

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA**

|                                     |   |                  |
|-------------------------------------|---|------------------|
| _____                               | ) |                  |
| SECURITIES AND EXCHANGE COMMISSION, | ) |                  |
|                                     | ) |                  |
| Plaintiff,                          | ) | Civil Action No. |
|                                     | ) |                  |
| v.                                  | ) | COMPLAINT        |
|                                     | ) | ECF Case         |
| MARK J. MELNICK,                    | ) |                  |
|                                     | ) |                  |
| Defendant.                          | ) |                  |
| _____                               | ) |                  |

Plaintiff Securities and Exchange Commission (the “Commission”) files this Complaint against Defendant Mark J. Melnick (“Melnick” or “Defendant”) and alleges as follows:

**SUMMARY**

1. Between January 2018 and January 2020 (the “Relevant Period”), Melnick engaged in a fraudulent scheme to manipulate the market for securities of numerous publicly-traded companies by disseminating false rumors designed to cause the prices of those companies’ stock and options to rise temporarily, and profitably trading around such rumors.

2. Melnick, the host of a daily subscription based real-time trading webcast, received notice from another scheme participant (“Trader A”) when certain publicly-traded companies were about to be the subjects of the false rumors. Trader A directed Melnick to purchase securities in the respective companies prior to the false rumors’ dissemination.

3. Melnick assisted in the dissemination of the rumors by informing his webcast subscribers that there was “chatter” about the subject companies. Melnick also assisted by providing technical analysis regarding the subject companies’ stock trading to Trader A, which Trader A then used to decide if and when to disseminate the false rumors.

4. Melnick's disclosure of the existence of chatter to his subscribers coincided with the dissemination of the false rumor to Trader A's contacts, which included individuals affiliated with numerous real-time financial news services, trading chat rooms and other financial news purveyors with sizable online followings. This dissemination often resulted in a brief increase in the prices of the companies' securities.

5. Melnick then sold his securities at prices inflated by the false rumors. Between January 2018 and January 2020, Melnick traded around the false rumors over 100 times, earning \$374,835 in unlawful profits.

6. By virtue of the conduct alleged herein, Melnick violated, and unless restrained and enjoined will violate again, Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)]; Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. §§ 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. §§ 240.10b-5].

7. The Commission brings this action pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d) of the Exchange Act [15 U.S.C. §§ 78u(d), 78u-1]. The Commission seeks a judgment (1) permanently enjoining Melnick from engaging in the transactions, acts, practices, and courses of business alleged in this Complaint; and (2) ordering Melnick to pay disgorgement of \$374,835, plus prejudgment interest of \$39,521.68, and a civil money penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)] in an amount to be determined by the Court upon motion of the Commission. The Commission seeks any other relief the Court may deem appropriate pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)].

### **JURISDICTION AND VENUE**

8. This Court has jurisdiction over this action pursuant to Section 20 and 22 of the Securities Act [15 U.S.C. §§ 77t & 77v] and Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), 78u-l, and 78aa].

9. Venue lies in this District pursuant to Section 22 of the Securities Act [15 U.S.C. § 77v] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Certain of the acts, practices, transactions, and courses of business constituting the violations occurred within the Northern District of Georgia.

10. The Defendant communicated regularly throughout the entire period with Trader A, who, during the time of the events described herein, lived within the Northern District of Georgia. Their communications provided Defendant with advance notice of the rumors and directed the Defendant to execute securities transactions designed to profit from the price manipulation caused by the scheme.

### **DEFENDANT**

11. Melnick, age 41, lives in Marlboro, New Jersey. He is the Director of Trading Psychology and the host of a daily subscription based real-time trading webcast for an entity that is under common control with a registered broker-dealer. In addition, he traded securities in his own securities brokerage account.

### **FACTS**

12. Melnick and Trader A met in the mid-2010s and have had an informal business relationship since at least 2015. Throughout their business relationship, Trader A provided Melnick with advice on how to increase the audience for his trading broadcast, and they have jointly attempted to find financial backers for their trading activities.

13. Trader A also provided Melnick with advanced notice of the companies about which Trader A was going to disseminate the false rumors, with specific instructions to trade. Trader A and Melnick referred to these trades as “chatter plays.” Melnick provided Trader A with the log-in credentials to his brokerage accounts, so that Trader A could monitor Melnick’s trading activities.

