

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 83053 / April 16, 2018

ADMINISTRATIVE PROCEEDING
File No. 18439

In the Matter of

DOUGLAS NELSON,

Respondent.

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 Douglas Nelson (“Nelson” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Nelson has submitted an Offer of Settlement (“Offer”) 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 him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents 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 Respondent's Offer, the Commission finds¹ that:

Summary

1. These proceedings involve insider trading by Nelson, a relative of a former employee of Monster Beverage Corporation ("Monster"), in advance of an announcement of a partnership between Monster and the Coca-Cola Company ("Coke"). On August 14, 2014, Monster announced that Coke agreed to purchase a 16.7% equity stake in Monster and to make Monster its exclusive energy drink provider. The following day, Monster's stock price closed up 30% and the volume of trading increased 101%. Prior to the announcement, Nelson's relative became aware of material, non-public information that the deal was likely as a result of the relative's role at Monster working with an executive involved in the negotiations. Nelson misappropriated this information from his relative and, on June 20, 2014, purchased 1,005 shares of Monster stock. His actions resulted in unrealized gains of \$15,141.97.

Respondent

2. Nelson resides in Riverside County, California and works for a privately-held company.

Other Relevant Entity

3. Monster is a beverage company headquartered in Corona, California, which primarily develops and markets energy drinks. Monster's common stock is registered with the Commission pursuant to Section 12(b) and is traded on NASDAQ under the symbol "MNST."

Facts

4. Beginning in March 2014, in the course of Nelson's relative's employment at Monster, Nelson's relative received documents and correspondence regarding "Project Laser," the code name used to refer to the proposed Monster and Coke partnership. This included materials for board meetings, and correspondence about meetings between Monster and Coke executives and outside advisers concerning the proposed deal.

5. In particular, between June 9 and June 19, 2014, Nelson's relative received emails and documents indicating that Project Laser was nearing completion. This included information related to confidential in-person meetings between high-level Monster and Coke executives, a

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

meeting involving Monster's executives and its outside accounting firm to "finalize the transaction," and a Monster board meeting in which the board determined to move forward with the Coke deal in lieu of a competing offer.

6. Nelson's relative understood these communications concerning Project Laser were confidential, and at least one of the documents contained a designation "classified highly restricted."

7. On June 9, 2014, Nelson's relative became aware of certain meetings between Monster and Coke executives concerning Project Laser. Nelson and his relative spoke by telephone during business hours seven times that day, and numerous additional times during business hours during the following ten days. At or around this time, the relative expressed concerns to Nelson about losing the relative's job at Monster.

8. Given the role of Nelson's relative at the company, the relative was entrusted by Monster with this material, non-public information about Project Laser. In turn, Nelson owed Nelson's relative a duty of trust and confidence as a result of the relative's history, pattern, or practice of sharing confidences about workplace issues with Nelson.

9. Nelson misappropriated information from his relative that the deal was going forward and nearing completion and he should have known that his relative expected him to keep the information confidential. On June 20, 2014, while aware of this material, non-public information, and in breach of the duty of trust or confidence he owed to his relative, Nelson purchased a total of 1,005 shares of Monster stock in two brokerage accounts, including his retirement account.

10. As of June 1, 2014, Nelson held only five issuers' stocks combined in his two accounts. And he had not logged into his online account since March 2014, or made any trades in individual issuer stocks since January 2013. But on June 19, 2014, Nelson logged into his online account (for the first time in six months), and sold 24,429 shares of Alcatel-Lucent stock combined in the two accounts for proceeds of \$73,116.30 (his first stock trade in 18 months). The following day, he used the proceeds to purchase 1,005 shares of Monster stock for \$73,010.38.

11. On August 14, 2014, after the close of the market, Monster and Coke announced the strategic partnership, whereby Coke agreed to purchase a 16.7% equity stake in Monster and to make Monster its exclusive energy drink provider.

12. Following the news, on August 15, 2014, Monster's stock price closed at \$93.49 per share, 30% higher than the previous day's closing price, and the trading volume increased 101% from the previous day.

13. As a result of his purchases, Nelson generated unrealized profits totaling \$15,141.97.

14. The Commission finds that Nelson's conduct 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 Respondent Nelson's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Nelson 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 Nelson shall pay disgorgement of \$15,141.97 and prejudgment interest of \$1,740.39 and a civil money penalty of \$15,141.97 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 Nelson may transmit payment electronically to the Commission, which will provide detailed ACH/transfer Fedwire instructions upon request;
- (2) Respondent Nelson 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 Nelson may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities 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 Nelson 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 Associate Regional Director John W.

Berry, Division of Enforcement, Los Angeles Regional Office, 444 South Flower Street, Suite 900, Los Angeles, CA 90071.

C. 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, Respondent agrees 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 Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he 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 Respondent 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 Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent 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 Respondent 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