

JUDGE BAER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

14 : CV 06 45

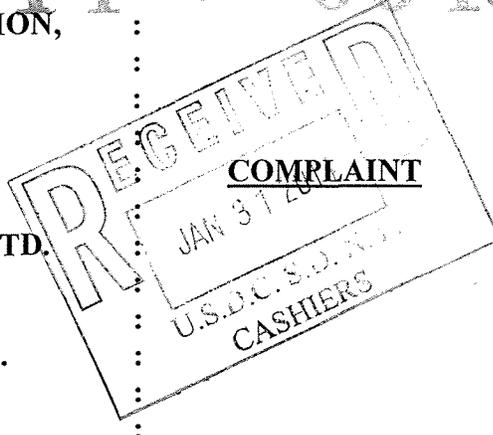
SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

REVELATION CAPITAL MANAGEMENT LTD.
and CHRISTOPHER P.C. KUCHANNY,

Defendants.



The Securities and Exchange Commission (“Commission”) alleges:

INTRODUCTION

1. This case concerns the violation of Rule 105 of Regulation M [17 C.F.R. § 242.105] (“Rule 105”) by Revelation Capital Management Ltd. (“Revelation Capital”) and its Chairman, Chief Executive Officer, Chief Investment Officer and sole shareholder, Christopher P.C. Kuchanny (“Kuchanny”). Rule 105 is designed to prevent potentially manipulative short selling just prior to the pricing of follow-on and secondary offerings, thereby facilitating offering prices determined by independent market forces. Rule 105 prohibits any person who makes a short sale of securities during a defined restricted period prior to the pricing of an offering from purchasing the same securities in that offering. The Rule is prophylactic and prohibits the conduct irrespective of the short seller’s intent in effecting the short sale.

2. Revelation Capital and Kuchanny violated Rule 105 in connection with Central Fund of Canada Limited’s (“Central Fund”) November 2009 offering by short selling Central

Fund securities during the restricted period and then purchasing the same securities in Central Fund's offering. Defendants' profits from this illegal trading totaled \$1,368,243.

3. By virtue of the foregoing conduct and as further alleged herein, Defendants Revelation Capital and Kuchanny violated Rule 105 of Regulation M [17 C.F.R. § 242.105].

4. Unless permanently restrained and enjoined, Defendants 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.

5. In addition to injunctive relief, the Commission seeks a final judgment ordering disgorgement of ill-gotten gains plus prejudgment interest, civil money penalties, and such equitable and other relief as the Court deems appropriate, just or necessary.

JURISDICTION AND VENUE

6. The Commission brings this action pursuant to Section 21(d)(1) of the Securities Exchange Act of 1934 [15 U.S.C. §§ 78u(d)(1)] (the "Exchange Act").

7. This Court has jurisdiction over this action pursuant to Sections 21 and 27 of the Exchange Act [15 U.S.C. §§ 78u and 78aa].

8. Venue in this District is proper under Section 27 of the Exchange Act [15 U.S.C. § 78aa] because certain of the transactions, acts, practices, and/or courses of business occurred within the Southern District of New York. Among other things, Revelation Capital effected a number of the violative securities transactions through a broker-dealer located in this District.

9. Defendants, directly or indirectly, made use of the means or instruments of transportation or communication in, or the instrumentalities of, interstate commerce, or of the mails, or of any facility of any national securities exchange, as more fully described below.

DEFENDANTS

10. **Christopher P.C. Kuchanny**, age 37, is the Chairman, CEO, CIO, founder and sole shareholder of Revelation Capital. Kuchanny's responsibilities at Revelation Capital include portfolio management. He directs the majority of Revelation Capital's trades, including most of those that are the subject of this Complaint. Kuchanny is a citizen of the United Kingdom and a resident of Bermuda.

11. **Revelation Capital Management Ltd.** is a Bermuda-based exempt reporting advisor. It is organized in Bermuda as a corporation and manages, as an investment advisor, the Revelation Special Situations Offshore Fund Ltd. and Revelation Special Situations Onshore Fund Ltd. Revelation Capital has over \$500 million in assets under management.

OTHER RELEVANT PARTIES

12. **Central Fund of Canada Limited** is a closed-end fund incorporated and based in Canada. It invests primarily in long-term holdings of gold and silver bullion. Central Fund is listed on the New York Stock Exchange under the symbol CEF and on the Toronto Stock Exchange under the symbols CEF/A and CEF/U. CEF/A trades in Canadian dollars while CEF/U trades in US dollars.

13. **MF Global Inc.** was a New York, New York based broker-dealer registered with the Commission. On October 31, 2011, MF Global Inc.'s parent, MF Global Holdings, Ltd., filed for reorganization under Chapter 11 of the Bankruptcy Code. Revelation Capital placed the short-sale trades at issue in this action through its brokerage account at MF Global Inc. in New York, New York.

