boss
12 that you're really good"?

13 A. No, definitely not. That's

	<p>14 ridiculous. 15 Q. Did you ever agree to give Mr. Bolan 16 anything -- 17 A. Absolutely not. 18 Q. -- in exchange for research? 19 A. No. Ruggieri Tr. 2486:2-19.</p>
337.	<p>Bolan didn't know that any of the positive feedback from sales or trading factored into the determination to promote him.</p>
	<p>10 Q. Did feedback from Wells Fargo's trading desk 11 factor into the determination to promote you? 12 A. I was not aware that it did, but I'm looking 13 at the review here and it looks like it did. Bolan Tr. (Div. 110) at 66:10-15.</p>

3. Bolan Would Have Been Promoted Without Ruggieri's Feedback

338.	<p>The stocks that Bolan covered were among the top stocks that Ruggieri traded.</p>
	<p>23 And of the top ten commissioned stocks 24 that I traded, Greg's stocks were probably three 25 or four of them, which is unheard of, given 2390 1 RUGGIERI – CROSS 2 these stocks, but that's because clients knew 3 that we traded a ton of these stocks. I knew 4 who the buyers and sellers were. I knew the 5 drivers of these stocks. I knew the space 6 better than any that I've traded in my career. Ruggieri Tr. 2389:23 – 2390:6.</p>
339.	<p>When Short joined the health care desk, Graichen kept all of the stocks Bolan covered.</p>
	<p>11 Q. Before Mr. Graichen switched his 12 position in 2009, did you have any understanding 13 from Mr. Graichen as to what his views were 14 regarding the healthcare analysts at Wells 15 Fargo, and, in particular, Mr. Bolan? 16 A. I don't remember specifically. 17 I know he thought enough of Greg to 18 want to keep his space under him. 19 I don't know whether he had been with 20 him since he rolled out and they had developed a 21 dialogue or relationship, but he wanted to keep 22 those names. Short Tr. 3339:11-22.</p>

340.	When Ruggieri joined the desk he was told that Bolan was an excellent analyst.
	<p>15 I remember when I got to the desk and 16 talked to Chip, it may have been Dave Graichen, 17 who was a former trader, I kind of got a lay of 18 the land of the analysts and their perspective, 19 and I remember them saying, "You're going to 20 love Greg Bolan. He's just an animal. He's 21 great. He's great with clients. He knows his 22 stocks. He really -- he cares." 23 And I discovered that on my own pretty 24 quickly. 25 Q. When you described -- they said he's</p> <p>2452</p> <p>1 RUGGIERI -- CROSS 2 really an animal, what did they mean by that? 3 A. It means he's thinking about his 4 stocks a lot, he's talking to clients a lot, 5 he's proactive, he's young, he's hungry. Same 6 characteristics. 7 Q. So before you ever met him, you had 8 already heard really positive feedback about Mr. 9 Bolan? 10 A. Yes.</p> <p>Ruggieri Tr. 2451:13-2452:10.</p>
341.	Based on working with him, Short had formed the impression that Bolan was viewed positively and was good in his space.
	<p>5 And you testified that you knew 6 overall that Mr. Bolan was looked at positively 7 and that he was good in his space; isn't that 8 right? 9 A. Yes. 10 Q. You had formed that impression of him 11 because you had worked with him, even though it 12 wasn't directly on the stocks that you covered, 13 you did have a chance to work with Mr. Bolan 14 during your tenure at Wells Fargo; correct? 15 A. Yes.</p> <p>Short Tr. 3418:5-15; JR-REB 226.</p>
342.	Short described Bolan as a cash cow for Wells Fargo because when Bolan went and saw a client, a client gave Wells Fargo orders.
	<p>16 Q. Focus on the last few sentences, if 17 you could follow me, if you can see where you 18 wrote: "Bolan marketing around town definitely</p>

	<p>19 doesn't hurt either. He's a cash cow. Talk 20 soon. I'm trained to gain. Get some rest." 21 Did I read that accurately? 22 A. Yes. 23 Q. When you referred and characterized 24 Mr. Bolan as a "cash cow," what did you mean? 25 A. Meaning that when he went and saw 3436 1 SHORT – CROSS 2 someone, people gave us orders off that 3 generally. 4 Q. And you were aware of that generally 5 during your tenure at Wells Fargo, that Mr. 6 Bolan helped generate revenues for Wells Fargo; 7 correct? 8 A. Yes. I mean, it appears here from 9 what I just read, yes. Short Tr. 3435:16-3436:9; JR-REB 232.</p>
343.	<p>Graichen told Bartlett, Schumaker and Wickwire that Bolan was the most trader friendly analyst he had ever worked with.</p>
	<p>6 Q. And Mr. Graichen goes on to write: 7 "Chris, I just wanted to let you know that Greg 8 Bolan has far and away been the most 9 trader-friendly analyst that I've had the 10 pleasure to work with on the position desk. 11 "I am unaware how they are paid on a 12 percentage of our trading revenues, but he has 13 in the past three months provided me with some 14 very nice trade ideas, and has been directly 15 involved in the healthcare pad, making some nice 16 prop bets that resulted in the desk making 17 money. 18 "I felt that before transitioning to 19 the role of coverage trader, I wanted you to be 20 aware of the solid work Greg is doing, and that 21 he has been very helpful to me and Chip Short." 22 "Thanks, Dave." 23 Do you see that? 24 A. I do, yes. Short Tr. 3450:6-24; JR-REB 217.</p>
344.	<p>Mr. Short does not disagree with the positive feedback of Bolan by Graichen.</p>

