

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

_____)	
SECURITIES AND EXCHANGE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No. _____
)	
ROBERT GADIMIAN)	
(a/k/a ROBERT GHADIMIAN),)	JURY TRIAL DEMANDED
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff Securities and Exchange Commission (the “Commission” or “SEC”) alleges the following against Defendant Robert Gadimian (a/k/a Robert Ghadimian) (“Gadimian”):

SUMMARY

1. This case concerns insider trading in the securities of Puma Biotechnology, Inc. (“Puma” or the “company”) by Gadimian, then a senior employee at Puma, in advance of two company announcements about positive drug trial results. Gadimian reaped more than \$1.1 million in profits from his illegal trades.

2. Puma is a biotechnology company focused on developing a drug called “neratinib” for the treatment of cancer. From November 2011 through October 2014, Gadimian worked for Puma as the Senior Director of Regulatory Affairs. As a Puma employee, Gadimian was subject to the company’s insider trading policy, which required preclearance before buying or selling any Puma securities and prohibited trading in Puma securities during company-imposed blackout periods.

3. During his employment at Puma, Gadimian learned material, nonpublic information about two drug trials involving neratinib: (1) the I-SPY 2 trial and (2) the 3004 trial (a/k/a the ExteNET trial). Both drug trials involved the treatment of breast cancer. The material, nonpublic information about the drug trials included indications that neratinib was performing positively in those trials, that the drug trials had reached key milestones that soon would be made public, and that, as a result, neratinib was more likely to be a lucrative drug for Puma.

4. After learning this information, despite being aware that he was violating Puma's insider trading policy, Gadimian secretly purchased and sold Puma securities on the basis of such information without preclearance and during blackout periods.

5. In 2013, Gadimian purchased and sold Puma stock without preclearance and during blackout periods. In August and September 2013, Gadimian spent about \$261,530 to buy 4,918 shares of Puma stock after learning that neratinib was performing well in the I-SPY 2 trial, but before the positive trial results were announced to the public. When Puma announced the I-SPY 2 trial results on December 4, 2013, its stock price jumped from \$46.21/share to \$77.70/share – an increase of 68%. On December 5, 2013, the day after the public announcement, Gadimian sold his Puma stock for approximately \$95,000 in profits.

6. In 2014, Gadimian again purchased and sold Puma stock and options without preclearance and during blackout periods. In March 2014, Gadimian spent about \$215,880 to buy 1,850 shares of Puma stock, soon after he learned the nonpublic schedule for locking the data from the 3004 trial for neratinib and analyzing the results. Locking the data, also called the “soft lock,” refers to capturing the data from the drug trial at a specific point in time – in other words, taking a “snapshot” of the data – to be analyzed to determine whether neratinib was effective.

7. Later, in July 2014, shortly after learning that the 3004 trial data had been locked and that the results would be announced around late July, Gadimian spent another approximately \$34,500 on 71 high-risk, short-term, out-of-the-money Puma call options, essentially betting that Puma's stock price would rise in the near future. Gadimian did not seek preclearance for these trades, as required by Puma's insider trading policy.

8. Locking the data for the 3004 trial was an important and nonpublic milestone – it was described in Puma internal e-mails as “great news” – and Gadimian expected the trial results to be positive. Gadimian's purchases of Puma securities in 2014 were influenced by important, nonpublic information that he learned from Puma e-mails and meetings, and Gadimian knew what he was doing was wrong.

9. On July 22, 2014, when Puma announced the positive results from the 3004 trial, its stock price soared from \$59.03/share to \$233.43/share – an increase of 295%. Gadimian immediately sold all of his Puma options and most of his Puma stock, realizing about \$1,006,000 in profits.

10. In total, from 2013 through 2014, Gadimian made approximately \$1,161,000 in profits from his illegal trading in Puma securities. Gadimian's trading was on the basis of material, nonpublic information about the company and in violation of Gadimian's fiduciary duty to Puma and its shareholders.

11. After learning about some of Gadimian's trading through an inquiry by the Financial Industry Regulatory Authority (“FINRA”), Puma conducted an internal investigation. When interviewed for the internal investigation on October 6, 2014, Gadimian admitted that he traded Puma securities without preclearance and during blackout periods, and that he traded because of “greed.” Additionally, before providing his trading records to Puma for the internal

investigation, Gadimian altered those records by deleting certain Puma trades and then re-numbering the pages of the altered documents to hide his deletions. On October 17, 2014, Puma fired Gadimian.

