

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF PENNSYLVANIA**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

CHARLES E. MAZUR, JR.,  
JAMES S. POLAND and  
JOSEPH A. CERENZIA,

Defendants.

Civil Action No.

**COMPLAINT**

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

**SUMMARY OF THE ACTION**

1. This matter involves unlawful insider trading in the securities of CONSOL Energy, Inc. (“CONSOL”) by three former CONSOL employees, Charles E. Mazur, Jr. (“Mazur”), James S. Poland (“Poland”), and Joseph A. Cerenzia (“Cerenzia”). On March 15, 2010, CONSOL publicly announced an agreement to acquire the Appalachian Exploration and Production business of Dominion Resources, Inc. (“Dominion”) for \$3.74 billion in cash (the “Dominion acquisition”). On the day of the announcement, the closing price of CONSOL stock decreased approximately 10 percent from the prior trading day’s closing price. Each of the Defendants possessed material nonpublic information regarding the Dominion acquisition prior to the public announcement and used that information to trade in CONSOL securities prior to the public announcement.

2. Each of the Defendants benefitted from the trades of CONSOL securities they made based on material nonpublic information. Trading in CONSOL put options, Mazur realized profits of \$47,355. Poland sold CONSOL stock prior to the announcement and avoided losses of \$9,552. And Cerenzia exercised company-issued stock options and then sold the stock prior to the announcement, avoiding losses of \$7,518.

3. By knowingly or recklessly engaging in the conduct described in this complaint, Defendants Poland and Cerenzia violated and, unless enjoined and restrained, will continue to violate Section 17(a) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. § 77q(a)].

4. By knowingly or recklessly engaging in the conduct described in this complaint, Defendants Mazur, Poland, and Cerenzia violated and, unless enjoined and restrained, 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**

5. The Commission brings this action pursuant to Section 20(b) of the Securities Act [15 U.S.C. § 77t(b)], and Sections 21(d) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d) and 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 as the Court may deem just and appropriate.

6. This Court has jurisdiction over this action pursuant to Sections 20(b) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)] and Sections 21(d), 21(e), 21A and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), 78u-1 and 78aa].

7. Venue in this district is proper pursuant to Section 22(a) of the Securities Act [15 U.S.C. § 77v(a)] and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Among other things,

certain of the acts, practices, and courses of business constituting the violations of the federal securities laws alleged herein occurred within the Western District of Pennsylvania and elsewhere, and were effected, directly or indirectly, by making use of the means or instruments of transportation or communication in interstate commerce, or of the mails, or the facilities of a national securities exchange. Further, all of the Defendants reside in the Western District of Pennsylvania.

**DEFENDANTS**

8. **Charles E. Mazur, Jr.**, age 42, currently resides in Eighty Four, Pennsylvania. During the relevant time period, Mazur was the Director of Corporate Strategy at CONSOL. Mazur worked for CONSOL for approximately 5 years.

9. **James S. Poland**, age 52, currently resides in Washington, Pennsylvania. During the relevant time period, Poland was the General Manager of Engineering for the Environmental and Engineering Services Group at CONSOL. Poland worked for CONSOL for approximately 30 years.

10. **Joseph A. Cerenzia**, age 57, currently resides in Canonsburg, Pennsylvania. During the relevant time period, Cerenzia was the Director of Public Relations/External Affairs Department at CONSOL, where he was employed for approximately 30 years.

**RELATED ENTITIES**

11. **CONSOL Energy, Inc.** is a producer of coal and natural gas. CONSOL's headquarters are located in Canonsburg, Pennsylvania, and its stock is traded on the New York Stock Exchange under the symbol "CNX."

12. **Dominion Resources, Inc.** is a power and energy company headquartered in Richmond, Virginia. Dominion's stock is traded on the New York Stock Exchange under the symbol "D."

**FACTS**

13. On March 15, 2010, at approximately 8:00 a.m. EST, CONSOL publicly announced that it had entered into a definitive agreement to acquire the Appalachian Exploration and Production business of Dominion for \$3.74 billion in cash. That day, the price of CONSOL stock closed at \$48.85 per share, a decrease of \$5.48, or approximately 10%, from the prior trading day's closing price of \$54.33.