14. In exchange for providing Melnick with business and trading advice, Trader A demanded cash payments from Melnick representing a portion of Melnick’s income, including his trading profits and his webcast subscription revenues, which Melnick paid.

15. Melnick and Trader A communicated frequently during most trading days through an open phone line and an instant messenger exchange, and occasionally through an encrypted communications application.

16. Trader A regularly requested that Melnick provide him with technical analysis on numerous publicly-traded companies. Trader A sought Melnick’s advice regarding which companies were in bullish patterns, and he would ask Melnick about company-specific “trigger” prices – stock prices that Melnick believed if hit, would trigger a further increase in price.

17. Trader A considered Melnick’s technical analysis when deciding which rumors provided to him by the other traders involved in the fraudulent scheme would most likely cause the subject companies’ stock prices and cost of the options contracts to rise. Trader A also used Melnick’s technical analysis in determining when the false rumors would be most effective.

18. Shortly before disseminating the false rumors, Trader A told Melnick the names of the subject companies, indicating they were chatter plays, and advised Melnick to purchase the companies’ securities. Trader A did not tell Melnick the substance of the false rumors or that he was disseminating into the market false rumors that he and the other scheme participants

drafted. However, over time, Melnick came to realize that Trader A's chatter plays were based on false rumors and designed solely to manipulate the prices of the subject companies' securities.

19. Melnick purchased stock and short-term call options within seconds of being told by Trader A which companies' securities to purchase, and often only seconds before Trader A pushed out the false rumors. After taking a position, Melnick then shared the company names with his webcast subscribers by pulling up the companies' technical charts on his webcast screens and telling his subscribers that he had taken positions in the companies as a result of chatter he was hearing.

20. Melnick did not disclose to his subscribers that the chatter was based on false rumors that were being pushed into the market and designed to manipulate the prices of the companies' securities.

21. After telling Melnick about the "chatter plays," Trader A transmitted the false rumors via instant messenger to his contacts, which included individuals at real-time financial news websites, subscription-based financial chat rooms, and other financial news purveyors with sizable online followings. The false rumors almost always concerned significant corporate events, such as mergers and acquisitions, spinoffs or large private equity investments.

22. Typically, within minutes, if not seconds, the false rumors began appearing as "chatter" on several of the financial news services and in the chat rooms and message boards that had been sent the rumors, seemingly ratifying the statements Melnick made to his subscribers. The rumors were quickly amplified, as other competing websites and chat rooms repeated the "chatter" that they saw reported by the entities to which Trader A had sent the rumors.

23. Based on comments posted by Melnick's subscribers in the chat accompanying his webcast, Melnick was aware that at least some of his subscribers had purchased securities of the companies Melnick highlighted.

24. The spread of the false rumors through various financial websites, chat rooms, and Melnick's webcast, as well as the scheme participants' own securities purchases, caused an uptick in trading volume and typically resulted in an increase in the subject companies' options and stock prices. Though the percentage increases in the companies' stock prices were usually modest (typically less than 2%), the percentage increase in the prices of the companies' short-term call options was significant, often exceeding 25%.

25. All of the scheme participants, including Melnick, almost always began selling their positions within minutes, if not seconds, after Trader A pushed out the false rumors.

26. Between January 18, 2018, and January 14, 2020, Melnick traded profitably around at least 93 out of 102 false rumors that were part of the scheme, generating at least \$374,835 in unlawful profits.

**Example of Melnick's Participation in the Market Manipulation Fraud**

27. On January 18, 2018, Trader A disseminated a false rumor that a privately held multinational company was nearing a deal to acquire an international packaging and paper company ("Company A") for approximately \$72.50 per share.

28. At 10:02 am on that date, Trader A received an instant message from another scheme participant with the content of the false rumor. Just over an hour later, Trader A consulted with Melnick on a recorded phone call about the potential timing for his release of the rumor.

29. Starting at 11:10:15 am, Trader A asked Melnick how Company A looked. Melnick, after pulling up Company A's technical charts, advised Trader A that Company A looked good, as its charts were in a bullish "wedge pattern." Melnick explained to Trader A that "for today, as long as you feel that doing that will get it above 61.97, it's going to work." Trader A misunderstood Melnick and moments later said, "so [Company A], you're saying wouldn't

work.” Melnick corrected Trader A and told him that “if you wanted to call it this exact second, you would need to get above \$61.99. So if you feel it could go 30 cents, it’s going to go a lot more than 30 cents. . . . It’s close enough where it will almost definitely work if you feel it’s going to move 30 cents. Don’t worry about what it does afterwards. If you think it goes 30 cents up, it works.”