12. By virtue of the conduct alleged herein, Gadimian violated Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5. Unless Gadimian is permanently restrained and enjoined, he will violate those provisions of the federal securities laws in the future.

JURISDICTION AND VENUE

13. The Court has jurisdiction over this action pursuant to Sections 21A and 27 of the Exchange Act, 15 U.S.C. §§ 78u-1 and 78aa.

14. Venue lies in this district pursuant to Section 27 of the Exchange Act, 15 U.S.C. § 78aa, because certain acts or transactions constituting the violations occurred in this district and Gadimian transacts business in this district. For example, the insider trading by Gadimian alleged herein was done through Fidelity brokerage accounts, and Fidelity is headquartered in Massachusetts; Gadimian’s illegal trades were based, at least in part, on material, nonpublic information received via e-mails through the Massachusetts-based servers of a Massachusetts-based consulting firm (the “consulting firm”) that worked for Puma on the 3004 trial; and, from December 2014 to the present, Gadimian has been employed by a company based in Massachusetts.

DEFENDANT

15. Gadimian, age 46, is a citizen of the United States, Sweden, and Iran. He lives in Burbank, California. From November 2011 through October 2014, Gadimian was employed by Puma as the Senior Director of Regulatory Affairs.

RELEVANT ENTITY

16. Puma, a Delaware corporation with its headquarters in Los Angeles, California, works on licensing and developing drugs for the treatment of cancer. A primary focus of Puma's work is developing a drug called neratinib. At all relevant times, Puma's common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act. From April 2012 to October 2012, Puma's common stock traded on the OTC Bulletin Board and OTC Link under the ticker symbol "PBYI." From October 2012 to the present, Puma's common stock has traded on the New York Stock Exchange under the ticker symbol "PBYI."

TRADING TERMINOLOGY

17. An option contract gives the purchaser the right to buy or sell 100 shares of the underlying stock before a specified deadline, known as the expiration date, for a predetermined price per share, known as the strike price.

18. A call option gives an investor the right, but not the obligation, to buy stock. Therefore, a call option generally will increase in value as the price of the underlying stock increases. Unlike stock, which retains some value even if the price falls, a call option loses all value once it expires. A call option with a strike price that is greater than the stock's market price is referred to as being "out-of-the-money" because there is little to no value in the right to buy a stock at a price greater than its current market price.

FACTS

A. Gadimian's Position at Puma.

19. Puma hired Gadimian in November 2011, as its Senior Director of Regulatory Affairs. In that position, Gadimian worked on, among other things, the drug production process and regulatory and clinical issues.

20. As Puma's Senior Director of Regulatory Affairs, Gadimian had a fiduciary duty to Puma and its shareholders not to misuse the company's nonpublic information for personal gain, such as by trading on material, nonpublic information relating to the company's drug trials.

21. On April 17, 2012, Gadimian attended a Puma meeting at which Puma's insider trading policy was discussed. Puma's insider trading policy, which applied to Gadimian, explained what conduct constitutes insider trading, emphasized that insider trading was prohibited, and highlighted the criminal and civil sanctions for insider trading. Additionally, under Puma's insider trading policy, Gadimian was required to obtain preclearance from company management before buying or selling any Puma securities, and, during company-imposed blackout periods, preclearance could not be obtained and all trading in Puma securities was prohibited.

B. Gadimian Traded Puma Securities in 2012.

22. From April 20 to 25, 2012, starting three days after attending the meeting at which Puma's insider trading policy was discussed, Gadimian purchased 8,119 shares of Puma stock in his Fidelity IRA account. According to Gadimian, he did not obtain preclearance for these purchases, as required by Puma's insider trading policy, because he thought company management would not approve the trades if he requested preclearance.

23. Between May 9 and 25, 2012, Gadimian sold the 8,119 shares of Puma stock, but did not make any profits on these trades. Gadimian did not obtain preclearance for these sales.

24. On September 25, 2012, Gadimian signed a certification of compliance with Puma's insider trading policy. By signing the certification, Gadimian certified that he received, reviewed, and understood Puma's insider trading policy.