14. CONSOL's Code of Employee Business Ethics and Conduct ("the Code") prohibits its employees from trading CONSOL securities while in possession of material nonpublic information related to the company. Each employee must certify that he/she complies with the Code and specifically understands that "if an employee has material nonpublic information related to the [c]ompany, neither that person nor any related person may buy or sell" CONSOL securities, "or engage in any other action to take advantage (directly or indirectly, or for another person's benefit) of that information."

15. It is CONSOL's policy to review annually its employees' compliance with the Code, and the insider trading policy in particular. Specifically, at year-end, every employee of CONSOL and its subsidiary companies receives an email requiring him or her to sign a

statement of compliance and return it to the CEO and President of CONSOL. CONSOL's Human Resources Department ensures that every CONSOL employee responds to the year-end compliance request.

16. CONSOL's Policy Statement on Securities Trades by Directors and Employees of CONSOL also expressly prohibits trading in CONSOL securities while in possession of material nonpublic information. That policy also prohibits certain transactions involving CONSOL securities, including trading in put options, even when the employee does not possess material nonpublic information.

**Mazur Traded Based on Material Nonpublic Information.**

17. In October 2005, Mazur became the Director of CONSOL's Investor Relations Group. No later than November 2008 he transferred to the Corporate Strategy Group as the Director of Corporate Strategy. In that position he was responsible for assessing and analyzing the business plans of CONSOL's competitors and evaluating potential merger candidates for the company. As a result, Mazur had access to highly confidential, material nonpublic information about the company and its prospective business acquisitions, including the Dominion acquisition.

18. In anticipation of a November 16, 2009 meeting between CONSOL and Dominion executives, Mazur compiled information and prepared documents relating to the valuation of Dominion's assets, potential deal structures, and financial comparisons.

19. In mid-February 2010, Mazur was asked to work on the investor relations presentation related to the Dominion acquisition. His role was to coordinate information with CONSOL's investor relations department and CONSOL's investment bankers.

20. On Tuesday, March 9, 2010, Mazur received an email from CONSOL's public relations firm stating: "as per this afternoon's call, attached please find the draft high-level announcement rollout (which contemplates a pre-market announcement on Monday)."

21. The information Mazur received in the March 9, 2010 email concerning the announcement of CONSOL's Dominion acquisition was material and nonpublic.

22. The next day, on Wednesday, March 10, 2010, Mazur logged into his brokerage account and purchased 140 in-the-money CONSOL put option contracts, with an April 17, 2010 expiration and a \$55 strike price, at \$3.80 per contract for a total cost of \$53,316.

23. On March 16, the day after the public announcement of the Dominion acquisition, Mazur sold all 140 put option contracts for a total of \$100,671, realizing an illegal profit of approximately \$47,355.

24. By purchasing CONSOL securities with the knowledge of the pending Dominion acquisition, Mazur violated CONSOL's written insider trading policy, which prohibited employees from trading CONSOL securities while in possession of material nonpublic information related to the company. He also violated CONSOL's policy by buying and selling CONSOL put options.

25. Mazur received a copy of CONSOL's insider trading policy each year. He also signed and submitted a yearly certification indicating that he had read, understood, and complied with the policy.

26. As a result of his trading in CONSOL securities, Mazur was terminated from CONSOL on November 16, 2010 for violating CONSOL's insider trading policy.

27. At all relevant times, Mazur acted knowingly or recklessly.

**Poland Traded Based on Material Nonpublic Information.**

28. Poland was employed as a mining engineer with CONSOL for over 30 years. During the relevant period, Poland was the General Manager of Engineering for CONSOL's Environmental and Engineering Services Group. In this position, Poland's responsibilities included evaluating closed mine operations, reviewing engineering plans for reclamation activities, and assessing environmental permits.

29. In December 2009, Poland conducted an environmental survey of approximately 16 wells belonging to Dominion. Poland was instructed that the project was confidential. Poland drafted a report summarizing his findings and emailed or uploaded the report onto a confidential, shared CONSOL website for use by CONSOL employees working on the Dominion acquisition.

30. On January 13, 2010, Poland received an e-mail from CONSOL's Executive Vice President and Chief Legal Officer, stating that the CEO of CONSOL requested that the Chief Legal Officer "emphasize to each of you that this project remains very confidential" and that "it would be harmful to CONSOL's interests if information about [the Dominion acquisition] is distributed internally to those without a need to know and it would be particularly harmful if there is an external leak of information. Violation of this confidentiality obligation will be grounds for termination."

