

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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SECURITIES AND EXCHANGE COMMISSION,		)	
		)	
Plaintiff,		)	
		)	
v.		)	Case No.
		)	
SUSAN L. ELLERIN, and		)	JURY TRIAL DEMANDED
EDWARD D. BLUMSTEIN		)	
		)	
Defendants,		)	
_____		)	

**COMPLAINT**

Plaintiff Securities and Exchange Commission (“the Commission”) alleges the following against defendants Susan L. Ellerin (“Ellerin”) and Edward D. Blumstein (“Blumstein”), and hereby demands a jury trial:

**PRELIMINARY STATEMENT**

1. This case involves unlawful insider trading in the stock of Florida-based ADT Corporation (“ADT”) by Ellerin and Blumstein. Ellerin, a marketing and management consultant, obtained material nonpublic information about the prospects of merger activity at ADT while employed as a consultant for Protection 1 Security Solutions (“Protection 1”), an Illinois-based company that was an affiliate of the party that acquired ADT. Ellerin obtained the information from a friend who was employed by Protection 1. In breach of a fiduciary duty or similar obligation arising from a relationship of trust and confidence to Protection 1 and her friend, Ellerin purchased ADT stock in advance of the company’s merger announcement, enabling her to obtain insider profits of \$15,054.

2. In addition to trading for her own account, Ellerin encouraged her close friend, Blumstein, to trade in ADT stock on the basis of the material nonpublic information she learned from her friend employed by Protection 1 during her consulting engagement. Blumstein's trades at Ellerin's suggestion enabled him to obtain insider profits of \$71,070. At the time that he traded, Blumstein knew or recklessly disregarded that the information Ellerin shared with Blumstein was disclosed or misappropriated in breach of a fiduciary duty, or similar obligation arising from a relationship of trust and confidence.

3. By knowingly or recklessly engaging in the conduct described in this Complaint, Ellerin and Blumstein violated Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

### **JURISDICTION**

4. The Commission brings this action pursuant to Sections 21(d) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u-1]. The Commission seeks a permanent injunction against Ellerin and Blumstein, enjoining them from engaging in the acts, practices and courses of business alleged in this Complaint, disgorgement of all profits, prejudgment interest, civil monetary penalties, and such other and further relief as the Court may deem just and appropriate.

5. This Court has jurisdiction over this action pursuant to Sections 21(d)(1), 21(e) and 27 of the Exchange Act [15 U.S.C. §§78u(d)(1), 78u(e), 78aa]. Venue is proper in this District because Ellerin's and Blumstein's acts and practices alleged herein occurred primarily in Massachusetts and Ellerin and Blumstein resided in Massachusetts.

6. In connection with the conduct described in this Complaint, Ellerin and Blumstein directly or indirectly made use of the means or instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange.

**DEFENDANTS**

7. **Susan L. Ellerin**, age 69, is a presently a resident of Wayland, Massachusetts. Ellerin is the founder and president of STAT Resources, Inc., a statistical market research firm which has provided marketing and management consulting services to various public company clients, among others. Ellerin and STAT resources provided certain consulting services to Protection 1 in July and August 2015 and to ADT most recently from May 2016 to the end of 2016. Ellerin and Blumstein met in 2013 and were close friends during 2015 and 2016.

8. **Edward D. Blumstein**, age 75, is a resident of Brookline, Massachusetts. Blumstein has been retired since 1997 and, prior to that, worked in information technology services. Blumstein received his MBA in Finance from Boston University in 1966. In addition to being Ellerin's close friend, Blumstein provided Ellerin with IT services during the relevant period.

**RELEVANT ENTITIES**

9. **ADT Corporation** was, during the relevant period, a Delaware company with a principal place of business in Boca Raton, Florida. During the relevant period, the company provided monitored security, interactive home and business automation, and related monitoring services to customers in the United States and Canada. ADT was acquired by an affiliate of certain funds managed by New York-based private equity firm Apollo Global Management, LLC ("Apollo") on May 2, 2016 in a transaction whereby ADT's common shareholders received \$42 per share in exchange for the cancellation of their stock. When the transaction was first announced on February 16, 2016, ADT reported that it would be merged with a subsidiary of Protection 1 upon closing. Prior to the acquisition, ADT's common stock was registered with

the Commission pursuant to Section 12(b) of the Exchange Act. ADT stock was quoted under the symbol “ADT” on the New York Stock Exchange.

