

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 79581 / December 16, 2016

ADMINISTRATIVE PROCEEDING
File No. 3-17735

In the Matter of

JO ANN MYERS AND
HOLLIS W. PICKETT, JR.,

Respondents.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Jo Ann Myers (“Myers”) and Hollis W. Pickett, Jr. (“Pickett”) (collectively, “Respondents”).

II.

In anticipation of the institution of these proceedings, Myers and Pickett have submitted Offers of Settlement (the “Offers”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondents consent to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds¹ that:

Summary

1. These proceedings arise out of insider trading in the securities of Alimera Sciences, Inc. ("Alimera"), a Georgia-based biopharmaceutical company, in advance of two news announcements. The first announcement, issued on October 18, 2013, contained the negative news that the U.S. Food and Drug Administration ("FDA") would not approve Alimera's New Drug Application ("NDA") for Iluvien, a drug used to treat diabetic macule edema, in its then-current form. The second announcement, issued on December 18, 2013, contained the positive news that Alimera and the FDA had made significant progress in addressing issues related to the FDA's approval of Iluvien. Prior to the first announcement, on October 7, 2013, Myers, the wife of an officer of Alimera, while aware of material, nonpublic information that she misappropriated from her husband, tipped her son, father and step-mother, leading her son and father to sell a combined total of 24,440 shares of Alimera stock. Her actions resulted in her son and father avoiding combined losses totaling \$31,661.20. On December 13, 2013, and December 17, 2013, prior to the second announcement, Myers again while aware of material, nonpublic information she misappropriated from her husband, tipped the same relatives, leading to her son's and father's purchase of a combined total of 5,444 shares of Alimera stock, resulting in their generating combined profits totaling \$8,744.49. Similarly, on December 16, 2013, Pickett individually purchased and directed his son to purchase a combined total of 5,025 shares of Alimera stock while Pickett was aware of material, nonpublic information that he misappropriated from Myers' husband, resulting in Pickett and his son generating combined profits totaling \$8,656.50.

Respondents

2. Myers, age 61, is a resident of Norcross, Georgia.
3. Pickett, age 58, is a resident of Lawrenceville, Georgia.

Other Relevant Entity

4. Alimera is a biopharmaceutical company founded in June 2003 and headquartered in Alpharetta, Georgia, that specializes in the research, development, and commercialization of prescription ophthalmic pharmaceuticals. Alimera's common stock is registered with the Commission pursuant to Section 12(b) and is traded on NASDAQ under the symbol "ALIM."

¹ The findings herein are made pursuant to Respondents' Offers and are not binding on any other person or entity in this or any other proceeding.

Background

5. On or before the market opened on October 7, 2013, in the course of his role as an officer at Alimera, Myers' husband was made aware that it was unlikely the FDA would approve the NDA for Iluvien in its then-current form.

6. On or before the market opened on October 7, 2013, Myers' husband shared with his wife the information that it was unlikely the FDA would approve the NDA for Iluvien in its then-current form. Myers owed a duty of trust or confidence to her husband based on their spousal relationship and their history, pattern, and practice of sharing and keeping confidences.

7. Myers, while aware of material, nonpublic information, and in breach of the duty of trust or confidence Myers knew or should have known was owed her husband, tipped her son, father and step-mother, leading her son and father to sell a combined 24,440 shares of Alimera on October 7, 2013.

8. On Friday, October 18, 2013, prior to the opening of the market, Alimera announced that its NDA for Iluvien would not be approved by the FDA in its then-current form.

9. On Friday, October 18, 2013, following the announcement, Alimera's share price declined 8.49 percent.

10. Myers' son and father avoided combined losses totaling \$31,661.20.

11. On October 18, 2013, Alimera announced that an Advisory Committee ("Ad Com") meeting with the FDA would be held on January 27, 2014, in an attempt to resolve outstanding issues related to the FDA's review of Iluvien.

12. On December 13, 2013, from approximately 9:00 a.m. to 10:00 a.m., officers and key employees of Alimera, including Myers' husband, met with representatives of the FDA. During that meeting, the parties made such sufficient progress toward resolving the outstanding issues regarding Alimera's NDA for Iluvien that Alimera and the FDA agreed that the upcoming Ad Com meeting was unnecessary and should therefore be cancelled.