31. Poland received and read the January 13, 2010 e-mail and understood the importance of confidentiality regarding the Dominion acquisition.

32. From mid-January to mid-March 2010, Poland received e-mail invitations to participate in conference calls relating to progress reports of environmental issues for the

Dominion acquisition. Poland attended at least two or three calls and continued to conduct environmental due diligence for the Dominion acquisition.

33. On Tuesday, March 9, 2010, CONSOL's Executive Vice President in Business Advancement and Support Services told Poland that the Dominion acquisition was going to be publically announced on March 15.

34. The information Poland received on March 9 concerning the announcement of CONSOL's Dominion acquisition was material and nonpublic.

35. Between Tuesday, March 9, and Thursday, March 11, 2010, Poland was traveling between closed mine locations in and around Ohio.

36. On Thursday, March 11, 2010, Poland returned to a CONSOL branch office, accessed his CONSOL 401(k) account, and sold 2,000 shares of CONSOL stock at approximately \$53.62 a share, for a total sale price of approximately \$107,253.

37. After the public announcement of the Dominion acquisition on March 15, 2010, CONSOL stock closed at \$48.85. By selling stock in advance of the public announcement, Poland illegally avoided a loss of approximately \$9,552.

38. Poland received a copy of CONSOL's insider trading policy each year. He also signed and submitted a yearly certification indicating that he had read, understood, and complied with the policy.

39. On November 29, 2010, CONSOL terminated Poland's employment for violating its insider trading policy.

40. At all relevant times, Poland acted knowingly or recklessly.

**Cerenzia Traded Based on Material Nonpublic Information.**

41. Cerenzia began his employment at CONSOL in 1980 in the Public Relations Group as a Coordinator of Public Relations. Over the years he was promoted and in 2005 became the Director of Public Relations, reporting directly to CONSOL's Executive Vice President of Corporate Affairs and Chief Legal Officer. Cerenzia's responsibilities included coordinating media and community relations as well as editing and disseminating CONSOL press releases to the news wires.

42. As early as February 2, 2010, CONSOL's Chief Legal Officer informed Cerenzia that he would become part of CONSOL's confidential team handling the Dominion acquisition. Cerenzia's responsibilities included coordinating the preparation of investor slide shows and investor news releases, editing press releases, and distributing CONSOL information to PR Newswire.

43. Cerenzia received and reviewed drafts of the investor presentation that was to take place after the public announcement of the Dominion acquisition. Cerenzia understood that any information relating to the Dominion acquisition was to be kept confidential.

44. On March 9, 2010, Cerenzia received from CONSOL's investor relations firm the same email sent to Mazur, attaching the "high level announcement rollout" relating to the Dominion acquisition. The email states that the pre-market public announcement of the Dominion acquisition was planned for Monday, March 15, 2010.

45. On March 11, 2010, Cerenzia received and reviewed another email attaching a draft of the press release relating to the Dominion acquisition that was to be issued in the morning on March 15.

46. The information Cerenzia received in the March 11 email concerning the press release and the timing of the announcement of CONSOL's Dominion acquisition was material and nonpublic.

47. The next day, Cerenzia logged into his CONSOL Employee Incentive account, exercised two sets of stock options he had received from the company, and immediately sold the stock. Cerenzia exercised 1,179 CONSOL stock options at \$34.85 per share, for a total purchase price of \$41,088. Simultaneously, he sold the newly acquired CONSOL shares at the market price of \$54.71 per share, for a total of \$64,503.

48. Cerenzia also exercised 104 CONSOL stock options at \$27.90 per share, for a total purchase price of \$2,902. Cerenzia immediately sold the 104 CONSOL shares at the market price of \$54.71 per share for a total of \$5,690.

49. By selling the CONSOL stock in advance of the public announcement, Cerenzia illegally avoided a loss of approximately \$7,518. Using the closing price of \$48.85 per share on the day of the public announcement, Cerenzia's sale of the 1,283 shares of CONSOL stock he acquired from exercising the options would have generated only \$62,675, instead of the \$70,193 he received from selling on the basis of material nonpublic information in advance of the announcement.