C. Based on Material, Nonpublic Information, Gadimian Bought Puma Securities in Advance of Puma's December 4, 2013 Announcement About the I-SPY 2 Trial.

25. By early 2013, Gadimian had begun attending Puma's steering committee meetings, which occurred approximately every two weeks. During those meetings, the attendees discussed various projects, trials, and issues related to the strategic direction of the company.

26. During steering committee meetings that Gadimian attended in or around February and March 2013, the committee discussed confidentially that: (1) neratinib was performing well in the I-SPY 2 trial; and (2) based on neratinib's positive performance in the I-SPY 2 trial, Puma planned to extend the length of the 3004 trial (which also involved neratinib) and to increase its financial investment in the 3004 trial.

27. During a steering committee meeting in or around July 2013, in response to a question from Gadimian, Puma's Chief Executive Officer (the "CEO") informed Gadimian that the positive data from the I-SPY 2 trial was not yet public.

28. In a steering committee meeting on or around August 14 or 21, 2013, Gadimian was informed that the board overseeing the results of the I-SPY 2 trial would determine the official results of the trial in the next several weeks. Based on the material, nonpublic information known to him, including neratinib's positive performance in the trial thus far, Gadimian understood the trial results likely would be positive.

29. Between August 26 and September 6, 2013, Gadimian purchased 4,918 shares of Puma stock in his Fidelity accounts at a cost of approximately \$261,530. Gadimian also tried to buy Puma call options during this period, but the orders were not executed due to technical issues. Gadimian did not obtain preclearance for these purchases and attempted purchases, as required by Puma's insider trading policy, because he believed the company would not grant him

preclearance if requested. Gadimian also knew that Puma was in a blackout period during his August and September 2013 purchases of Puma stock.

30. According to Gadimian, he purchased Puma stock in August and September 2013 in the “expectation of future results,” including the results from the I-SPY 2 trial, and, based on information Gadimian learned in Puma steering committee meetings, he knew it was likely the I-SPY 2 trial results would be positive. With respect to these trades, Gadimian was willing to risk getting fired in order to trade because he could “make money;” he “was 99.99-percent sure [Puma] wouldn’t find out” because he “did it in 2012 and they didn’t find out;” and so he bought Puma securities again in 2013 because he “[a]bsolutely” wanted to make money.

D. After the I-SPY 2 Announcement, Gadimian Sold Puma Securities for Profits of \$95,000.

31. On December 4, 2013, after the market closed, Puma announced positive top line results for neratinib in the I-SPY 2 trial. Top line results refer to a trial’s preliminary efficacy.

32. On December 4, before the announcement, Puma’s stock price closed at \$46.21/share with a daily trading volume of 104,200 shares. The next day, December 5, Puma’s stock price closed at \$77.70/share (an increase of 68% from the previous day’s close) with a daily trading volume of 3,588,600 shares (an increase of 3,344% from the previous day).

33. On December 5, 2013, Gadimian sold all 4,918 shares of Puma stock in his Fidelity accounts for profits of approximately \$95,000. Gadimian did not obtain preclearance for these sales, and he knew that Puma was in a blackout period during these trades.

34. Puma lifted its blackout period on December 10, 2013. One week later, on December 17, Puma reinstated its blackout period, which prohibited employees from trading Puma securities. The blackout remained in effect for the rest of Gadimian’s tenure at Puma.

E. Based on Material, Nonpublic Information, Gadimian Bought Puma Securities in Advance of Puma's July 22, 2014 Announcement Regarding the 3004 Trial.

35. By early 2014, besides attending Puma steering committee meetings, Gadimian also was a member of Puma's "3004 Project Team." That team met regularly to discuss, among other things, updates and timelines related to the 3004 trial, which involved neratinib.

36. The Massachusetts-based consulting firm that helped manage the clinical data for Puma on the 3004 trial communicated periodically with members of the 3004 Project Team. Like employees of Puma, employees of the consulting firm were required to keep information about the 3004 trial confidential.