	<p>7 Q. And you, sitting here today, have no 8 reason to disagree with Mr. Graichen's positive 9 feedback of Mr. Bolan as of July 1, 2009? 10 A. I don't have any reason to disagree.</p> <p>Short Tr. 3451:7-10.</p>
345.	<p>In June 2010, Short encouraged clients to vote for Bolan, among other analysts.</p> <p>JR-REB 216; 230.</p>
346.	<p>Ruggieri thought Bolan was a good analyst.</p> <p>13 Q. He was a good analyst? 14 A. Yes. 15 Q. And why was he a good analyst? 16 A. For those reasons. He had great 17 client relationships. He was proactive. 18 He made -- you know, his little niche 19 sector of stocks, he knew the stocks well, he 20 knew the drivers, and -- he helped give me 21 something to talk to clients about that was 22 relevant that helped us drive commission 23 revenue.</p> <p>Ruggieri Tr. 2452:13-23.</p>
347.	<p>When Ruggieri met with Wickwire, he did so to try and build the healthcare franchise. He used Bolan as an example of an analyst who had a great feel for trading.</p> <p>13 And I did talk to him at least on one 14 or two occasions about best practices, so 15 something I thought that all analysts, not just 16 healthcare, could benefit from, and talked about 17 even doing a teaching with research, sales and 18 trading about the practice of keeping 19 salespeople and traders in the loop when you 20 have conversations with clients, so everybody's 21 in the flow and can help monetize that 22 commission business. 23 Q. And so what was your purpose then in 24 bringing out Mr. Bolan at these meetings with 25 Mr. Wickwire?</p> <p>2459 1 RUGGIERI - CROSS 2 A. The purpose was, Mr. Bolan put this in 3 practice and it was helping us drive more 4 commission business in his stocks. I felt it 5 was something that could be replicated to, not</p>

	<p>6 just analysts and healthcare, which we did and 7 some started doing, I think, but also other 8 sectors, because I felt it was something that 9 the firm could do. 10 Q. And Mr. Bolan, over and above other 11 analysts, seemed to have a real feel for 12 trading; is that correct? 13 A. Yes.</p> <p>Ruggieri Tr. 2458:13-2459:13.</p>
348.	<p>When Ruggieri met with Wickwire, Bolan was not the only analyst he spoke about.</p>
	<p>5 Q. So when you met with Mr. Wickwire to 6 talk about the overall research franchise, did 7 you talk to him? Was Greg Bolan the only 8 analyst you ever discussed? 9 A. No, of course not. I think we talked 10 about the franchise and who was doing well and 11 -- with respect to MedTech, which is one of 12 these e-mails I think was about, that was 13 probably one of the conversations.</p> <p>Ruggieri Tr. 2461:5-13.</p>
349.	<p>Ruggieri knew nothing about the promotion process for analysts.</p>
	<p>14 Q. What did you know about the promotion 15 process for an analyst? 16 A. I didn't know anything about the 17 promotion process for analysts. 18 MR. RYAN: We could take down the 19 exhibit. Thank you. 20 A. I didn't know anything about the 21 promotion process for analysts.</p> <p>Ruggieri Tr. 2484:14-21.</p>
350.	<p>Ruggieri did not know how his quarterly feedback of analysts was used.</p>
	<p>7 As far as I was concerned, the 8 quarterly feedback that we gave, I don't even 9 know how that was used, if it was used towards a 10 performance review or what, but as far as an 11 analyst getting promoted, I had no idea how the 12 process was handled.</p> <p>Ruggieri Tr. 2485:7-12.</p>
351.	<p>Ruggieri did not know Bolan was up for a promotion to director.</p>
	<p>13 Q. Did you know when Mr. Bolan was up for</p>

	<p>14 a promotion? 15 A. No.</p> <p>Ruggieri Tr. 2485:13-15.</p>
352.	<p>Ruggieri never knew analyst scorecards existed.</p>
	<p>10 Q. Did you know there was such a thing as 11 an analyst scorecard, in which trader feedback 12 played 5 percent of a role in the process? 13 A. No. I knew there was this rank that 14 analysts got, sales rank or something, but I 15 have no idea how the process was.</p> <p>Ruggieri Tr. 2487:10-15.</p>
353.	<p>Bolan had a meteoric rise at Wells Fargo.</p>
	<p>17 THE WITNESS: His franchise was 18 continuing to develop. We were getting a lot of 19 positive feedback from sales, from sales 20 trading, from position trading. His star was 21 really rising from clients that I talked to, 22 other directors of research. Investor accounts 23 would cite him as somebody that was being 24 incredibly helpful, so he really was on a pretty 25 meteoric rise throughout 2010.</p> <p>Wickwire Tr. 1547:17-25.</p>
354.	<p>16 of the 24 members of the committee had to vote in favor of the candidate to get through the promotion process.</p>
	<p>20 Q How did the committee decide who to 21 promote? 22 A We had a day-and-a-half off-site where 23 people presented each candidate pretty 24 deliberately, and then we would have a vote, 25 and that vote required a two-thirds majority 1 Bartlett - Direct 2 to promote. 3 Q And, in other words, two-thirds of the 4 members of the committee? 5 A Had to vote in favor of the candidate 6 to get through, yes.</p> <p>Bartlett Tr. 1170:20-1171:6.</p>
355.	<p>Short gave Bartlett positive feedback about Bolan.</p>
	<p>11 Q Did Chip Short at any point in time 12 give you any positive feedback about Greg</p>