30. With this advice in hand, Trader A purchased Company A call options and, at 11:21:03 am, told Melnick that he had bought Company A. Between 11:21:03 am and 11:21:23 am, Melnick purchased 2,000 shares of Company A for \$123,515.34 and 549 Company A call options, expiring the next day with a strike price of \$62.50 (“Jan. 19 62.5 calls”) for \$7,304.

31. At 11:21:15 am, Trader A pushed the rumor to numerous contacts, including contacts at financial websites, a financial chatroom, and at widely followed Twitter accounts. The rumor spread quickly, as each of the recipients shared the Company A rumor on their forums within one minute of receiving it from Trader A. Melnick informed his subscribers that he was long Company A “a few hundred contracts.”

32. The trading volume of both Company A stock and the Company A January 19 62.5 calls dramatically increased following Trader A’s dissemination of the false rumor. And while the increase in Company A’s stock price was fairly modest, the increase in the price of the Company A January. 19 62.5 calls in the minutes following the dissemination of the rumor was more dramatic, rising 300% from \$.10 to \$.40.

33. Between 11:21:53 and 11:46:12 am, Melnick sold the 2,000 shares of Company A for \$124,512 and the 549 Company A January 19 62.5 Calls for \$15,018, for total proceeds of \$139,530, generating a profit of \$8,710.66 in less than 30 minutes. Trader A, and the other scheme participants also profitably traded around the dissemination of the Company A rumor.

34. An Appendix identifying the date and subject ticker symbol for each instance, as well as Melnick's trading profits in each instance, is attached hereto.

### **FIRST CLAIM FOR RELIEF**

#### **Violation of Section 17(a) of the Securities Act**

35. The Commission realleges and incorporates by reference paragraphs 1 through 34, as though fully set forth herein.

36. By virtue of the foregoing, Melnick, directly or indirectly, singly or in concert with others, in the offer or sale of any security, with scienter, used the means or instruments of transportation or communication in interstate commerce or of the mails to: (a) employ any device, scheme, or artifice to defraud; (b) obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engage in any transaction, practice, or course of business which operated or would operate as a fraud or deceit upon the purchaser.

37. By virtue of the foregoing, Melnick, directly or indirectly, violated and, unless restrained and enjoined, will again violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

### **SECOND CLAIM FOR RELIEF**

#### **Violation of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**

38. The Commission realleges and incorporates by reference paragraphs 1 through 37, as though fully set forth herein.

39. By virtue of the foregoing, Melnick, 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: (1) employ devices, schemes, or artifices to defraud; (2) make untrue statements of a material fact or to omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (3) engage in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon others.

40. By virtue of the foregoing, Melnick, 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 Judgment:

**I.**

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

**II.**

Permanently restraining and enjoining Melnick and his agents, servants, employees, and attorneys 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 17(a) of the Securities Act [15 U.S.C. § 77q(a)] and 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 Melnick to pay disgorgement of \$374,839, along with prejudgment interest of \$39,521.68 pursuant to Section 21(d)(7) of the Exchange Act [15 U.S.C. § 78u(d)(7)].

**IV.**

Ordering Melnick to pay a civil monetary penalty pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]. The Court shall determine the amounts of the civil penalty upon motion of the Commission; and

**V.**

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

Dated: Atlanta, Georgia  
September 30, 2021

Respectfully submitted,

/s Stephan Schlegelmilch  
Stephan Schlegelmilch  
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## APPENDIX