### **FACTUAL ALLEGATIONS**

#### **I. Trading in ADT Stock on the Basis of Material Non-Public Information in Advance of the Company’s February 16, 2016 Announcement Regarding its Acquisition**

10. Before stock markets opened on February 16, 2016, ADT announced that it had entered into an agreement to be acquired by certain entities financed by Apollo for \$42 per share, a premium of approximately 59% over ADT’s closing price on February 12, 2016 of \$26.40 per share. On the news of the acquisition, the stock climbed approximately 50% from \$26.40 at market close on February 12, 2016 to \$39.64 per share at market close on February 16, 2016.

11. Ellerin learned of ADT’s potential acquisition from her friend, the then-Chief Revenue Officer for Protection 1 (the “CRO”), in the course of a series of personal and professional interactions. The CRO was aware of merger discussions based on the CRO’s high-ranking position at Protection 1. When ADT was acquired, the CRO became the Chief Marketing Officer of the combined ADT-Protection 1 entity. Ellerin met the CRO more than ten years ago and maintained a friendship with the CRO since that time. Ellerin spoke to the CRO in advance of her and Blumstein’s purchases of ADT stock in November 2015 and February 2016.

12. In July 2015, the CRO engaged Ellerin to provide consulting services for Protection 1. In the course of that engagement, Ellerin provided background research on “companies in potentially adjacent markets” in advance of meetings between Apollo, Protection 1, and the companies. Ellerin understood that her work would be used to develop a “quick read on partnering potential.”

13. On October 29, 2015, the CRO visited Ellerin at her home in Boston and stayed with her for two days. At the time that the CRO visited with Ellerin, the CRO was aware that ADT and Protection 1 were engaged in merger discussions, and that a meeting between the two companies was planned for the following month. In or around the time of the CRO's October 29 visit, Ellerin and the CRO discussed a potential acquisition of ADT by Apollo and Protection 1.

14. On the morning of November 2, 2015, days after the CRO's visit with Ellerin concluded, Blumstein placed limit orders to purchase call options (a bet that a company's stock price will increase) for 1,000 shares of ADT stock at \$34 per share with an expiration date of April 15, 2016. Blumstein made the purchases at the advice of Ellerin, who informed him that Protection 1 had made an effort to acquire ADT. The orders were partially filled on that date, resulting in the purchase of \$900 of call options for 500 shares of ADT stock at \$34 per share. Blumstein made additional purchases (via limit orders) of ADT stock totaling 1,000 shares at approximately \$33 per share on November 3 and 4, 2015.

15. Ellerin purchased 1,400 shares of ADT stock on November 10 and 19, 2015, at prices ranging from approximately \$32 per share to \$34 per share. On November 10, Ellerin entered a market order (an order to purchase or sell at the current price) to purchase 400 shares of ADT stock, as well as two limit orders to purchase 400 shares of ADT stock at \$29 and \$31 per share, respectively. Both of the November 10 limit orders went unfilled, and Ellerin cancelled them on November 19 when she placed a limit order to purchase 1,000 shares of ADT stock at \$34.49 per share.

16. On February 2, 2016, the CRO sent Ellerin a text message stating: "will fill you in on big things here as soon as I can. Game changing." On February 7, 2016, the CRO and Ellerin engaged in a telephone conversation in which they again discussed a potential acquisition of

ADT by Apollo and Protection 1. Immediately following the discussion, Ellerin sent the CRO a series of text messages that addressed, among other things, what Ellerin perceived to be customer retention problems at ADT.

17. Ellerin spoke to Blumstein by telephone on the evening of February 7, 2016, after her call with the CRO. In total, Ellerin and Blumstein spoke by telephone four times on the evening of February 7 and the morning of February 8. On the morning of February 8, Ellerin and Blumstein purchased additional ADT stock and options.