	<p>13 Bolan? 14 A Yes.</p> <p>Bartlett Tr. 1188:11-14.</p>
356.	<p>Short discussed analyst feedback with Ruggieri and Mackle.</p> <p>18 Q. By the way, did you give any feedback 19 requested by the research department on the 20 analysts? 21 A. I don't remember having ever done it 22 directly. 23 I know that that was something that 24 Joe, Bruce and myself discussed from time to 25 time. We do these surveys within our business 3399</p> <p>1 SHORT - DIRECT 2 or within our department where we rank the sales 3 traders; and the sales traders, they evaluate 4 us. 5 I shouldn't say "rank." We evaluate 6 each other, and I recall having to do that with 7 the analysts at some point. 8 I don't know -- I don't remember if I 9 had to fill an official evaluation out or if it 10 was something we met with us three and discussed 11 it or not. I don't recall.</p> <p>Short Tr.3398:18-3399:11.</p>
357.	<p>Bartlett gave positive feedback to Wickwire based on his own impressions of Bolan.</p> <p>17 Q And how about yourself, was the 18 positive feedback that you gave to 19 Mr. Wickwire, for example, was that based at 20 all on your own impressions of Mr. Bolan? 21 A Yes, it was. 22 Q Mr. Bolan, in fact, would send 23 information, or at least cc you information at 24 times; isn't that right? 25 A At times, correct.</p> <p>1 Bartlett - Cross 2 Q And so you viewed him as a proactive 3 analyst. 4 Isn't that fair to say? 5 A Absolutely. 6 Q And, in fact, you told Mr. Wickwire 7 that Mr. Bolan was the example in terms of 8 analysts; isn't that right? 9 A I can't recall saying that exactly,</p>

	<p>10 but I'm sure I had conversations in that tone, 11 correct, yes.</p> <p>Bartlett Tr. 1189:17-1190:11.</p>
358.	<p>To the extent the four people on page one of the Director Nomination form who interviewed Bolan had less than positive feedback, it would impact whether a candidate would be successful. None of those four people had any dotted line connection to Ruggieri.</p>
	<p>16 So Division 27, can you pull that up 17 for him. It's there. 18 That section at the bottom, my 19 understanding is that's three or four managing 20 director level references. 21 Did they have to list one of them 22 outside of the candidate's is that line of 23 business? 24 THE WITNESS: Correct. 25 THE COURT: Okay. And so what is 1 Bartlett - Cross 2 the significance of -- 3 THE WITNESS: So I know where your 4 question is going. 5 So part of the process for promotion 6 was to get a cross section of opinions and 7 feedback on a candidate. And we didn't want 8 to have just feedback from a candidate's 9 direct line of business. Part of reaching the 10 level of managing director, meaning you had to 11 have an impact outside of just your immediate 12 area. 13 So this is consistent with every 14 application. We would have gone to -- the 15 sponsor would go to four or five outside 16 parties, senior people, and ask their opinion 17 of this candidate. 18 So in this case, Beau Volley, 19 institutional senior salesman, followed by 20 these other folks in the other areas, would 21 have been interviewed by the sponsor. Their 22 feedback would have been included in the book 23 that would have then been part of the data 24 that was delivered to the executive committee, 25 promotion committee at that off-site. And 1 Bartlett - Cross 2 that would have an impact clearly on the 3 candidacy. 4 So to the extent that any of those 5 members delivered less than positive feedback,</p>

	<p>6 it would impact whether or not a candidate 7 would push through.</p> <p>Bardien Tr. 1194:16-1196:7;</p> <p>16 THE COURT: Those two people who 17 worked for you, did they have any sort of 18 reporting relationship, dotted line to Joe 19 Ruggieri and his group or were they doing 20 totally separate work? 21 THE WITNESS: They were doing 22 separate work. They would have reported to 23 Jeff Snyder, the head of international sales 24 and sales trading</p> <p>Bartlett Tr. 1196:16-24.</p>
359.	<p>The positive feedback given by Ruggieri about a half dozen times was part of the encouraged regular dialogue. The salesmen would also give feedback on Bolan. Feedback came from multiple sources.</p>
	<p>6 Can you sort of describe for me 7 among all the people who worked for you what 8 the frequency was where you would hear people 9 making giving similar, loosely similar 10 positive feedback about analysts, for example? 11 THE WITNESS: It was a regular 12 dialogue. So we encouraged open dialogue 13 about who was helping and who wasn't helping, 14 and it was not just in my purview. It wasn't 15 just the traders. The salesmen, something 16 that you saw on that list there, they would 17 give feedback on Greg Bolan or other analysts 18 as well. 19 So the feedback came in not just 20 from the trading desk, but from the division 21 in total. The feedback came from multiple 22 sources about the risk, whether it was Chip 23 Short, who was part of Joe's team, or other 24 folks in the Division would talk positively 25 about Greg.</p> <p>Bartlett Tr. 1197:6-25.</p>
360.	<p>Beau Volley, a senior salesman, had a very favorable impression of Bolan.</p>
	<p>5 THE WITNESS: Yes, Beau Volley, you 6 saw him there, who was a senior salesman, 7 would have had a very favorable impression of 8 Greg Bolan.</p>

