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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

_____)	
SECURITIES AND EXCHANGE)	
COMMISSION,)	
)	Civ. No.
Plaintiff,)	
)	
v.)	<u>COMPLAINT</u>
)	
ROBERT BENOUE,)	
MARC BENOUE, and)	
CONOLOG CORPORATION,)	
)	
Defendants.)	
_____)	

COMPLAINT

Plaintiff Securities and Exchange Commission (the “Commission”) alleges the following against defendants Robert Benou, Marc Benou and Conolog Corporation (“Conolog”) (collectively, “Defendants”):

SUMMARY OF ALLEGATIONS

1. This case involves a series of materially false and misleading press releases that inflated the market price and trading volume of the stock of Conolog, a publicly traded microcap company involved in manufacture of communications equipment. From January 27 through February 17, 2010, Conolog issued three press releases about its business operations that, among

other things, mischaracterized testing done on a new product and overstated the amount of customer orders that Conolog had received for existing products. At the same time, Conolog hired a marketing firm to promote Conolog stock using the materially false and misleading statements from the press releases.

2. Robert Benou and his son Marc Benou, respectively Conolog's Chairman-CEO-CFO and President-COO, were in charge of Conolog during the relevant period. Robert Benou was principally responsible for the contents of the press releases and promotional materials, including the press release in which Conolog claimed that it had received \$1.9 million in new equipment orders when, in fact, it had only received approximately \$50,000 in new orders. Marc Benou was involved in the press release that touted, but mischaracterized, testing done on new fiber optic technology that Conolog claimed to have developed.

3. The press releases and promotional materials had a material impact on Conolog's stock price and trading volume in the days and weeks that followed. The stock price more than tripled at one point from where it had traded prior to the press releases, reaching an intra-day high of \$4.72 after the issuance of the press release on February 1, 2010 concerning new product orders. The daily volume during this period reached a high of 21.6 million shares that day, more than 366 times higher than the average daily volume over the preceding three months. Both Robert Benou and Marc Benou sold Conolog stock at inflated prices during this period. Conolog's stock began a steady decline after February 2010 and has not traded above \$0.10 per share since December 2011.

4. Robert Benou and Marc Benou also violated beneficial ownership reporting requirements of the Securities Exchange Act of 1934 ("Exchange Act"). On numerous occasions since 2002, Robert Benou traded Conolog stock but failed to timely report to the Commission the

transactions, as required, on an SEC Form 4 or an SEC Form 5. Robert Benou also failed on multiple occasions to timely file, as required, a beneficial ownership report on SEC Schedule 13D, and required amendments, with respect to his greater than 5% ownership of Conolog stock. Marc Benou also failed to file timely reports on SEC Form 4 with respect to transactions in Conolog stock, and he failed to timely file required amendments to his Schedule 13D with respect to his greater than 5% beneficial ownership of Conolog stock.

5. By virtue of the conduct alleged herein, (a) each of the Defendants, directly or indirectly, singly or in concert, violated 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]; and (b) Robert Benou and Marc Benou, directly or indirectly, singly or in concert, violated Sections 13(d) and 16(a) of the Exchange Act [15 U.S.C. §§ 78m(d) and 78p(a)] and Rules 13d-1, 13d-2 and 16a-3 thereunder [17 C.F.R. §§ 240.13d-1, 240.13d-2 and 240.16a-1].

6. Unless the Defendants are permanently restrained and enjoined, they will again engage in the acts, practices, transactions and courses of business set forth in this complaint and in acts, practices, transactions and courses of business of similar type and object.

JURISDICTION AND VENUE

7. The Commission brings this action pursuant to authority conferred by Section 21(d)(1) of the Exchange Act [15 U.S.C. § 78u(d)(1)], and seeks to restrain and permanently enjoin the Defendants from engaging in the acts, practices, transactions and courses of business alleged herein. The Commission also seeks a final judgment against Robert Benou and Marc Benou requiring them to disgorge their ill-gotten gains, plus prejudgment interest, and pay civil monetary penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], and imposing officer-and-director bars under Section 21(d)(2) of the Exchange Act [15 U.S.C. §

78u(d)(2)] and penny stock bars under Section 21(d)(6) of the Exchange Act [15 U.S.C. § 78u(d)(6)].

8. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 and Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

9. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b)(2) and Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Certain of the events constituting or giving rise to the alleged violations occurred in the District of New Jersey, where Conolog maintains its principal office and where Robert Benou and Marc Benou reside.

10. In connection with the conduct alleged in this complaint, the Defendants, directly or indirectly, have made use of the means or instruments of transportation or communication in, and the means or instrumentalities of interstate commerce, or of the mails, or of the facilities of a national securities exchange.

DEFENDANTS

11. **Robert Benou**, age 80, is Conolog's Chairman, and he was also its CEO and CFO until January 31, 2013. He has been a director of Conolog since 1968 and served as Conolog's president from 1968 until May 1, 2001, when he became CEO. He resides in Mountainside, New Jersey.

12. **Marc Benou**, age 46, is Conolog's president and COO, and he is a director of Conolog. He has been a director and officer of Conolog since at least 1995. He resides in Westfield, New Jersey, and is Robert Benou's son.

13. **Conolog** is a Delaware corporation headquartered in Somerville, New Jersey. During the relevant period, Conolog described itself as being engaged in the design, production and distribution of small electronic and electromagnetic components and sub-assemblies for use

in telephone, radio and microwave transmissions and other communications, with both military and commercial applications. Conolog's securities are registered with the Commission pursuant to Section 12(g) of the Exchange Act and were registered under Section 12(b) during the relevant period. Conolog's common stock was listed on the NASDAQ Capital Market until February 2, 2011, when it was delisted for failure to comply with a NASDAQ rule requiring listed issuers to have a minimum of \$2.5 million in stockholders' equity. After being delisted, Conolog common stock has been quoted on the OTCQB. Conolog is required to file periodic reports with the Commission pursuant to Sections 13 or 15(d) of the Exchange Act but has not filed any such reports since filing its Form 10-Q for the quarter ended April 30, 2013 on September 25, 2013. On October 30, 2013, Conolog filed a Form NT 10-K stating that it was unable to timely file its Form 10-K for the year ended July 31, 2013.

THE DEFENDANTS' VIOLATIVE CONDUCT

Background

14. Conolog was founded in 1968 and has been controlled by Robert Benou for most of its history. Over the years, Conolog has been a small technology company that manufactures communications equipment, primarily for use by electric utilities, fiber optic service providers and the military. In its fiscal year ended July 31, 2010, during which the conduct at issue occurred, Conolog reported revenue of \$1.18 million, down from \$1.49 million in the prior year. In its fiscal years ended July 31, 2011 and 2012, Conolog reported revenue of \$1.69 million and \$831,719, respectively. Conolog reported net losses of \$1.80 million or more in each of the last four years for which it has filed a Form 10-K (2009-2012). In the nine months ended April 30, 2013, the company reported a net loss of nearly \$1.1 million. As of that date, Conolog reported negative working capital and a stockholders' deficiency of approximately \$2.5 million. The

Form 10-Q for that period expresses “substantial doubt” about the company’s ability to continue as a going concern.

Materially False And Misleading Press Releases

15. During a three-week span in January and February, 2010, Conolog issued three press releases that contained materially false and misleading statements about a newly developed product to be used with fiber optic technology and about purportedly large new orders for existing products. Some of these statements were further disseminated to the public by a public relations firm that Conolog hired at the same time to promote the stock. Robert Benou prepared and authorized the issuance of the press releases, and he caused Conolog to hire the public relations firm and provided it with the same information that appeared in the press releases. Marc Benou assisted in the preparation of one of the press releases and was generally aware that the other press releases were being issued.

