

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS**

<b>SECURITIES AND EXCHANGE COMMISSION,</b>	)	
	)	<b>Case Number:</b>
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>JOSEPH A. DAWSON,</b>	)	
	)	
<b>Defendant.</b>	)	

**COMPLAINT**

Plaintiff Securities and Exchange Commission (the “Commission”) alleges as follows:

**SUMMARY**

1. This action involves a fraudulent offering scheme and unlawful insider trading by Joseph A. Dawson, the president and owner of Dawson Trading, LLC. Dawson operated Dawson Trading as a pooled investment vehicle to invest in securities including, stocks, bonds, commodities, currencies, and options for family and friends. Between June 4, 2009 and July 22, 2009, Dawson caused Dawson Trading to purchase call options of SPSS Inc. in advance of a July 28, 2009 announcement of an acquisition of SPSS by International Business Machines Corporation (“IBM”), after learning material nonpublic information regarding the SPSS acquisition from an extended family member and close friend and neighbor of a then-current officer of SPSS. Dawson Trading realized profits of \$437,770 from the trading after Dawson closed out the option positions on July 28, 2009, following the acquisition announcement.

2. In addition, from October 2004 through December 2009, Dawson used Dawson Trading to perpetrate a fraudulent offering scheme through which he raised approximately \$3.8

million from 31 investors. Dawson offered investors promissory notes which provided a guaranteed interest rate, generally 5% compounded quarterly, plus a certain percentage of profits made with the investor's funds. The promissory notes also guaranteed the investor's principal and interest payments.

3. Contrary to the representations Dawson made to investors, instead of investing the \$3.8 million in safe investments, Dawson misappropriated approximately \$2.1 million of investors' monies for his own personal expenses and purposes, and lost approximately \$945,000 from trading securities. Despite having never invested the funds or losing the funds that were invested, Dawson provided false quarterly account statements to investors which showed significant returns.

4. By knowingly and recklessly engaging in the conduct described in this Complaint, defendant Dawson has violated, and unless restrained and enjoined will continue to violate, Sections 5(a), 5(c), and 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77e(a), 77e(c), and 77q(a)], Sections 10(b) and 15(a) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b) and 78o(a)] and Rule 10b-5 [17 C.F.R. § 240.10b5] thereunder, and Sections 206(1), 206(2), and 206(4) of the Investment Advisers Act of 1940 ("Advisers Act") [15 U.S.C. §§ 80b-6(1), (2), and (4)] and Rule 206(4)-8 thereunder [17 C.F.R. § 275.206(4)-8].

#### **JURISDICTION AND VENUE**

5. The Commission brings this action pursuant to Sections 20(b) and 20(d) of the Securities Act [15 U.S.C. §§ 77t(b) and 77t(d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], and Section 209(d) of the Advisers Act [15 U.S.C. § 80b-9(d)] to enjoin such

transactions, acts, practices, and courses of business, and to obtain disgorgement, prejudgment interest, and such other and further relief as the Court may deem just and appropriate.

6. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa], and Section 214 of the Advisers Act [15 U.S.C. § 80b-14].

7. Venue in this district is proper under Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)], Section 27 of the Exchange Act [15 U.S.C. § 78aa], and Section 214 of the Advisers Act [15 U.S.C. § 80b-14]. Certain of the defendants are inhabitants of, or may be found within the Northern District of Illinois. Certain of the transactions, acts, practices, and courses of business constituting the violations alleged herein occurred within the Northern District of Illinois and elsewhere, and were effected, directly or indirectly, by making use of the means or instruments or instrumentalities of transportation or communication in interstate commerce, or of the mails, or the facilities of a national securities exchange.

#### **DEFENDANT AND RELEVANT ENTITIES**

8. Joseph A. Dawson, age 49, is a resident of Fox Lake, Illinois. Dawson has never been registered with the Commission in any capacity. He is the owner and president of Dawson Trading, LLC. From 1995 to 1996, Dawson was employed as a registered representative at a Financial Industry Regulatory Authority (“FINRA”) member firm.

9. Dawson Trading, LLC, headquartered in McHenry, Illinois, is a limited liability company owned and operated by Dawson. At all times relevant to the facts alleged in this Complaint, Dawson operated Dawson Trading as a pooled investment vehicle which purported to trade in securities, including stocks, bonds, commodities, currencies, options, and real estate. Dawson Trading has never been registered with the Commission in any capacity. At all times

relevant to the facts alleged in this Complaint, Dawson had complete control over the operations of Dawson Trading and made all decisions with respect to investor funds.