	Bartlett Tr. 1198:5-8.
361.	For someone like Volley to come to him and praise Bolan would be typical.
	<p>9 THE COURT: So would it be common or 10 typical for someone like Beau Volley to come 11 up to you and praise Greg Bolan, or would that 12 be unusual or atypical? 13 THE WITNESS: That would be typical.</p> <p>Bartlett Tr. 1198:9-13.</p>
362.	Short gave Wickwire positive feedback about Bolan.
	<p>4 Q. Now, during the time that Mr. Bolan 5 was there, what senior traders were relevant to 6 giving feedback to you and Mr. Pearlstein 7 regarding Mr. Bolan's work as an analyst? 8 A. The specific traders? 9 Q. Yes. 10 A. Joe Ruggieri, Chip Short, and I don't 11 recall who the third trader was.</p> <p>Wickwire Tr. at 1391:4-11.</p>
363.	Wickwire received positive feedback from Bartlett and Snyder.
	<p>5 Q. And in terms of getting feedback 6 regarding your analysts, did you ever get 7 feedback from Mr. Bartlett? 8 A. Yes. I'd like to clarify something, 9 if I could. 10 Upon Mr. Bartlett's departure, Mr. 11 Snyder took on a more senior role, but during 12 that time when Mr. Bartlett was in place, that 13 similar feedback would come from both Mr. 14 Bartlett and Mr. Snyder around the positive 15 feedback on Mr. Bolan.</p> <p>Wickwire Tr. 1393:5-15;</p> <p>4 Q. And in terms of feedback from the 5 trading department, whose feedback in particular 6 did you rely on? 7 A. Again, it would have been feedback 8 that I was receiving from Mr. Bartlett and Mr. 9 Snyder, the feedback they were providing for Mr. 10 Ruggieri and his team.</p> <p>Wickwire Tr. 1401:4-10.</p>

364.	<p>Bolan was universally well-regarded at Wells Fargo.</p> <p>9 Q. Which is that pretty much everyone had 10 great things to say about Mr. Bolan; isn't that 11 right? 12 A. Yes, including me. 13 Q. Including you, the person who hired 14 him to begin with. 15 Isn't that fair? 16 A. Yes.</p> <p>Wickwire Tr. 1539:9-16.</p>
365.	<p>Bartlett and Brown held Bolan out as the standard among analysts.</p> <p>2 Q. Now, the last sentence is, "They often 3 hold him out as the standard." 4 And you were asked questions under 5 oath about that sentence, and at that time, you 6 said that the basis of the "they" in that 7 sentence was Mr. Bartlett and Mr. Brown and not 8 Joseph Ruggieri; isn't that right? 9 A. Yes.</p> <p>Wickwire Tr. 1555:2-9.</p>
366.	<p>On the director nomination form, when referring to feedback from trading, Wickwire was referring to Bartlett, Brown and Ruggieri.</p> <p>15 Q. I need to go through these questions 16 again to make sure that I get actual evidence 17 into the record, so putting aside your 18 deposition testimony, which I just used to 19 refresh your recollection, do you now have a 20 recollection that when you wrote that you 21 consistently hear from trading that Greg 22 provides great information, is it your testimony 23 that by "trading," you were referring to Mr. 24 Bartlett, Matt Brown and Joseph Ruggieri? 25 A. Yes.</p> <p>Wickwire Tr. at 1554:15-25; DIV 132 (Director Nomination Form).</p>
367.	<p>Bolan was a 4-rated analyst, not three, by the end of 2010.</p> <p>23 I would tell you, for the record, Greg 24 was a 4-rated analyst probably moving his way to 25 a 5, as he was at the end of —</p> <p>1 WICKWIRE - REDIRECT 2 Q. By the end of 2010? 3 A. Correct.</p>

