

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**SECURITIES AND EXCHANGE
COMMISSION,**

Plaintiff,

v.

DANIEL J. MOSCATIELLO,

Defendant.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Securities and Exchange Commission (the “Commission”), 1617 JFK Boulevard, Suite 520, Philadelphia, Pennsylvania 19103, files this Complaint against Defendant Daniel J. Moscatiello (“Moscatiello”), whose last known address is 62 Paulson Road, Wrightstown, New Jersey, 08562, and alleges as follows:

SUMMARY OF THE ACTION

1. This action involves insider trading by Moscatiello in the securities of Virtusa Corp. (“Virtusa”) in advance of the September 10, 2020 public announcement that Baring Private Equity Asia (“BPEA”) had agreed to acquire Virtusa in an all-cash transaction valued at approximately \$2 billion.

2. Moscatiello misappropriated material nonpublic information regarding the acquisition from his domestic partner (“partner”), who was working in Virtusa’s marketing department at that time. Using the information he misappropriated from her, Moscatiello purchased 250 short-term out-of-the-money Virtusa call options on September 9, 2020 for \$27,621.

3. On September 10, 2020, Virtusa publicly announced the acquisition agreement, and Virtusa's stock price increased 24.64% from \$40.50 to \$50.48.

4. Moscatiello sold his call options that same day, realizing \$89,904 in illegal profits.

5. By engaging in the conduct described in this Complaint, Moscatiello violated, and unless enjoined will continue to violate, Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)], and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

JURISDICTION AND VENUE

6. The Commission brings this action pursuant to Sections 21(d), 21(e), and 21A of the Exchange Act [15 U.S.C. §§ 78u(d)-(e), 78u-1] to enjoin such acts, practices, and courses of business, and to obtain disgorgement, prejudgment interest, civil money penalties, and such other and further relief the Court may deem just and appropriate.

7. The Court has jurisdiction pursuant to Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78aa]. Moscatiello, directly or indirectly, made use of the mails, or the means and instrumentalities of interstate commerce, or the facility of national security exchanges, in connection with the transactions, acts, practices, and courses of business alleged in this complaint.

8. Venue is proper pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa], because certain of the acts, practices, and courses of business constituting the alleged violations occurred within the District of New Jersey, where Moscatiello resides.

DEFENDANT

9. Daniel J. Moscatiello, age 42, resides in Wrightstown, New Jersey. During the relevant time, he managed multiple small family businesses. He was also an active investor at all relevant times.

RELEVANT ENTITIES

10. Virtusa is an information technology company, incorporated in Delaware with its headquarters in Southborough, Massachusetts. Prior to its acquisition, Virtusa's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and traded under the ticker "VRTU" on the NASDAQ.

11. BPEA is a private investment firm based in Asia.

TERMS USED IN THIS COMPLAINT

12. Common stock is a form of equity ownership in a corporation.

13. Options contracts are financial instruments that offer the buyer an opportunity to buy or sell – depending upon the type of options contract – an underlying asset such as stock.

14. A call option is a specific type of options contract that gives the owner the right, but not the obligation, to buy 100 shares of the underlying stock at a set price per share, known as the option's strike price, on or before a set future date, known as the option's expiration date.

15. Generally, the holder of a call option benefits when the price of the underlying stock increases. Thus, a trader might purchase a call option if he or she expects the underlying stock's price to exceed the strike price before the expiration date.

16. A call option is considered "out-of-the-money" when the current market price of the underlying stock is lower than its strike price.

FACTS

A. BPEA'S Acquisition of Virtusa

17. In August and early September of 2020, Virtusa was engaged in acquisition talks with BPEA.

18. By September 7, 2020, BPEA and Virtusa were finalizing the terms of the merger agreement whereby BPEA would acquire Virtusa.

19. At that time, Moscatiello's partner worked in Virtusa's marketing department. Her responsibilities included working on press releases for the company.

20. On September 8, 2020 at approximately 11:32 a.m. (ET), Moscatiello's partner learned highly confidential information regarding the likely acquisition of Virtusa during a telephone conversation with a member of Virtusa's management team. During this phone call, she was asked to begin working on the public announcement of the impending acquisition.

B. Moscatiello Misappropriated Material Nonpublic Information Regarding the Virtusa Acquisition from His Partner.

21. During this time, Moscatiello's partner worked full time from the home she shared with Moscatiello.

22. Moscatiello also worked from home during most of his workday, travelling to his nearby office periodically as needed.

23. After learning of the impending acquisition at about 11:32 am on September 8, 2020, Moscatiello's partner spent the remainder of the day participating in phone calls and working to prepare for the public announcement of the acquisition from the home she shared with Moscatiello.

24. Later that day, she told Moscatiello that she had to work into the evening and would be on an 11:30 p.m. videoconference with work colleagues.

25. From 11:30 p.m. September 8 to 12:16 a.m. on September 9, 2020, Moscatiello's partner participated in a videoconference work meeting from her home office, located directly adjacent to the bedroom she shared with Moscatiello.

C. Moscatiello Purchased Short-Term, Out-of-the-Money Call Options in Virtusa on the Basis of the Material Nonpublic Information He Misappropriated.