10. SPSS Inc., which was headquartered in Chicago, Illinois, was a leading provider of predictive analytics software and solutions, including data collection, statistics, modeling, and deployment. Its shares were listed on the NASDAQ Stock Market until October 2, 2009, when it was acquired by IBM.

11. International Business Machines Corporation, headquartered in Armonk, New York, is a multinational computer, technology and IT consulting corporation. Its shares are listed on the NYSE.

## **FACTS**

### **DAWSON ENGAGED IN ILLEGAL INSIDER TRADING**

#### **Background of the SPSS Acquisition**

12. In early April 2009, IBM's Managing Director of Corporate Development approached SPSS' president, chairman, and chief executive officer concerning IBM's interest in acquiring SPSS. On May 24, 2009, the parties executed an exclusivity and standstill agreement, which provided that SPSS was obligated to negotiate exclusively with IBM until June 22, 2009.

13. On May 26, 2009, SPSS supplemented the existing confidentiality agreement with IBM in advance of IBM commencing due diligence. For the next several weeks, IBM conducted due diligence. On June 6, 2009, IBM's legal counsel sent to SPSS' legal counsel a draft of a merger agreement.

14. On June 15, 2009, IBM's Managing Director of Corporate Development informed SPSS' president that as a result of continuing trademark litigation between SPSS and one of the company's founders over the use of SPSS' name, SPSS would have to accept either a reduction

in price at which IBM would acquire SPSS or a delay in the timing of the transaction. On June 16, 2009, SPSS' board elected to continue discussions with IBM at a slower pace while the trademark litigation was being addressed.

15. On July 23, 2009, IBM's Managing Director of Corporate Development informed SPSS' president that IBM was prepared to proceed with the proposed transaction on the terms the parties had discussed. At 7:31 am on July 28, 2009, the parties issued a joint press release announcing the proposed acquisition, in which IBM would acquire SPSS in an all cash transaction for approximately \$1.2 billion or \$50 per share.

16. On July 28, 2009, SPSS announced that it would be acquired by IBM (the "acquisition announcement"). That day, SPSS' common stock closed at \$49.45 per share, an increase of \$14.36, or 40.9 percent, from the previous day's closing price, on heavy volume of 7,309,300 shares traded. During the six months prior to the acquisition announcement, trading volume in SPSS averaged 146,090 shares.

#### **Dawson's Unlawful Trading**

17. An extended family member of Dawson's ("family member") was a neighbor and close friend of a then-current officer of SPSS ("Officer") for at least ten years prior to the acquisition announcement. The two routinely discussed both personal and business matters such that the Officer reasonably expected the family member to maintain the confidentiality of the information he shared with him and the family member knew or should have known that the Officer expected him to maintain the confidentiality of information told to him by the Officer. The family member knew that the Officer, by virtue of his employment at SPSS, had access to material nonpublic information and that he was under a duty to keep that information confidential.

18. For some months prior to the July 28, 2009 acquisition announcement, the Officer spoke with the family member about the proposed acquisition. Initially, the Officer discussed the transaction in general terms with the family member and, as the deal moved closer to completion, was more specific about the acquisition by IBM. In discussing the proposed acquisition with the family member, the Officer emphasized the need for the family member to keep the information he told the family member confidential by repeating his standard refrain – people “can go to jail for” disclosing material nonpublic information.

19. On May 24, 2009, the Officer received an email from another SPSS officer attaching the exclusivity and standstill agreement. The Officer then forwarded the email to the family member because the Officer needed to fax the signature page to SPSS’ counsel that day, and his home did not have a fax machine. Before faxing the signed exclusivity and standstill agreement for the Officer, the family member read the document, which confirmed what the Officer had been telling him regarding a possible acquisition of SPSS by IBM.

20. The nonpublic information regarding the SPSS acquisition the family member learned from the Officer was material. A reasonable investor would have viewed such information as being important to his or her investment decision and a significant alteration of the total mix of information made available to the public.

21. On May 27, 2009, the family member telephoned Dawson to arrange a breakfast meeting to discuss several issues with Dawson, including seeking advice as to whether the family member could do anything with the information he had learned from the Officer. The family member knew that Dawson operated Dawson Trading because other relatives had spoken to the family member about Dawson’s investing expertise and had encouraged the family member to invest with Dawson.