	Wickwire Tr. 1576:23-1577:3.
368.	Trading impact only accounted for 5% of an analyst's evaluation.
	25 Q. Now, trading impact, what percentage 1 WICKWIRE - CONT'D CROSS 2 does that garner of this scorecard? 3 A. 5 percent. Wickwire Tr. 1519:25-1520:3.
369.	Bolan was the third ranked analyst by trading impact in January 2010.
	4 Q. And what score did Mr. Bolan receive 5 in the trading impact category? 6 A. Yes. it wouldn't be his score, it 7 would be his ranking. He was ranked number 3. Wickwire Tr. 1525:4-7.
370.	Bolan would have been promoted to Director regardless of the positive feedback that he received from Ruggieri.
	19 To get promoted to managing director, 20 it would have to be a 4 or a 5. But a director 21 promotion, much like a VP promotion, there's a 22 lot of time and title, three years if you're 23 doing your job and you're having some success, 24 you can pretty much be assured you'll make it to 25 director, as long as you're not a 2. Wickwire Tr. 1548:19-25. 7 THE COURT: Earlier I was asking about 8 the scorecards and the rank going from 3 to 1 in 9 trading impact. 10 If you can say, how much of a 11 difference would it have made to the director 12 nomination if Mr. Bolan had remained at the 13 number 3 in trading impact -- 14 THE WITNESS: Very little, very 15 little. 16 THE COURT: Without that jump, would 17 he still have gotten -- 18 THE WITNESS: Yes, still have gotten 19 promoted, yes. Wickwire Tr. 1549:7-19.

D. RUGGIERI IS CREDIBLE

1. Ruggieri Was a Respected Trader

371.	Ruggieri was one of Wells Fargo's best traders.
	<p>15 Q What was your impression of Mr. 16 Ruggieri while he was there? 17 A He was one of our senior traders, and 18 was well-respected by his peers and was very 19 well-respected by the Street as being an 20 expert in his field. 21 Q And how did his performance compare to 22 other Wells Fargo equity traders? 23 A It was at the high end. 24 Q In other words, he was one of the 25 best? 1 Bartlett - Direct 2 A He was. Bartlett Tr. at 1161:15-1162:2; 17 Q Now, just before he was terminated, 18 how would you describe his performance as a 19 trader compared to the other equity traders at 20 Wells Fargo? 21 A He was one of our top producers and 22 was held out to be one of the better traders 23 in the Street as well. Bartlett Tr. at 1183:17-23; 23 THE COURT: Did you work long enough 24 with Mr. Ruggieri to be able to develop an 25 opinion about his character, integrity and 3408 1 PROCEEDINGS 2 professionalism in the securities industry? 3 THE WITNESS: I thought Joe was a good 4 trader. Very on top of his space. He loved his 5 job. 6 He was a workaholic in the sense that 7 he spoke about the e-mails that he would send 8 out on his BlackBerry at night and whatnot, you 9 know, and Bruce and I would joke with him and 10 ask him if he ever slept. Things of that 11 nature. 12 I thought he was, as far as I saw,</p>

	<p>13 professional, you know, never disrespectful to 14 myself or anything.</p> <p>Short Tr. 3407:23-3408:14;</p> <p>22 Q. What was your impression of him? 23 A. That he was a very good trader; that 24 he was aggressive; that he enjoyed working 25 closely with the analysts; that he was viewed by 1 WICKWIRE - CONT'D CROSS 2 Matt Brown and Jeff Snyder as sort of the model 3 sector trader; and that some of the processes he 4 was trying to put in place or ones that they 5 wanted us to consider moving out to all of the 6 different sectors.</p> <p>Wickwire Tr. 1498:22-1499:6.</p>
372.	Wickwire recommended Ruggieri's promotion to Managing Director.
	JR-RFB 87.

2. No One Questioned Ruggieri's Integrity

373.	Short never had any concerns about Ruggieri's compliance with Wells Fargo's policies.
	<p>15 THE COURT: What concerns, if any, did 16 you ever have about Mr. Ruggieri's compliance or 17 noncompliance with Wells Fargo's policies during 18 his tenure? 19 THE WITNESS: I don't recall ever 20 having any concerns. 21 Again, more concerned with my own 22 behavior and focusing on my own list of stocks. 23 I don't recall having any concern.</p> <p>Short Tr. 3408:15-23.</p>
374.	Mackle had no questions about Ruggieri's honesty or integrity.
	<p>14 THE COURT: From the time you started 15 at Wells Fargo up until the time before you 16 learned that Mr. Ruggieri would be dismissed, 17 what concerns, if any, did you ever have about 18 Mr. Ruggieri complying with Wells Fargo's 19 policies? 20 THE WITNESS: I never had any specific 21 concerns. 22 THE COURT: And the same question with 23 with respect to Mr. Bolan: Up until the time</p>