OVERVIEW OF RULE 105

14. Rule 105 provides, in pertinent part:

In connection with an offering of equity securities for cash pursuant to a registration statement . . . filed under the Securities Act of 1933 (“offered securities”), it shall be unlawful for any person to sell short . . . the security that is the subject of the offering and purchase the offered securities from an underwriter or broker or dealer participating in the offering if such short sale was effected during the period (“Rule 105 restricted period”) that is the shorter of the period:

- (1) Beginning five business days before the pricing of the offered securities and ending with such pricing; or (2) Beginning with the initial filing of such registration statement . . . and ending with the pricing.

17 C.F.R. § 242.105(a) (effective October 9, 2007).

15. A short sale is “any sale of any security that the seller does not own or any sale that is consummated by the delivery of a security borrowed by, or for the account of, the seller.” [17 C.F. R. § 242.200]. Rule 105 is particularly concerned with short selling that can artificially depress a security’s market price, which can lead to lower than anticipated offering prices for secondary and follow-on offerings, potentially causing reduced offering proceeds for the issuer. Therefore, Rule 105 is intended to foster secondary and follow-on offering prices that are determined by independent market dynamics and not by potentially manipulative market activity.

16. On November 10, 2009, Kuchanny, on behalf of Revelation Capital, purchased 4,132,840 shares of Central Fund stock at a price of \$13.56 per share in a publicly marketed firm commitment follow-on offering. In the underwriting agreement filed with the Commission on November 10, 2009, the underwriters agreed to purchase all 15.5 million offering shares at a purchase price of \$13.56 per share. The Plan of Distribution in Central Fund’s prospectus supplement filed with the Commission on November 10, 2009 stated that the underwriters would purchase 16,975,000 shares¹ at a price of \$13.56 and were “obligated to take up and pay for all the securities if any of the securities are purchased under the Underwriting Agreement.”

¹ This total includes the 15.5 million offering shares as well as an additional 1,475,000 shares that the underwriters purchased pursuant to an over-allotment option in the underwriting agreement.

17. Central Fund is traded on the New York Stock Exchange under the symbol CEF and on the Toronto Stock Exchange under the symbols CEF/A and CEF/U.² During the Rule 105 restricted period relating to this offering, five business days before the pricing, which occurred prior to the opening of the market on November 10, 2009, Revelation Capital sold short a total of 1,363,485 shares of CEF at an average price of \$14.07 per share. The firm also sold short 49,300 shares of CEF/A at prices between \$13.98 and \$14.18 per share. Kuchanny placed 751 of Revelation Capital's 919 short sale trades in Central Fund shares.

18. Through purchases in violation of Rule 105, Kuchanny and Revelation Capital realized a profit of approximately \$715,429.76 from the illicit trading, and an additional profit of \$652,813.20 from "overage" shares, consisting of the 2,720,055 shares purchased in the offering which exceeded the number of shares of sold short during the restricted period, for total ill-gotten gains of \$1,368,242.96.

² CEF/A trades in Canadian dollars while CEF/U trades in U.S. dollars. All monetary amounts in this complaint are in U.S. dollars.

CLAIM FOR RELIEF

19. Paragraphs 1 through 18 are re-alleged and incorporated by reference, as though fully set forth herein.

20. In connection with an offering of equity securities for cash pursuant to a registration statement filed under the Securities Act of 1933, defendants Kuchanny and Revelation Capital directed short sales of securities that were the subject of the offering within the Rule 105 restricted period, and purchased the offered securities from an underwriter or broker or dealer participating in the offering.

21. By reason of the foregoing, Defendants Kuchanny and Revelation Capital violated, and unless enjoined will again violate, Rule 105 of Regulation M [17 C.F.R. § 242.105].

PRAYER FOR RELIEF

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

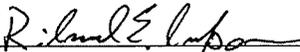
(a) Permanently enjoining Defendants Kuchanny and Revelation Capital from violating Rule 105 of Regulation M [17 C.F.R. § 242.105];

(b) Ordering Defendants, jointly and severally, to pay disgorgement, together with prejudgment interest;

(c) Ordering Defendant to pay civil penalties under Sections 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)]; and

(d) Granting any additional relief the Court deems just, appropriate, or necessary.

Dated: Washington, DC
January 29, 2014


Richard E. Simpson (RS5859)
Charles D. Stodghill (CS4208)
100 F Street N.E.
Washington, DC 20549-4030
(202) 551-4413
(202) 772-9245 (FAX)
Attorneys for Plaintiff
Securities and Exchange Commission

Of Counsel:
Gerald W. Hodgkins
Gregory G. Faragasso
Conway T. Dodge, Jr.
Anita B. Bandy
Lauren B. Poper