22. When the family member met with Dawson the following week, he told Dawson that he had heard that IBM was going to buy out a company called SPSS. The family member told Dawson that he knew this because his good friend and neighbor was an officer of SPSS. He also stated that the terms of the acquisition were to be finalized the weekend of June 20 and 21, 2009.

23. During the breakfast meeting, the family member asked Dawson whether he, the family member, should purchase SPSS securities based on the information he learned from the Officer. In response, Dawson told the family member that the family member could not do anything with the information because the family member was “too close to the situation.”

24. On June 4, 2009, in an effort to take advantage of the material nonpublic information he had received from the family member, Dawson began purchasing July 35 and 40 SPSS call options. Dawson’s purchases of SPSS call options continued through June 18, 2009. In total, Dawson purchased a total of 600 July SPSS call options.

25. After June 22, 2009 passed and no acquisition was announced, Dawson learned from the family member that the acquisition announcement had been delayed because of some litigation initiated by a party that had the naming rights to SPSS, but that the litigation was going to be resolved and the acquisition would occur.

26. At about the same time, the family member provided Dawson with the new date on which the deal was to be finalized – July 19, 2009.

27. On June 24, 2009, as a result of learning from the family member that the acquisition announcement had been postponed, Dawson sold all of his July 35 SPSS call options and began purchasing September 40 calls. He continued purchasing September 40 calls through July 22, 2009, purchasing a total of 500 calls. Dawson purchased September calls rather than

August calls in the event that the acquisition announcement slipped again. On July 9, 2009, Dawson also sold 100 September 30 puts. Dawson allowed his July 10 SPSS call options to expire.

28. On July 28, 2009, following the acquisition announcement, Dawson closed out his SPSS option positions for a total profit of \$437,770.

## **DAWSON CONDUCTED AN OFFERING FRAUD**

### **Dawson Fraudulently Solicited Investors to Purchase Promissory Notes**

29. From approximately October 2004 through December 2009, Dawson offered promissory notes issued by Dawson Trading to friends and family living in Illinois, as well as several other states, including, Michigan, Maryland, Wisconsin, Virginia, and Missouri. Dawson solicited investors through his personal and family relations. Dawson never filed a registration statement describing the securities with the Commission.

30. The notes, titled "Guaranteed Note with Incentives" were issued in a principal amount based on the size of the investments, which ranged from \$1,000 to \$800,000. The notes stated that the principal amount was guaranteed, and purported to pay interest and an "incentive." The notes generally provided that "[i]nterest shall accrue on the principal amount hereof at a rate of five percent (5%) per annum, compounded quarterly." The amount of incentive compensation was a percentage of the profits made with the investor's funds, and was generally 50 percent.

31. The notes described Dawson Trading's business as follows: Dawson Trading, LLC invests in all forms of investments including stocks, commodities, bonds, and real estate. Dawson Trading, LLC operates by investing in its proprietary accounts and also borrows capital and hopes to make a profit from the spread between gains in the trading accounts and what must be paid in interest costs and incentives.

32. Dawson told investors that, because their principal and interest allocation was guaranteed, there was no or only minimal risk associated with investing. Dawson consistently told investors and prospective investors through emails and telephone calls that Dawson Trading was profitable and that their investments were growing. In addition, the purported profitable returns were reflected in false quarterly account statements provided to investors. Some investors were falsely led to believe that Dawson would hold their monies in separate accounts in their name, not in an account in Dawson Trading's name.

33. Based on these misrepresentations, at least 31 individuals invested approximately \$3.8 million through Dawson and Dawson Trading. The investors either wired funds into bank accounts held in the name of Dawson Trading or sent funds to Dawson Trading in the form of checks, which Dawson deposited into bank accounts held in the name of Dawson Trading.

**Dawson Did Not Invest the Investors' Funds as He Had Represented**

34. Dawson generally held all investor funds as well as some of his own monies in a single trading account at Interactive Brokers and bank accounts at Bank of America and JPMorganChase. He treated these accounts as his own personal accounts. Rather than investing all of the funds as he had promised, Dawson used approximately \$2.1 million of the approximately \$3.8 million he raised from investors for a variety of personal expenses. He had a debit card for the Bank of America account that he used for personal expenses and to make cash withdrawals. In addition, Dawson used investors' monies as a down payment on a new house, to add a pool, for landscaping, a down payment on an office condominium for Dawson Trading, improvements to the basement in the office condominium, for the purchase of two cars, and to pay various medical expenses for his daughter. Dawson also used investors' monies for attorney's fees and expenses to form a hedge fund. In addition, Dawson used the money to pay

himself an \$84,000 salary as well as salaries of \$70,000 and \$60,000 for two employees of Dawson Trading, and the salaries of several interns. Dawson did not disclose to investors that their investments would be used in this manner.