	<p>24 you learned that Mr. Bolan would be dismissed, 25 set aside any friction that you two would have</p> <p>3262 1 MACKLE - CONT'D DIRECT 2 had, what concerns did you have about Mr. Bolan 3 following Wells Fargo's policies? 4 THE WITNESS: Again, I can't -- I 5 can't think of anything specifically. 6 THE COURT: Up until the time that you 7 heard that Mr. Ruggieri was being dismissed, did 8 you know Mr. Ruggieri well enough to have an 9 opinion about his character and integrity in the 10 industry? 11 THE WITNESS: Yes. 12 THE COURT: Would you describe that 13 opinion for me? 14 THE WITNESS: He was clearly well 15 regarded by peers within Wells Fargo, and we 16 also had a lot of colleagues that had worked 17 with him at previous firms, or firm, who, of 18 course, held him equally in high regard, and I 19 think the analysts that we worked with, the 20 salespeople, all, generally speaking, from what 21 I saw, shared the same opinion. 22 THE COURT: And without regard to all 23 those other peoples's opinions, what was your 24 own opinion with regard to his character and 25 integrity in the securities profession?</p> <p>3263 1 MACKLE - CROSS 2 THE WITNESS: I would agree with what 3 I said about -- the integrity, as far as I could 4 tell, nothing to question. 5 And, you know, I think his reputation, 6 as far as I could tell from working with him 7 closely, there was nothing to raise eyebrows or 8 be concerned about.</p> <p>Mackel Tr. 3261:14-3263:8.</p>
375.	No client ever questioned Ruggieri's integrity.
	<p>22 Q Did any client ever question Mr. 23 Ruggieri's integrity? 24 A No, they did not. 25 Q Or his ethics?</p>

	<p>1 Brown - Cross 2 A No.</p> <p>Brown Tr. 1027:22-1028:2.</p>
376.	Brown does not question Ruggieri's integrity.
	<p>12 Q Now, Mr. Brown, is it fair to say as 13 you sit here today you want to believe in Mr. 14 Ruggieri, right. 15 A I do believe in Mr. Ruggieri, yes.</p> <p>Brown Tr. 1088:12-15.</p>

II. PROPOSED CONCLUSIONS OF LAW

377.	The Division must prove each element of a cause of action by a preponderance of the evidence.
	Parties' Pre-trial Joint Stipulated Conclusions of Law ("COL") ¶1 (citing <i>Steadman v. SEC</i> , 450 U.S. 91, 102-03 (1981); <i>Thomas C. Gonnella</i> , Initial Decision, Rel. No. 706, 2014 WL 5866859, at *1 (Grimes, A.L.J.) (citing <i>Steadman</i>).
378.	Insider trading is a type of securities fraud proscribed by Section 10(b) and Rule 10(b)(5) of the Securities Exchange Act of 1934, 15 U.S.C. §78j(b).
	COL ¶2 (citing <i>Chiarella v. United States</i> , 445 U.S. 222, 226-30 (1980)).
379.	Under the misappropriation theory, "a person commits fraud 'in connection with' a securities transactions, and thereby violates § 10(b) and Rule 10b-5, when he misappropriates confidential information for securities trading purposes, in breach of a duty owed to the source of the information. . . Under this theory, a fiduciary's undisclosed, self-serving use of a principal's information to purchase or sell securities, in breach of a duty of loyalty and confidentiality, defrauds the principal of the exclusive use of that information."
	COL ¶3 (citing <i>United States v. O'Hagan</i> , 521 U.S. 642, 652 (1997)).
380.	The Division must prove that Bolan "(1) tip[ped] (2) material non-public information (3) in breach of a fiduciary duty of confidentiality owed to...the source of the information (misappropriation theory) (4) for personal benefit to [himself]."
	COL ¶5 (citing <i>SBC v. Obus</i> , 693 F.3d 276, 286 (2d Cir. 2012)).
381.	The Division must also prove Bolan's scienter.

	COL. ¶5.
382.	To prove Bolan's scienter, the Division must demonstrate the following: First, the tipper must tip deliberately or recklessly, not through negligence. Second, the tipper must know that the information that is the subject of the tip is non-public and is material for securities trading purposes or act with reckless disregard of the nature of the information. Third, the tipper must know (or be reckless in not knowing) that to disseminate the information would violate a fiduciary duty. While the tipper need not have specific knowledge of the legal nature of a breach of fiduciary duty, he must understand that tipping the information would be violating a confidence.
	COL. ¶6 (quoting <i>Obus</i> , 693 F.3d at 286).
383.	Information becomes public only when disclosed "to achieve a broad dissemination to the investing public generally and without favoring any special person or group," or when, although known only by a few persons, their trading on it "has caused the information to be fully impounded into the price of the particular" security.
	COL. ¶ 8 (citing <i>SEC v. Mayben</i> , 121 F.3d 44, 50 (2d Cir. 1997) (quoting <i>Dirks v. SEC</i> , 463 U.S. 646, 653 n.12 (1983); <i>United States v. Libera</i> , 989 F.2d 596, 601 (2d Cir. 1993)); see also <i>United States v. Royer</i> , 549 F.3d 886, 897-98 (2d Cir. 2008) (finding appropriate a jury instruction stating that "the fact that information may be found publicly if one knows where to look does not make the information 'public' for securities trading purposes unless it is readily available, broadly disseminated, or the like").
384.	Insider trading is not actionable under the antifraud provisions of the federal securities laws based on the mere disclosure or use of material, non-public information, but requires a breach of a duty to disclose, or abstain from disclosing, the information that "aris[es] from a relationship of trust and confidence between parties to a transaction."
	Order, dated February 12, 2015, <i>In the Matter of Bolan & Ruggieri</i> , Release No. 2309, File No. 3-16167 ("Order"), at 1 quoting <i>Chiarella v. United States</i> , 445 U.S. 222, 230, 233-35 (1980).
385.	In order for there to be liability in an insider trading case, there must be a breach of duty by the insider which only happens if the insider benefitted from the disclosure.
	See <i>Order</i> , at 1 quoting <i>Dirks v. SEC</i> , 463 U.S. 646, 662 (1983) ("Absent some personal gain, there has been no breach of duty . . ."); see also <i>SEC v. Obus</i> , 693 F.3d 276, 284-85 (2d Cir. 2012) (a misappropriator violates Section 10(b) by "converting the principal's information for personal gain."); <i>U.S. v. Newman</i> , 773 F.3d 438, 442 (2d Cir. 2014) (holding that "in order to sustain a conviction for insider trading, the Government must prove beyond a reasonable doubt that the tippee knew that an insider disclosed confidential information <i>and</i> that he did so in exchange for a personal benefit")