| Rumor /Trade Date | Ticker Symbol | Melnick's Trading Profits |
|-------------------|---------------|---------------------------|
| 1/18/2018         | EA            | \$115                     |
| 1/18/2018         | IP            | \$8,711                   |
| 1/19/2018         | ULTA          | \$1,125                   |
| 1/22/2018         | AMD           | \$250                     |
| 2/16/2018         | WYNN          | \$8,650                   |
| 2/20/2018         | CREE          | \$396                     |
| 2/22/2018         | LLY           | \$1250                    |
| 3/1/2018          | TXT           | \$9108                    |
| 3/6/2018          | ON            | \$179                     |
| 3/7/2018          | HFC           | \$475                     |
| 3/8/2018          | DIS           | \$1,948                   |
| 3/9/2018          | HIG           | \$2,176                   |
| 3/15/2018         | AMAT          | \$875                     |
| 3/15/2018         | GLW           | \$96                      |
| 3/23/2018         | HES           | --                        |
| 4/5/2018          | SYF           | --                        |
| 4/10/2018         | WMB           | \$280                     |
| 4/12/2018         | HOG           | \$2,477                   |
| 4/12/2018         | LUV           | \$50                      |
| 4/17/2018         | EAT           | \$2,824                   |
| 4/18/2018         | BEN           | \$1,225                   |
| 4/20/2018         | WDC           | \$1,446                   |
| 4/24/2018         | EOG           | --                        |
| 4/24/2018         | DISH          | --                        |
| 5/1/2018          | AZN           | \$2,869                   |
| 5/3/2018          | WDAY          | \$230                     |
| 5/10/2018         | AGN           | \$18,605                  |
| 5/15/2018         | HSY           | \$3,146                   |
| 5/15/2018         | FSLR          | \$535                     |
| 5/16/2018         | SFM           | \$925                     |
| 5/24/2018         | IP            | \$9,164                   |
| 5/30/2018         | CL            | \$1,216                   |
| 5/31/2018         | AAL           | \$4350                    |
| 6/5/2018          | ETN           | \$250                     |
| 6/12/2018         | RCL           | \$5,277                   |
| 6/15/2018         | CAKE          | \$1,350                   |
| 6/20/2018         | SFIX          | \$20,910                  |

| Rumor /Trade Date | Ticker Symbol | Melnick's Trading Profits |
|-------------------|---------------|---------------------------|
| 6/21/2018         | WYNN          | \$16,802                  |
| 7/11/2018         | MO            | \$1,041                   |
| 7/12/2018         | NKE           | \$692                     |
| 7/20/2018         | CELG          | --                        |
| 7/25/2018         | RHT           | \$4,569                   |
| 7/26/2018         | YELP          | \$3,771                   |
| 7/31/2018         | CAH           | \$45                      |
| 8/7/2018          | LB            | \$120                     |
| 8/9/2018          | GM            | \$300                     |
| 8/15/2018         | IBM           | \$57                      |
| 8/16/2018         | LYV           | --                        |
| 8/22/2018         | EA            | \$140                     |
| 8/22/2018         | DE            | --                        |
| 9/5/2018          | LNC           | \$5,826                   |
| 9/21/2018         | AGN           | \$1,204                   |
| 9/26/2018         | IP            | \$6,023                   |
| 11/9/2018         | KBH           | \$4,800                   |
| 11/16/2018        | V             | \$5,112                   |
| 12/20/2018        | ATVI          | \$12,031                  |
| 1/15/2019         | SFIX          | \$11,685                  |
| 1/25/2019         | SQ            | \$722                     |
| 2/6/2019          | KMB           | \$5,935                   |
| 2/28/2019         | SYF           | --                        |
| 3/13/2019         | HBI           | \$2,875                   |
| 3/27/2019         | FOSL          | \$1,331                   |
| 3/28/2019         | DAL           | \$6,847                   |
| 4/10/2019         | URBN          | \$408                     |
| 5/16/2019         | FDX           | \$14,401                  |
| 6/11/2019         | BB            | \$4475                    |
| 6/26/2019         | DBX           | \$750                     |
| 8/1/2019          | XLNX          | \$1,173                   |
| 8/15/2019         | K             | \$3,130                   |
| 8/15/2019         | MMM           | \$190                     |
| 8/27/2019         | YELP          | \$3,708                   |
| 9/5/2019          | KSS           | \$2,861                   |
| 9/11/2019         | SPLK          | \$2,748                   |
| 9/20/2019         | TPR           | \$2,448                   |