35. Further, with respect to monies Dawson transferred to the Interactive Brokers account, Dawson Trading lost approximately \$945,000 through trading. The account had net trading losses in every year but 2009, when the trading losses were offset by profits made through trades in SPSS options.

**Dawson Made Material Misrepresentations and Provided  
Fraudulent Statements to Investors**

36. Dawson routinely made material misrepresentations regarding Dawson Trading's investments and never disclosed the trading losses to his investors. For example, in a September 29, 2005 email to a prospective investor, Dawson claimed, "Dawson Trading, LLC has been having a fantastic year as the trading accounts are up over 40%." Dawson Trading's account at Interactive Brokers was never up over 40 percent. In the email, Dawson added that with the "new trading program," "you are guaranteed at least 6.25% and can make a lot more" from the incentive allocation. Dawson had no new trading program guaranteeing a return of 6.25 percent. Dawson further noted that "Dawson Trading, LLC can support this program because we have great algorithms that consistently make money." The claimed returns were false and no such algorithms existed.

37. In another email on September 13, 2008 to an investor providing an update on the status of his investment, Dawson wrote, without any factual basis, "Dawson Trading performed very well (+1.29%) last week. We are positioned next week to do well if the market has a big up move or a big down move." Three days later, Dawson noted in an email to the same investor, "scary . . . We are having a good week. I did not believe the Fed would let Lehman Brothers fail

but they did! We had a big calendar spread in Lehman otherwise we would be having a huge week. The Russell trade has been doing incredible.” In fact, Dawson Trading continued to suffer investment losses.

38. Dawson explained to another investor that his trading posed minimal risk because he hedged all his trades and he always predetermined the point at which he would get out of the market, either when the market rose or fell, limiting his losses. Dawson also said that if the market dropped, he had sufficient reserves to cover the guaranteed returns. In reality, Dawson did not hedge any of his trades and there were no reserves to guarantee any returns.

39. In furtherance of the scheme, Dawson provided investors at times with false quarterly account statements, via email or mail, detailing the supposed performance of their investments. The account statements consistently showed that Dawson’s investments were profitable and that Dawson Trading was earning better returns than the market in general.

40. For example, on May 27, 2009, Dawson’s wife’s sister-in-law invested \$300,000, the proceeds of her husband’s life insurance policy, with Dawson Trading after Dawson assured her that the investment was safe and that she would not lose her principal. The September 30, 2009 account statement showed that the original \$300,000 investment had grown to \$315,540 – or by 5.18% -- within four months. The statement also specified that the quarterly net income of \$15,540 included an incentive allocation of \$11,790 and an interest allocation of \$3,750.

41. The quarterly account statements consistently showed a profit. Dawson knew that if the statements reflected the actual returns, investors would have requested that their investments be returned. When investors redeemed their investments, Dawson, in the nature of a Ponzi scheme, paid them with other investors’ funds based upon the inflated returns reflected on the previously issued false account statements.

**FIRST CLAIM FOR RELIEF**

**Section 10(b) of the Exchange Act and Rule 10b-5 thereunder**

42. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 41, inclusive, as if they were fully set forth herein.

43. Defendant Dawson, by engaging in the conduct described above, knowingly or recklessly, in connection with the purchase or sale of securities, directly or indirectly, by use of the means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange:

- (a) employed devices, schemes or artifices to defraud;
- (b) made untrue statements of material facts or omitted 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) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person in connection with the purchase or sale of any security.

44. By engaging in the foregoing conduct, Defendant Dawson violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5], thereunder.

**SECOND CLAIM FOR RELIEF**

**Violations of Sections 5(a) and 5(c) of the Securities Act**

45. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 44, inclusive, as if they were fully set forth herein.

46. From October 2004 through December 2009, Defendant Dawson, by engaging in the conduct described above, directly or indirectly, in connection with a security for which no

registration statement was in effect, and in the absence of any applicable exemption from registration:

(a) made use of a means or instrument of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise;

(b) carried or caused to be carried through the mails or in interstate commerce, by any means or instrument of transportation, such security for the purpose of sale and/or for delivery after sale; and/or

(c) made use of a means or instrument of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy such security through the use or medium of a prospectus or otherwise.