Misstatements About The “GlowWorm” Technology

16. On January 27, 2010, Conolog issued a press release touting the introduction of what it described as Conolog’s new “‘GlowWorm’ fiber optic detector.” Robert Benou wrote this press release with Marc Benou’s assistance, and Robert Benou approved and authorized its issuance. In the press release, Conolog made materially false and misleading statements about the results of purported testing it had done on the GlowWorm technology and the GlowWorm’s production status that created the misimpression that GlowWorm was fully vetted and ready for commercial use and sale. These statements were materially misleading.

17. The press release stated that Conolog “has completed field testing” and had “started production/marketing” of GlowWorm. Marc Benou was quoted in the press release as stating that the GlowWorm product “surpassed our expectations in field tests” and “demonstrated

its capabilities in fiber optic networks as well as lines.” Marc Benou is further quoted as stating that the GlowWorm product is an “application of passive detection technology” that “is unique to Conolog” and will allow customers “to quickly determine the source of a fiber optic signal failure.” These statements were materially misleading for the following reasons, which defendants knew or recklessly disregarded.

18. When the press release was issued, there had not been any independent third-party testing of GlowWorm or any production of units for commercial use, as implied in the press release. The only “testing” of GlowWorm had been a purported in-house demonstration of the product for Conolog. The “production” of GlowWorm had not progressed beyond the ordering of parts that would be needed to build the units. The only “marketing” of GlowWorm consisted of purported telephone calls to customers and the printing of brochures. With respect to the claim that its purported “application of passive detection technology” was “unique” to Conolog, Conolog had not been granted a patent or filed a patent application as of the date of the press release. In light of these undisclosed facts, the statements in the press release created a materially misleading impression of the commercial viability and production status of the GlowWorm technology.

Misstatements About New Orders For Existing Products

19. On February 1, 2010, Conolog issued a press release touting its purported receipt of large new orders for existing products. Robert Benou wrote and authorized the issuance of this press release. In the press release, Conolog claimed that it had received over \$1.9 million in new equipment orders. That statement was materially false and misleading, which Robert Benou knew or recklessly disregarded.

20. Specifically, the press release stated that Conolog “announced today receiving

advance orders for its PDR systems and other communication equipment valued at over \$1,900,000 with deliveries to be scheduled over the next fiscal year.” Robert Benou is quoted in the press release as stating that “our new products and legacy components are increasing in demand.” However, as of the date of the press release, Conolog had only received about \$50,000 worth of actual new orders.

21. In the press release, Robert Benou and Conolog failed to disclose that “advance orders” did not refer to written purchase orders that had actually been placed by customers, but rather referred, at best, to potential orders that Conolog hoped to receive based on discussions with customers about their upcoming needs but that Conolog had not yet, in fact, received. Nor was there any factual basis for Robert Benou’s statement in the press release that “new products and legacy components are increasing in demand.”

22. On February 17, 2010, Conolog issued a press release that made materially misleading statements concerning additional new orders that Conolog had purportedly received after issuing the February 1, 2010 press release. Robert Benou wrote and authorized the issuance of the February 17 press release.

23. In the February 17, 2010 press release, Conolog announced the receipt of “initial orders” for “immediate delivery” of equipment valued at \$638,000. The press release further stated that Conolog received “releases” for “previously announced estimates of PDR 2000 systems, valued at \$638,000.” The press release also quoted Marc Benou as stating that “[w]e are graduating our assemblies to accommodate these PO’s and advance orders notifications received early this month.”

24. The February 17, 2010 press release was materially misleading, which defendants knew or recklessly disregarded. The press release created the false impression, by referring to

“initial orders,” that Conolog had received \$638,000 in new orders in addition to the purported \$1.9 million in “advance orders” that Conolog had announced on February 1, 2010. However, the “initial orders” of \$638,000 to which the February 17 press release referred were included among the anticipated -- *i.e.* “advance” -- orders touted in the February 1 press release and therefore did not represent an additional set of orders. In other words, Conolog had not received \$2.538 million in new orders -- whether labeled “advance orders” as misleadingly described in the February 1 press release or “initial orders” as they were described in the February 17 press release -- as of February 17, 2010. The only actual new equipment orders that Conolog received during this period were two orders from a single customer in the amount of \$637,924 that were placed on February 12, 2010. Moreover, despite Conolog’s assertion that the orders were for “immediate delivery,” Conolog shipped only approximately \$345,000 worth of product on these two orders.