50. Cerenzia received a copy of CONSOL's insider trading policy each year. He also signed and submitted a yearly certification indicating that he had read, understood, and complied with the policy.

51. On November 29, 2010, CONSOL terminated Cerenzia's employment for violating its insider trading policy.

52. At all relevant times, Cerenzia acted knowingly or recklessly.

**Mazur, Poland, and Cerenzia Violated the Federal Securities Laws**

53. Mazur, Poland, Cerenzia were employees of CONSOL.

54. In connection with their employment at CONSOL, Mazur, Poland, and Cerenzia knew about the Dominion acquisition in advance of the public announcement.

55. Mazur, Poland, and Cerenzia knew that the information they possessed regarding the Dominion acquisition was material nonpublic information. A reasonable investor would have viewed the material nonpublic information known to Mazur, Poland, and Cerenzia as being important to his investment decision or a significant alteration of the total mix of information available to the public.

56. Mazur, Poland, and Cerenzia knew or were reckless in not knowing that it was a violation of the securities laws to purchase or sell securities while in possession of material nonpublic information.

57. On the basis of the material nonpublic information he possessed, Mazur purchased 140 in-the-money CONSOL put option contracts.

58. On the basis of the material nonpublic information he possessed, Poland sold 2,000 shares of CONSOL stock.

59. On the basis of the material, nonpublic information he possessed, Cerenzia exercised 1,283 CONSOL stock options and then immediately sold the acquired stock.

**CLAIMS FOR RELIEF**

**FIRST CLAIM**

**Violations of Sections 17(a)(1) and (3) of the Securities Act**

**(Against Defendants Poland and Cerenzia)**

60. The Commission re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 59, inclusive, as if they were fully set forth herein.

61. The information regarding the Dominion acquisition possessed by Defendants Poland and Cerenzia was material and non-public.

62. At all times relevant to the complaint, Defendants Poland and Cerenzia acted knowingly or recklessly.

63. By engaging in the conduct described above, Defendants Poland and Cerenzia, 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; or
- (b) engaged in transactions, practices, or courses of business which operated or would operate as a fraud or deceit upon the purchaser.

64. By engaging in the foregoing conduct, Defendants Poland and Cerenzia violated and, unless enjoined, will continue to violate Sections 17(a)(1) and 17 (a)(3) of the Securities Act [15 U.S.C. §77q(a)].

**SECOND CLAIM**

**Violations of Section 10(b) of the Exchange Act and Rules 10b-5(a) and (c) Thereunder**

**(Against All Defendants)**

65. The Commission re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 64, inclusive, as if they were fully set forth herein.

66. The information regarding the Dominion acquisition possessed by Defendants Mazur, Poland, and Cerenzia was material and non-public.

67. At all times relevant to the complaint, Defendants Mazur, Poland, and Cerenzia acted knowingly or recklessly.

68. By engaging in the conduct described above, Defendants, directly or indirectly, in connection with the purchase or sale of securities, 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; and/or
- (b) 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.

69. By engaging in the foregoing conduct, Defendants Mazur, Poland, and Cerenzia violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rules 10b-5(a) and (c) thereunder [17 C.F.R. § 240.10b-5].

**PRAYER FOR RELIEF**

**WHEREFORE**, the Commission respectfully requests that the Court enter Final Judgments:

**I.**

Permanently restraining and enjoining Defendants Poland and Cerenzia, and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, from violating, directly or indirectly, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)]; and permanently restraining and enjoining Defendants Mazur, Poland and Cerenzia, and their agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, from violating 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];

**II.**

Ordering Defendants Mazur, Poland, and Cerenzia to disgorge all unlawful trading profits and losses avoided received as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon, including, as to each of the Defendants, the trading profits and other ill-gotten gains, and prejudgment interest thereon;

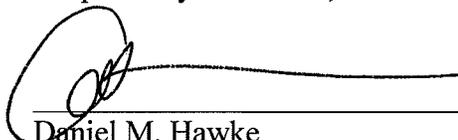
**III.**

Ordering Defendants Mazur, Poland, and Cerenzia to pay civil penalties pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1];

**IV.**

Granting such other and further relief as this Court may deem just, equitable, and necessary.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel M. Hawke", is written over a horizontal line. The signature is stylized with a large loop at the beginning.

Daniel M. Hawke

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Dated: June 1, 2012