13. In the two hours after Alimera's meeting with the FDA ended, Myers and her husband spoke several times. Myers' husband told her during that time that the FDA had agreed to cancel the Ad Com meeting. In response to highly favorable news from the FDA, Myers' husband also asked her to arrange a celebratory dinner that evening with a select group of friends that he trusted that included Myers' brother, Pickett.

14. On December 13, 2013, while aware of material, nonpublic information, and in breach of the duty of trust or confidence Myers knew or should have known was owed her husband, Myers tipped her son, leading him to purchase 444 shares of Alimera stock.

15. On December 13, 2013, following his meeting with the FDA earlier that day, Myers' husband shared with Pickett the positive information regarding the FDA's cancellation of the Ad Com meeting and Alimera's progress in obtaining approval for its NDA for Iluvien. Prior to sharing this material, nonpublic information with Pickett, Myers' husband made clear that the information he was sharing was confidential in nature, and Pickett indicated to Myers' husband that he would not trade on this information.

16. Pickett owed a duty of trust or confidence to Myers' husband based on the agreement he made with him on December 13, 2013, to maintain information regarding the cancellation of the Ad Com meeting in confidence and their prior history, pattern, and practice of sharing and keeping confidences.

17. On December 16, 2013, while aware of material, nonpublic information, and in breach of the duty of trust or confidence Pickett knew or should have known was owed Myers' husband, Pickett purchased 3,500 shares of Alimera stock.

18. On December 16, 2013, while aware of material, nonpublic information, and in breach of the duty of trust or confidence Pickett knew or should have known was owed Myers' husband, Pickett directed his son to purchase 1,525 shares of Alimera stock.

19. On December 17, 2013, while aware of material, nonpublic information, and in breach of her duty of trust or confidence Myers knew or should have known was owed her husband, Myers tipped her step-mother, leading Myers' father to purchase 5,000 shares of Alimera stock.

20. On Wednesday, December 18, 2013, at 4:30 p.m., after the close of the market, Alimera issued a press release announcing that the company's discussions with the FDA concerning Iluvien had advanced such that it was no longer necessary to have the Ad Com meeting.

21. As of the trading day following the day of the December 18, 2013 announcement, Alimera's share price closed up 62.75 percent.

22. Myers' son and father generated combined profits totaling \$8,744.49.

23. Pickett and his son generated combined profits totaling \$8,656.50.

24. The conduct of Myers described above violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

25. The conduct of Pickett described above violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondents Myers' and Pickett's Offers.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Myers cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

B. Respondent Myers shall pay disgorgement of \$40,405.69 and prejudgment interest of \$2,762.36 and a civil money penalty of \$40,405.69 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 and if timely payment of a civil money penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment shall be made in the following installments:

Respondent Myers shall, within ten (10) days of the entry of this Order, pay \$2,000.00. For the next twenty-three (23) months beginning on the month following the entry of this Order, Respondent Myers shall make monthly payments, due by the 15th day of each month. For months one (1) to ten (10) and months twelve (12) to twenty-two (22), Myers shall make payments in the amount of \$2,000.00. For months eleven (11) and twenty-three (23), Myers shall make payments in the amount of \$19,786.87.

If any payment is not made by the date the payment is required by this Order, the entire outstanding balance of \$83,573.74 disgorgement, prejudgment interest and civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600 and pursuant to 31 U.S.C. § 3717, shall be due and payable immediately, without further application.

Payment must be made in one of the following ways:

- (1) Respondent Myers may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent Myers may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent Myers may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Myers as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to William P. Hicks, Division of Enforcement, Atlanta Regional Office, U.S. Securities and Exchange Commission, 950 East Paces Ferry Road, N.E., Suite 900, Atlanta, Georgia 30326-1382.

C. Pursuant to Section 21C of the Exchange Act, Respondent Pickett cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

D. Respondent Pickett shall, within ten (10) days of the entry of this Order, pay disgorgement of \$8,656.50 and prejudgment interest of \$555.07 and a civil money penalty of \$8,656.50 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600 and if timely payment of a civil money penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

- (1) Respondent Pickett may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent Pickett may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent Pickett may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Pickett as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to William P. Hicks, Division of Enforcement, Atlanta Regional Office, U.S. Securities and Exchange Commission, 950 East Paces Ferry Road, N.E., Suite 900, Atlanta, Georgia 30326-1382.

E. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondents by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondents, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondents under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondents of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Brent J. Fields
Secretary