Further Dissemination Of The Press Release Misstatements

25. Shortly before issuing the three press releases described above, Conolog hired a public relations firm (“PR Firm A”) to promote Conolog stock. Robert Benou came up with the idea to hire a public relations firm to promote the stock and engaged PR Firm A on Conolog’s behalf. Conolog’s contract with PR Firm A, dated January 25, 2010, was signed by Robert Benou and required Conolog to pay a fee of \$120,000. The promotional materials disseminated by PR Firm A were based on information supplied by Conolog and reiterated the materially false and misleading statements contained in Conolog’s press releases.

26. PR Firm A profiled Conolog on its website and issued e-mail “alerts” to potential investors. Conolog’s profile on the website included a copy of Conolog’s materially misleading January 27, 2010 press release touting the “‘GlowWorm’ fiber optic detector.” Between January

30 and February 4, 2010, PR Firm A also disseminated at least six e-mail alerts containing much of the same information that appeared in the website profile. Some of these alerts reiterated the materially false and misleading statement in Conolog's February 1, 2010 press release that it had received \$1.9 million in "advance orders."

The Market Impact Of The Misstatements

27. The press releases and promotional campaign had a material impact on Conolog's stock price and trading volume. On January 26, 2010, the last trading day before the first press release was issued, Conolog's stock closed at \$1.29 per share. On January 27, 2010, the stock opened at \$1.45 per share and, after the first press release was issued, closed at \$2.11 per share, an increase of more than 45.5% from that day's opening price and more than 63.5% from the prior day's closing price. After dipping to a closing price of \$1.69 on January 28, the stock rose sharply over the next few days on heavy trading volume and closed at \$4.01 per share on February 1, the date on which the second press release was issued. The stock price was volatile during this period, fluctuating between an intra-day low of \$1.37 and an intra-day high of \$4.72 on average daily volume of 11.8 million shares. The trading volume peaked at 21.6 million shares on February 1. During the three months prior to January 27, Conolog's share price fluctuated between a low of \$1.25 and a high of \$2.35 on average daily volume of 59,000 shares.

28. Soon after February 1, 2010, Conolog's share price and volume began to decline to prior levels, with the closing price falling to \$2.30 on February 9 on volume of 1.4 million shares. The price and volume rose again on February 17, the date on which the third press release was issued, to \$2.43 and 4.3 million shares, respectively. The stock price declined steadily after that, settling into a range between \$0.30 and \$0.45 by the end of 2010 and dropping even further in 2011. The stock has not traded above \$0.10 per share since December 2011, and

the daily trading volume has generally not exceeded 400,000 shares.

The Benous' Stock Sales At Inflated Prices

29. Robert Benou and Marc Benou sold Conolog stock on January 27, 2010, the day on which Conolog issued the first of the three press releases and initiated the promotional campaign. The Benous profited from the price increase generated by the press release and promotional campaign.

30. As described above, Conolog's stock closed at \$1.29 per share on January 26, 2010, the day before the first press release was issued, and closed at \$2.11 per share on January 27. Some of the January 27 intra-day prices were higher than the closing price.

31. On January 27, 2010, Robert Benou sold 57,404 shares of Conolog stock at prices ranging from \$2.39 to \$2.75 per share, generating total proceeds of \$151,541. Marc Benou sold 3,300 shares of Conolog stock that day at a price of \$2.56 per share, for total proceeds of \$8,448. Compared to what the stock was worth at the January 26 closing price of \$1.29 per share, Robert Benou profited in the amount of \$77,490 by selling his shares at the inflated January 27 post-press release prices and Marc Benou profited in the amount of \$4,191 by selling his stock at those prices.