26. The next morning on September 9, 2020, from approximately 9:56 a.m. to 10:03 a.m., Moscatiello signed into his brokerage account from his office. With knowledge of the upcoming Virtusa acquisition that he gleaned from overhearing and/or observing his partner's work, Moscatiello placed orders to buy 250 short-term out-of-the-money Virtusa call options in three different options series. Specifically,

- a. at 9:56 a.m., Moscatiello purchased 50 Virtusa call options with a \$40 strike price and an expiration date of September 18, 2020.
- b. at 9:59 a.m., Moscatiello purchased 100 Virtusa call options with a \$45 strike price and an expiration date of September 18, 2020.
- c. at 10:03 a.m., Moscatiello purchased 100 Virtusa call options with a \$45 strike price and an expiration date of October 16, 2020.

27. In total, on September 9, 2020, Moscatiello spent \$27,621 on out-of-the-money Virtusa call options.

28. This was the first time Moscatiello had ever purchased Virtusa securities, despite being an active trader who owned and controlled multiple brokerage accounts.

29. Moscatiello's purchase of the 250 call options on September 9, 2020 accounted for 100% of the total Virtusa options trading volume that day.

30. On September 10, 2020, before the market opened, BPEA and Virtusa publicly announced that BPEA was acquiring Virtusa, and Virtusa's stock price increased 24.64% from \$40.50 to \$50.48.

31. Just minutes after the market opened on that morning, Moscatiello sold all the Virtusa options he had purchased less than 24 hours earlier, realizing \$89,904 in illicit profits.

32. This trade was an outlier compared to Moscatiello's other trading activity because he typically held investments for longer periods of time, not less than 24 hours, and it was the most profitable trade he made in 2020.

33. Although Moscatiello typically discussed his trading with his partner, he concealed his trading in Virtusa from her, placing the orders from his work office, rather than from home, and failing to mention the 325% gain that he netted on the Virtusa options in less than 24 hours.

D. Moscatiello Violated the Federal Securities Laws.

34. At all relevant times, Moscatiello owed a duty of trust and confidence to his partner, based on their relationship which included a history, pattern, and practice of sharing confidences. At the time of Moscatiello's trading, he and his partner had been in a committed relationship for approximately four years and had lived together for approximately two years.

35. Moscatiello obtained material, nonpublic information about the Virtusa acquisition by listening in on and/or observing his partner's work on the acquisition.

36. A reasonable investor would have viewed the information about the Virtusa acquisition as being important to the decision of whether to invest in Virtusa securities.

37. Moscatiello knew, or was reckless in not knowing, that the information he obtained about the Virtusa acquisition was material, nonpublic information and that he owed a

duty of trust and confidence to his partner not to trade Virtusa securities on the basis of that information.

38. By purchasing Virtusa call options after learning information relating to the acquisition, Moscatiello misappropriated material, nonpublic information for securities trading purposes, in breach of a duty of trust and confidence he owed his partner.

CLAIM FOR RELIEF
Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder

39. The Commission re-alleges and incorporates by reference paragraphs one through 38 as though fully set forth herein.

40. By virtue of the foregoing, Moscatiello, directly or indirectly, singly or in concert with others, in connection with the purchase or sale of a security, with scienter, used the means or instrumentalities of interstate commerce, or of the mails, or of a facility of a national securities exchange to:

- a. employ devices, schemes, or artifices to defraud;
- b. make untrue statements of a material fact or to omit to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and/or
- c. engage in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon others.

41. By virtue of the foregoing, Moscatiello, directly or indirectly, violated and, unless restrained and enjoined, will again violate, Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests that this Court enter a Final Judgment:

I.

Finding that Moscatiello violated the provisions of the federal securities laws as alleged herein;

II.

Permanently restraining and enjoining Moscatiello and his agents, servants, employees, and all persons in active concert or participation with him who receive actual notice of the injunction by personal service or otherwise from, directly or indirectly, engaging in conduct in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5];

III.

Ordering Moscatiello to disgorge, with prejudgment interest, all illicit trading profits or other ill-gotten gains received as a result of the conduct alleged in this Complaint, pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)];

IV.

Ordering Moscatiello to pay a civil monetary penalty pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1]; and

V.

Granting such other and further relief as the Court may deem just and proper.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff demands that this case be tried before a jury.

Respectfully submitted,

Date: June 29, 2022

By: s/ John V. Donnelly III
John V. Donnelly III
Joseph G. Sansone
Julia C. Green
Megan Ryan
Han Nguyen

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States Securities and Exchange Commission

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) John V. Donnelly III, United States Securities and Exchange Commission, Philadelphia Regional Office, 1617 JFK Boulevard, Suite 520, Philadelphia, PA 19103 (Ph: 215-597-3100)

DEFENDANTS

Daniel J. Moscatiello

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) David L. Axelrod, Ballard Spahr, 1735 Market Street, 51st Floor, Philadelphia, PA 19103-7599 (Ph: 215-864-8639)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 310 Airplane, 365 Personal Injury - Product Liability, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

John V. Donnelly III

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.