| <b>Rumor /Trade Date</b> | <b>Ticker Symbol</b> | <b>Melnick's Trading Profits</b> |  | <b>Rumor /Trade Date</b> | <b>Ticker Symbol</b> | <b>Melnick's Trading Profits</b> |
|--------------------------|----------------------|----------------------------------|--|--------------------------|----------------------|----------------------------------|
| 9/25/2019                | JNPR                 | \$950                            |  | 11/05/2019               | CL                   | \$1600                           |
| 9/26/2019                | WYNN                 | \$4,138                          |  | 11/06/2019               | YUM                  | \$1250                           |
| 9/27/2019                | WHR                  | \$2,100                          |  | 11/08/2019               | AAL                  | \$12,610                         |
| 10/03/2019               | ROKU                 | \$2,821                          |  | 11/12/2019               | TWLO                 | \$4,265                          |
| 10/10/2019               | GILD                 | \$21,356                         |  | 11/21/2019               | AXP                  | \$10,418                         |
| 10/16/2019               | IP                   | \$6,786                          |  | 11/22/2019               | SQ                   | \$1,867                          |
| 10/17/2019               | ULTA                 | \$13,736                         |  | 12/9/2019                | HLF                  | \$891                            |
| 10/24/2019               | ATVI                 | \$10,841                         |  | 12/10/2019               | HOG                  | \$1,887                          |
| 10/25/2019               | UPS                  | \$17,274                         |  | 12/10/2019               | IBM                  | \$670                            |
| 10/30/2019               | BUD                  | \$100                            |  | 12/11/2019               | EXEL                 | \$188                            |
| 11/05/2019               | CL                   | \$1600                           |  | 12/18/2019               | CREE                 | \$870                            |
| 11/06/2019               | YUM                  | \$1250                           |  | 12/19/2019               | NTAP                 | --                               |
| 11/08/2019               | AAL                  | \$12,610                         |  | 1/8/2020                 | FDX                  | \$2,370                          |
| 11/12/2019               | TWLO                 | \$4,265                          |  | 1/9/2020                 | PINS                 | \$4,700                          |
| 11/21/2019               | AXP                  | \$10,418                         |  | 1/10/2020                | EXAS                 | \$224                            |
| 11/22/2019               | SQ                   | \$1,867                          |  | 1/10/2020                | WYNN                 | \$1,005                          |
| 12/9/2019                | HLF                  | \$891                            |  | 1/14/2020                | COF                  | \$8,224                          |
| 12/10/2019               | HOG                  | \$1,887                          |  | 1/14/2020                | UBER                 | \$991                            |
| 12/10/2019               | IBM                  | \$670                            |  |                          |                      |                                  |
| 12/11/2019               | EXEL                 | \$188                            |  |                          |                      |                                  |
| 12/18/2019               | CREE                 | \$870                            |  |                          |                      |                                  |
| 12/19/2019               | NTAP                 | --                               |  |                          |                      |                                  |
| 1/8/2020                 | FDX                  | \$2,370                          |  |                          |                      |                                  |
| 1/9/2020                 | PINS                 | \$4,700                          |  |                          |                      |                                  |
| 1/10/2020                | EXAS                 | \$224                            |  |                          |                      |                                  |
| 1/10/2020                | WYNN                 | \$1,005                          |  |                          |                      |                                  |
| 1/14/2020                | COF                  | \$8,224                          |  |                          |                      |                                  |
| 1/14/2020                | UBER                 | \$991                            |  |                          |                      |                                  |
| 9/25/2019                | JNPR                 | \$950                            |  |                          |                      |                                  |
| 9/26/2019                | WYNN                 | \$4,138                          |  |                          |                      |                                  |
| 9/27/2019                | WHR                  | \$2,100                          |  |                          |                      |                                  |
| 10/03/2019               | ROKU                 | \$2,821                          |  |                          |                      |                                  |
| 10/10/2019               | GILD                 | \$21,356                         |  |                          |                      |                                  |
| 10/16/2019               | IP                   | \$6,786                          |  |                          |                      |                                  |
| 10/17/2019               | ULTA                 | \$13,736                         |  |                          |                      |                                  |
| 10/24/2019               | ATVI                 | \$10,841                         |  |                          |                      |                                  |
| 10/25/2019               | UPS                  | \$17,274                         |  |                          |                      |                                  |
| 10/30/2019               | BUD                  | \$100                            |  |                          |                      |                                  |
|                          |                      |                                  |  | <b>Total</b>             | <b>\$374,839</b>     |                                  |