The Benous' Failure To Timely Report Transactions And Holdings In Conolog Stock

32. Robert Benou has been subject to the reporting requirements of Section 16(a) of the Exchange Act since 1995 as a director, and more recently also as an officer, of Conolog.

33. Marc Benou has been subject to the reporting requirements of Section 16(a) since 1995 as a director, and more recently also as an officer, of Conolog.

34. Robert Benou and Marc Benou beneficially owned more than 5% of Conolog's common stock at various times and were therefore subject to the reporting requirements of Section 13(d) of the Exchange Act.

35. Robert Benou and Marc Benou failed to file on a timely basis reports of their transactions and holdings in Conolog stock that they were required to file under Sections 16(a) and 13(d).

SEC Forms 4 and 5

36. Robert Benou transacted in Conolog stock on numerous dates after November 2002 without reporting those transactions on an SEC Form 4 within the required two business days. Many of those transactions were not reported on an SEC Form 4 in the same fiscal year in which they occurred and were not timely reported on Form 5 at the end of that fiscal year.

37. During this period, Robert Benou purchased and sold many thousands of shares of Conolog stock without reporting those purchases and sales on a timely basis on either SEC Form 4 or SEC Form 5, including his January 27, 2010 sale of Conolog stock and a number of other transactions within the past five years. In many of those instances, Robert Benou did not file a Form 4 or Form 5 at all until he made a series of belated filings on Forms 4 and 5 on April 6, 2010 to remediate these deficiencies. On April 6, 2010, Robert Benou filed eighteen reports on Form 4 and seven reports on Form 5, reporting total purchases of 214,489 shares and total sales of 260,306 shares. Robert Benou made the April 2010 filings after the clearing broker on his account flagged the missing reports with the introducing broker, who then alerted Conolog's outside counsel.

38. Marc Benou traded Conolog stock on multiple dates after April 2004 without reporting those transactions on a Form 4 within the required two business days, including his January 27, 2010 sale of Conolog stock and two other transactions within the past five years.

Schedules 13D and 13D/A

39. On October 4, 1996, Robert Benou filed his first electronic beneficial ownership

report on EDGAR in which a 78.3% ownership stake was disclosed in what was identified in the filing as the third amendment to his initial Schedule 13D. The size of Robert Benou's ownership stake has fluctuated since then and has at various times again exceeded 5%.

40. After filing a Schedule 13D on May 28, 2004 reporting an 11.9% ownership stake, Robert Benou did not make another filing under Section 13(d) of the Exchange Act until February 2, 2010, when he reported a 16.4% stake on a Schedule 13D. His next relevant filing occurred on January 24, 2011, when he filed another Schedule 13D reporting a 5.9% interest. However, Robert Benou was required to file a Schedule 13D or 13D/A on multiple additional occasions between July 31, 2004 and July 31, 2012 and did not do so, including during the fiscal years ended July 31, 2010 and 2012, when his holdings changed by over 1% while he still owned more than 5% of the stock.

41. Marc Benou first acquired beneficial ownership of more than 5% of Conolog common stock no later than 2004, when he filed a Schedule 13D reporting a 10.7% ownership stake. The size of Marc Benou's ownership stake has fluctuated since then and has at various times again exceeded 5%.

42. Marc Benou's most recent Schedule 13D or 13D/A filing occurred on February 10, 2010, when he filed a Schedule 13D reporting a 14.3% interest. However, Marc Benou was required to file a Schedule 13D or 13D/A on multiple additional occasions between July 31, 2004 and July 31, 2011 and did not do so, including during the fiscal years ended July 31, 2010 and 2011, when his holdings changed by over 1% while he still owned more than 5% of the stock.

FIRST CLAIM FOR RELIEF
Violations of Section 10(b) of the Exchange Act and Rule 10b-5
(All Defendants)

43. The Commission realleges and incorporates by reference herein each and every allegation contained in paragraphs 1 through 42.