37. On March 12, 2014, Gadimian received an e-mail from the consulting firm, sent through a server in Massachusetts, which included attachments stating that the "Primary DBL" for the 3004 trial was planned for May 23, 2014. The "Primary DBL," or primary database lock, was a synonym for the soft lock – that is, when the clinical data from the drug trial would be captured for analysis to determine whether neratinib was effective. The soft lock for the 3004 trial was an important milestone in the drug trial because it would provide preliminary efficacy results as well as data for a possible New Drug Application to the U.S. Food and Drug Administration ("FDA"). The planned date for the soft lock (May 23, 2014) was not public information.

38. Two days later, on March 14, 2014, Gadimian received another e-mail from a Puma employee relating to the 3004 trial. One attachment to the e-mail stated that, "The Executive Team has agreed to the proposed date of 6 June 2014 for the Project Team to deliver the 3004 top-line results," *i.e.*, the preliminary results showing neratinib's efficacy. Another attachment to the e-mail indicated (1) that the soft lock was scheduled to be completed by May 23, 2014, and (2) that the "Top line results" were scheduled to be completed by June 6, 2014.

The planned date for the 3004 trial top line results (June 6, 2014) was not public information. Additionally, that date was important because it would impact when Puma could submit a New Drug Application to the FDA. According to Gadimian, such information is “do or die” for a biotech company.

39. Beginning on March 14, 2014 – the same day Gadimian received the e-mail providing scheduled dates for the soft lock and top line results – and continuing through March 18, 2014, Gadimian purchased 1,850 shares of Puma stock in his Fidelity accounts at a cost of approximately \$215,880. According to Gadimian, his purchases were influenced by the information he received in the March 14, 2014 e-mail. With respect to these purchases, Gadimian did not obtain preclearance because he “was expecting [Puma] to tell [him] no;” he knew Puma was in a blackout period; and he knew what he was doing was wrong.

40. The date for the 3004 trial soft lock was delayed for several weeks. But, on the evening of July 8, 2014, a Puma Vice President (the “VP”) sent an e-mail to certain Puma employees announcing that, “This afternoon we have completed our database soft lock” for the 3004 trial. The VP’s e-mail further stated that he had notified Puma’s CEO “of the great news and will update the Steering committee tomorrow.” As the VP put it, the soft lock for the 3004 trial was “a big deal” and the “main event” because it captured the data that would be used for the top line analysis and possible FDA approval. Puma’s completion of the soft lock was not public information.

41. Later on the night of July 8, 2014, Gadimian received a copy of the VP’s e-mail regarding completion of the soft lock.

42. The next morning, July 9, 2014, Gadimian received another forwarded copy of the VP’s July 8 e-mail regarding completion of the soft lock. Gadimian knew that completion of

the soft lock was important and nonpublic information, but he nevertheless traded Puma securities based on that information.

43. Additionally, by then, Gadimian already knew – from attending steering committee meetings – that the 3004 trial results would be announced “around the end of July.” According to Gadimian, “All I need to know is the date. I know the date, and that’s good enough for me for my trades.”

44. On July 10 and 11, 2014 – starting two days after learning that the soft lock had been completed – Gadimian sold 300 shares of Puma stock in his Fidelity accounts, and used the proceeds to purchase high-risk, short-term, out-of-the-money Puma call options. Specifically, Gadimian purchased 14 Puma call options of 100 shares each with strike prices between \$90 and \$95, expiring on August 16, 2014. At that time, Puma stock was trading around \$65/share, so the strike prices on the options were 38% and 46% above the trading price.

45. On Monday, July 14, 2014, Gadimian bought 57 more Puma call options of 100 shares each with strike prices between \$90 and \$95, expiring on August 16, 2014. According to Gadimian, regarding his July 10 through 14 purchases, it is difficult to trade options in a small company, “[s]o that’s why I spread out my purchase through three days – that’s Thursday, Friday, and Monday.”

46. With respect to his July 10 through 14 trades, Gadimian did not obtain preclearance; Gadimian knew Puma was in a blackout period; and Gadimian later admitted that his knowledge that the soft lock had been completed (nonpublic information from the above Puma e-mails) “[a]bsolutely” influenced his decision to make these trades. Similarly, Gadimian admitted that he bought the call options because he knew the 3004 trial “results would be announced end of July.”