	(emphasis in original).
386.	The elements of tippee liability are the same in a classical and misappropriation case.
	<i>Order</i> , at 2 (citing <i>Obus</i> , 693 F.3d at 285-86 (“The Supreme Court’s tipping liability doctrine was developed in a classical case, <i>Dirks</i> , but the same analysis governs in a misappropriation case.”); see also <i>Newman</i> , 773 F.3d at 446 (“The elements of tipping liability are the same, regardless of whether the tipper’s duty arises under the ‘classical’ or the ‘misappropriation’ theory.” (citing <i>Obus</i> , 693 F.3d at 285-86))).
387.	The elements of tippee liability are: “(1) the corporate insider was entrusted with a fiduciary duty; (2) the corporate insider breached his fiduciary duty by (a) disclosing confidential information to a tippee (b) in exchange for a personal benefit; (3) the tippee knew of the tipper’s breach, that is, he knew the information was confidential and divulged for personal benefit; and (4) the tippee still used that information to trade in a security or tip another individual for personal benefit.”
	<i>U.S. v. Newman</i> , 773 F.3d 438, 450 (2d Cir. 2015).
388.	<i>Newman</i> is the controlling rule of law in this Circuit.
	<i>United States v. Newman</i> , 773 F.3d 438 (2d Cir.2014), <i>reh’g denied</i> , Nos. 13–1837, 13–1917 (2d Cir. Apr. 3, 2015); <i>U.S. v. Conradt</i> , 12 Cr. 887(AJC), 2015 WL 480419, *1 (S.D.N.Y. Jan. 22, 2015) (characterizing <i>Newman</i> as “the controlling rule of law in the Second Circuit”).
389.	The Division may not prove the receipt of a personal benefit by the mere fact of a friendship, particularly of a casual or social nature.
	<i>U.S. v. Newman</i> , 773 F.3d at 452 (“This standard, although permissive, does not suggest that the Government may prove the receipt of a personal benefit by the mere fact of a friendship, particularly of a casual or social nature.”).
390.	In order to establish benefit, there must be proof of a meaningfully close personal relationship that generates an exchange that is objective, consequential, and represents at least a potential gain of a pecuniary or similarly valuable nature.
	<i>U.S. v. Newman</i> , 773 F.3d at 452.
391.	In order for there to be a personal benefit, there must be a <i>quid pro quo</i> that is material.
	<i>U.S. v. Newman</i> , 773 F.3d at 452; see also <i>S.E.C. v. Peyton</i> , – F. Supp.3d –, 14 Civ. 4644 (SR) 2015 WL 1338954, *4 n.2 (S.D.N.Y. Apr. 6, 2015) (noting that “the <i>Newman</i> decision suggests that the latter type of relationship (i.e. mere friendship) can lead to an inference of personal benefit only where there is evidence that it is generally akin to <i>quid pro quo</i> ”); see also <i>U.S. v. Riley</i> , 13 Cr. 339 (VEC), 2015 WL 891675, *4 (S.D.N.Y. Mar. 3, 2015) (“The existence of some <i>quid pro quo</i> is the <i>sine qua non</i> of tipper liability for insider trading.”).