44. The Defendants, directly or indirectly, singly or in concert, by use of the means or instrumentalities of interstate commerce or of the mails, or of the facilities of a national securities exchange, in connection with the purchase or sale of securities, knowingly or recklessly, have: (a) employed devices, schemes and artifices to defraud; (b) made untrue statements of material fact, or omitted to state material facts necessary in order to make statements made, in the light of the circumstances under which they were made, not misleading; and/or (c) engaged in acts, practices and courses of business which operated or would have operated as a fraud or deceit upon purchasers of securities and upon other persons.

45. By reason of the foregoing, the Defendants, singly or in concert, directly or indirectly, have violated, and unless 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].

SECOND CLAIM FOR RELIEF
Violations of Section 16(a) of the Exchange Act and Rule 16a-3
(Robert Benou and Marc Benou)

46. The Commission realleges and incorporates by reference herein each and every allegation contained in paragraphs 1 through 42.

47. Defendants Robert Benou and Marc Benou, as directors and/or officers of the issuer of a class of equity securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l], after effecting transactions in the securities, failed to file with the Commission a statement on Form 4 or Form 5 providing statements of changes in beneficial ownership, in accordance with the requirements of Section 16(a) of the Exchange Act [15 U.S.C. § 78p(a)] and Rule 16a-3 [17 C.F.R. § 240.16a-3].

48. By reason of the foregoing, Defendants Robert Benou and Marc Benou, singly or in concert, directly or indirectly, have violated, and unless enjoined will again violate, Section

16(a) [15 U.S.C. § 78p(a)] of the Exchange Act and Rule 16a-3 [17 C.F.R. § 240.16a-3].

THIRD CLAIM FOR RELIEF

**Violations of Section 13(d) of the Exchange Act and Rules 13d-1 and 13d-2
(Robert Benou and Marc Benou)**

49. The Commission realleges and incorporates by reference herein each and every allegation contained in paragraphs 1 through 48.

50. Defendants Robert Benou and Marc Benou, after acquiring directly or indirectly the beneficial ownership of more than 5% of a class of equity securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78I], failed to file with the Commission a statement on Schedule 13D [17 C.F.R. § 240.13d-101] and, after a material increase or decrease in the percentage of the class beneficially owned, failed to file with the Commission an amendment disclosing this material change, in accordance with the requirements of Section 13(d) of the Exchange Act [15 U.S.C. § 78m(d)] and Rules 13d-1 and 13d-2 [17 C.F.R. §§ 240.13d-1 and 240.13d-2].

51. By reason of the foregoing, Defendants Robert Benou and Marc Benou, singly or in concert, directly or indirectly, have violated, and unless enjoined will again violate, Section 13(d) of the Exchange Act [15 U.S.C. § 78m(d)] and Rules 13d-1 and 13d-2 [17 C.F.R. §§ 240.13d-1 and 240.13d-2].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully requests a Final Judgment:

I.

Permanently enjoining Robert Benou, Marc Benou, and Conolog from committing the violations of the federal securities laws alleged against them in this complaint;

II.

Ordering Robert Benou and Marc Benou to disgorge the ill-gotten gains received as a result of the violations alleged in this complaint, and ordering each of them to each pay prejudgment interest thereon;

III.

Ordering Robert Benou and Marc Benou to pay civil monetary penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)];

IV.

Prohibiting Robert Benou and Marc Benou, pursuant to Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l], or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)];

V.

Prohibiting Robert Benou and Marc Benou, pursuant to Section 21(d)(6) of the Exchange Act [15 U.S.C. § 78u(d)(6)], from participating in an offering of penny stock, as defined in Section 3(a)(51) of the Exchange Act [15 U.S.C. § 78c(a)(51)] and Rule 3a51-1 thereunder [17 C.F.R. § 240.3a51-1]; and

VI.

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

Dated: November 21, 2014
New York, New York

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