47. Based on the material, nonpublic information he learned at Puma, Gadimian expected the top line results from the 3004 trial to be favorable. Among other things, Gadimian attended Puma steering committee meetings at which the 3004 trial was discussed; he was a member of Puma's 3004 Project Team, which discussed nonpublic information about the 3004 trial; he knew Puma invested substantial financial resources in the 3004 trial; and, according to Gadimian, he knew Puma's CEO "wouldn't spend 20-30 million dollars on a 50/50 bet."

F. After the 3004 Trial Announcement, Gadimian Sold Puma Securities for Profits of \$1,006,000.

48. On July 22, 2014, after the market closed, Puma announced positive top line results from the 3004 trial. On July 22, before the announcement, Puma's stock price closed at \$59.03/share, with a daily trading volume of 1,469,800 shares. The next day, after the announcement, Puma's stock price closed at \$233.43/share (an increase of 295% from the previous day's close) with a daily trading volume of 8,185,100 shares (an increase of 457%).

49. On July 23, 2014, the day after Puma's announcement, Gadimian sold all 71 Puma options in his Fidelity accounts for profits of approximately \$910,000. The next day, July 24, Gadimian sold 1,000 shares of Puma stock in his Fidelity IRA account for additional profits of \$96,000. Additionally, as of July 24, Gadimian still held another 550 shares of Puma stock, which represented potential profits of approximately \$60,000 (based on Puma's stock price on July 23 and 24, 2014).

50. Gadimian did not obtain preclearance for his July 2014 trades in Puma securities, and he knew that Puma was in a blackout period during those trades.

G. Gadimian's Post-Trading Conduct.

51. On or around July 30, 2014, FINRA notified Puma that FINRA was conducting a review of trading in Puma securities around the company's July 22, 2014 announcement. Puma retained outside counsel to conduct its own internal investigation.

52. On October 6, 2014, during an interview in connection with Puma's internal investigation, Gadimian admitted that he traded Puma securities without preclearance and during blackout periods, and that he did so because of "greed." Gadimian also indicated that he would provide the records for his Puma trades. Gadimian understood that the information he provided might be shared with regulators.

53. On October 7, 2014, at Puma's request, Gadimian sent an e-mail to Puma's Chief Financial Officer purporting to "attach[] the July [Fidelity] statement where it has all my trades that FINRA is asking about."

54. But Gadimian altered his July 2014 Fidelity Investment Report before sending it. Specifically, Gadimian deleted seven pages – which contained all the Puma trades in his IRA account and showed approximately \$273,000 in illicit profits – and then re-numbered the pages to hide his alteration.

55. On October 17, 2014, Puma fired Gadimian.

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

56. All of the foregoing paragraphs are incorporated by reference herein.

57. Gadimian knew, or was reckless in not knowing, that the information he obtained from Puma and Puma's consulting firm about the I-SPY 2 and 3004 trials was material and nonpublic, and that he owed a fiduciary duty to Puma to keep the information confidential and refrain from trading on it.

58. Gadimian breached his fiduciary duty to Puma by trading for his own benefit on the basis of material, nonpublic information obtained from Puma and Puma's consulting firm.

59. At all relevant times, Gadimian acted with scienter.

60. By virtue of the foregoing, Gadimian directly or indirectly, in connection with the purchase or sale of securities, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of a national securities exchange, (a) employed devices, schemes, or artifices to defraud; (b) made untrue statements of material fact 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; or (c) engaged in acts, practices, or courses of business that operated or would operate as a fraud or deceit upon any person.

61. By his conduct alleged in this Complaint, Gadimian 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. Unless restrained and enjoined, Gadimian will continue to violate those provisions of the federal securities laws.

PRAYER FOR RELIEF

Accordingly, the Commission respectfully requests that the Court enter a final judgment:

A. Permanently restraining and enjoining Gadimian, and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of the injunction, 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;

B. Ordering Gadimian to disgorge, with prejudgment interest, all ill-gotten gains from the conduct alleged in this Complaint pursuant to Section 21(d)(5) of the Exchange Act, 15 U.S.C. § 78u(d)(5);

C. Ordering Gadimian to pay a civil monetary penalty pursuant to Section 21A of the Exchange Act, 15 U.S.C. § 78u-1; and

D. Granting such other and further relief as the Court deems just and proper.

JURY DEMAND

The Commission hereby demands a trial by jury on all issues so triable.

Dated: September 29, 2016

Of Counsel:

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Respectfully submitted,

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