47. By reason of the foregoing, Defendant Dawson violated Sections 5(a) and 5(c) of the Securities Act [15 U.S.C. §§ 77e(a) and 77e(c)].

**THIRD CLAIM FOR RELIEF**

**Violations of Section 17(a) of the Securities Act**

48. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 47, inclusive, as if they were fully set forth herein.

49. Defendant Dawson, by engaging in the conduct described above, knowingly or recklessly, in connection with the offer or sale of securities, by the use of the means or instruments of transportation, or communication in interstate commerce or by use of the mails, directly or indirectly:

(a) employed devices, schemes or artifices to defraud;

(b) obtained money or property by means of untrue statements of material facts, or omissions 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) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

50. By engaging in the forgoing conduct, Defendant Dawson violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

#### **FOURTH CLAIM FOR RELIEF**

##### **Violation of Sections 206(1), 206(2), and 206(4) of the Advisers Act and Rule 206(4)-8 thereunder**

51. The Commission repeats and incorporates by reference each and every allegation in paragraphs 1 through 50 inclusive, as if they were fully set forth herein.

52. From at least October 2004 through December 2009, Defendant Dawson, while acting as an investment adviser, by engaging in the conduct described above, acting intentionally, knowingly or recklessly, directly or indirectly, by use of the mails or any means or instrumentality of interstate commerce:

(a) employed devices, schemes or artifices to defraud any client;

(b) engaged in transactions, practices or courses of business which operated as a fraud or deceit upon his clients and prospective clients; and/or

(c) engaged in acts, practices, or courses of business which were fraudulent, deceptive, or manipulative.

53. By engaging in the foregoing conduct, Defendant Dawson violated Sections 206(1), 206(2), and 206(4) of the Advisers Act [15 U.S.C. §§80b-6(1), (2), and (4)], and Rule 206(4)-8 [17 C.F.R. § 275.206(4)-8].

**FIFTH CLAIM FOR RELIEF**

**Violations of Section 15(a) of the Exchange Act**

54. The Commission repeats and incorporates by reference each and every allegation in paragraphs 1 through 53, inclusive, as if they were fully set forth herein.

55. From at least October 2004 through December 2009, Defendant Dawson, by engaging in the conduct described above, acting intentionally, knowingly or recklessly, directly or indirectly, by use of the mails or any means or instrumentality of interstate commerce effected transactions in, or induced or attempted to induce the purchase or sale of, securities without being registered as a broker or dealer.

56. By engaging in the foregoing conduct, Defendant Dawson violated Section 15(a) of the Exchange Act [15 U.S.C. § 78o(a)].

**PRAYER FOR RELIEF**

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

**I.**

Permanently restraining and enjoining Defendant Dawson from violating Sections 5(a), 5(c), and 17(a) of the Securities Act [15 U.S.C. §§ 77e(a), 77e(c), and 77q(a)], Sections 10(b) and 15(a) of the Exchange Act [15 U.S.C. §§ 78j(b) and § 78o(a)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder, Sections 206(1), 206(2), and 206(4) of the Advisers Act [15 U.S.C. §§80b-6(1), (2), and (4)] and Rule 206(4)-8 [17 C.F.R. § 275.206(4)-8] thereunder;

**II.**

Ordering Defendant Dawson to disgorge any and all ill-gotten gains together with prejudgment interest thereon, derived from the activities set forth in this Complaint;

**III.**

Ordering Defendant Dawson to pay civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)], Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)], and Section 209(e) of the Advisers Act [15 U.S.C. § 80b-9(e)]; and

**IV.**

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

Respectfully submitted,

/s/ John E. Birkenheier  
John E. Birkenheier  
Illinois ARD No. 6270993  
Regional Trial Counsel  
U.S. Securities and Exchange Commission  
175 W. Jackson Boulevard, Suite 900  
Chicago, Illinois 60604  
Telephone: (312) 886-3947  
*Designated Local Counsel for Plaintiff*

Daniel M. Hawke  
Elaine C. Greenberg  
G. Jeffrey Boujoukos  
Mary P. Hansen  
Suzanne C. Abt  
U.S. Securities and Exchange Commission  
Mellon Independence Center  
701 Market Street, Suite 2000  
Philadelphia, PA 19106  
Telephone: (215) 597-3100  
Facsimile: (215) 597-2740  
*Lead Counsel for Plaintiff*

Dated: March 8, 2011