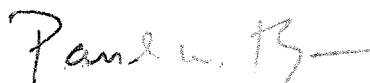
392.	In order for there to be a personal benefit, there must be an exchange.
	<i>U.S. v. Newman</i> , 773 F.3d at 442 (“the Government must prove beyond a reasonable doubt that the tippee knew that an insider disclosed confidential information and that he did so in exchange for a personal benefit”) (emphasis in original); 447 (“the corporate insider has committed no breach of fiduciary duty unless he receives a personal benefit in exchange for the disclosure”); 447-48 (“Dirks counsels us that the exchange of confidential information for personal benefit is not separate from an insider’s fiduciary breach”); 448 (“Thus, without establishing that the tippee knows of the personal benefit received by the insider in exchange for the disclosure, the Government cannot meet its burden of showing that the tippee knew of a breach.”); 449 (same); 450 (same); 452 (same); 453 (same); 455 (same).
393.	In order for there to be a personal benefit sufficient to meet the standard in <i>Newman</i> , there must be some consequence resulting from the exchange of confidential information.
	<i>U.S. v. Newman</i> , 773 F.3d at 452 (“While our case law at times emphasizes language from <i>Dirks</i> indicating that the tipper’s gain need not be immediately pecuniary, it does not erode the fundamental insight that, in order to form the basis for a fraudulent breach, the personal benefit received in exchange for confidential information must be of some consequence.”); <i>see also U.S. v. Riley</i> , 13 Cr. 339 (VEC), 2015 WL 891675, *8-9 (S.D.N.Y. Mar. 3, 2015)(finding that tipper received “three concrete personal benefits”: obtaining (1) help with a side business, (2) investment advice, and (3) help in securing next job).
394.	Career advice or assistance given well before any alleged tipping of inside information negates an inference of a personal benefit.
	<i>Newman</i> , 773 F.3d at 452-53 (“Further, the evidence showed Goyal began giving Ray “career advice” over a year before Ray began providing any insider information. Tr. 1514. Thus, it would not be possible under the circumstances for a jury in a criminal trial to find beyond a reasonable doubt that Ray received a personal benefit in exchange for the disclosure of confidential information.”).
395.	The tippee must know both that the tipper breached a fiduciary duty, and that the tipper benefitted by giving the tip.
	<i>U.S. v. Newman</i> , 773 F.3d at 447 (“Thus, without establishing that the tippee knows of the personal benefit received by the insider in exchange for the disclosure, the Government cannot meet its burden of showing that the tippee knew of a breach.”).
396.	The Division must prove that the tippee intentionally or recklessly traded while in knowing possession of that information.
	<i>Obus</i> , 693 F.3d at 288 (“Thus, tippee liability can be established if a tippee knew or had reason to know that confidential information was initially obtained and transmitted improperly (and thus through deception), and if the tippee intentionally or recklessly

	traded while in knowing possession of that information.”).
397.	Prior to Bolan settling with the Division, this Court ruled only that evidence regarding Bolan’s alleged violations of Wells Fargo internal policies may be relevant to a determination of remedies; this Court did not find that Bolan’s alleged violations was probative as to Ruggieri’s alleged liability, and deferred ruling on whether it was probative of “Respondents’ liability”.
	Order, dated March 18, 2015 at 1.
398.	Securities Act Section 8(A) and Exchange Act Section 21C authorize the Court to impose a cease-and-desist order on any person who has violated any provision of the Securities Act, Exchange Act, or the rules thereunder.
	COL ¶ 10 (citing 15 U.S.C. §§ 77h-1 & 78u-3).
399.	The Commission considers the following factors, often termed the “ <i>Steadman</i> factors,” to determine whether a cease-and-desist order is appropriate: (1) the egregiousness of the violator’s actions, (2) the isolated or recurrent nature of the violations, (3) the degree of scienter, (4) the sincerity of the violator’s assurances against future conduct, (5) the violator’s recognition of his wrongful conduct, and (6) the likelihood that the violator’s occupation will present opportunities to commit future violations.
	COL ¶ 11 (citing <i>Steadman v. SEC</i> , 603 F.2d 1126, 1140 (5th Cir. 1979) (citing <i>SEC v. Blatt</i> , 583 F.2d 1325, 1334 n.29 (5th Cir. 1978)), <i>aff’d on other grounds</i> , 450 U.S. 91 (1981); <i>Steven E. Math</i> , Initial Decision, Rel. No. 262, 2004 WL 2270299, at *38 (Oct. 8, 2004) (citing <i>Steadman</i>)).
400.	Exchange Act Sections 15(b)(6)(A) and 15(b)(4)(D) authorize the Commission to bar or suspend anyone who, while associated with a broker, willfully violated any Securities or Exchange Act provisions or rules.
	COL ¶ 12.
401.	Securities Act Section 8A(e) and Exchange Act Section 21C(e) authorize the Commission to order disgorgement of ill-gotten gains based on willful violations of any Securities or Exchange Act provisions or rules. <i>See</i> 15 U.S.C. §§ 77h-1(e) & 78u-3(e). “Disgorgement is an equitable remedy designed to deprive a wrongdoer of his unjust enrichment and to deter others from violating the securities laws.”
	COL ¶ 13 (quoting <i>SEC v. First City Fin. Corp.</i> , 890 F.2d 1215, 1230 (D.C. Cir. 1989) (citing cases)).
402.	Securities Act Section 8A and Exchange Act Section 21B authorize the Commission to order civil monetary penalties based on willful violations of any Securities or Exchange Act provisions or rules.
	COL ¶ 14 (citing 15 U.S.C. §§ 77h-1 & 78u-2).

Dated: New York, New York
May 1, 2015

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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

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ADMINISTRATIVE PROCEEDING
File No. 3-16178

In the Matter of

Gregory T. Bolan, Jr. and
Joseph C. Ruggieri,

Respondents.

CERTIFICATE OF SERVICE

I hereby certify that I served a copy of Respondent Joseph C. Ruggieri's Post Trial Proposed Findings of Fact and Conclusions of Law, and Chronology on May 1, 2015, upon the following parties by electronic mail in accordance with the parties' agreement:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dated: New York, New York
May 1, 2015

SERPE RYAN LLP


[REDACTED]
[REDACTED]
[REDACTED]