18. At approximately 9:33 AM on February 8, Blumstein purchased a series of ADT call options via limit orders, including: (1) options to purchase 2,000 shares of ADT stock at \$29 share with an expiration date of February 19, 2016, (2) options to purchase 1,000 shares of ADT stock at \$28 per share with an expiration date of February 19, 2016, and (3) options to purchase 3,000 shares of ADT stock at \$29 per share with an expiration date of March 18, 2016.

19. At approximately 9:55 AM on February 8, Ellerin entered two market orders to purchase a total of 800 shares of ADT stock at approximately \$27.26 per share.

20. Ellerin sold her ADT stock after the merger announcement on April 19, 2016. By purchasing ADT stock in advance of the ADT acquisition announcement, Ellerin obtained insider profits of \$15,054.

21. Blumstein exercised all of his ADT stock options after the merger announcement, sold some of the shares he held, and cashed out the remainder for the merger price of \$42/share. By purchasing ADT stock and options in advance of the ADT acquisition announcement, Blumstein obtained insider profits of \$71,070.

**II. Ellerin Violated Duties of Trust and Confidence to Protection 1 and Her Friend the CRO in Connection with Her Trading and Tipping in ADT Securities**

22. As a longtime consultant to public and private companies, Ellerin was, at all relevant times, aware of her duty to maintain in confidence information obtained from her clients. When Ellerin traded in ADT stock and advised Blumstein to trade in ADT stock, she violated her fiduciary duties or similar obligations arising from a relationship of trust and confidence to Protection 1 and/or to her friend, the CRO of Protection 1.

23. In or around 2012, Ellerin signed a nondisclosure agreement with Protection 1.

24. In connection with her consulting work, Ellerin understood that she owed a duty to Protection 1 to (i) maintain the confidentiality of material nonpublic information regarding Protection 1 provided to her in the course of her consulting work; (ii) to abstain from purchasing or selling securities based on that material nonpublic information; and (iii) to abstain from passing that material nonpublic information to others, including family and friends, to enable them to purchase or sell securities based on that material nonpublic information.

25. As friends with a history of sharing information (including personal financial, personal relationship, and business matters) in confidence, Ellerin owed a duty to the CRO of Protection 1 to (i) maintain the confidentiality of material nonpublic information regarding Protection 1 provided to her by the CRO; (ii) to abstain from purchasing or selling securities based on that material nonpublic information; and (iii) to abstain from passing that material nonpublic information to others, including family and friends, to enable them to purchase or sell securities based on that material nonpublic information. Ellerin deliberately chose not to inform the CRO of her ADT stock purchases because she knew the CRO was “an inside person.”

26. Ellerin knew or recklessly disregarded that her trading and tipping of Blumstein with the expectation that Blumstein would trade based on the information for his benefit was in

breach of a fiduciary duty or similar obligation arising from a relationship of trust and confidence, owed to Protection 1 and/or to Protection 1's CRO.

27. Ellerin knew or recklessly disregarded that the information she misappropriated from Protection 1 and/or from Protection 1's CRO regarding ADT's upcoming transaction was material.

28. Ellerin knew or recklessly disregarded that she had a fiduciary duty or similar obligation arising from a relationship of trust and confidence to refrain from trading and tipping Blumstein on material nonpublic information.

**III. Blumstein Was Aware That He Was Tipped in Violation of a Duty of Trust and Confidence**

29. Blumstein knew or recklessly disregarded that the material nonpublic information about ADT that he received from Ellerin was disclosed or misappropriated in breach of a fiduciary duty or similar obligation arising from a relationship of trust and confidence.

30. Blumstein knew Ellerin had worked for ADT as a consultant in the past. He further believed that Ellerin was working to obtain a new consulting engagement with ADT at the time of his trading in ADT securities in 2015 and 2016.

31. On August 19, 2016, after Blumstein's trading accounts were closed by his broker's risk management group, he had a conversation with Ellerin in which he referenced their trading in ADT securities and stated that Ellerin could get "Martha Stewart's jail cell," an apparent reference to the fact that businesswoman, author, and television personality Martha Stewart had once faced insider trading charges and was convicted of certain criminal charges, resulting in a prison sentence. Ellerin responded to Blumstein's statement via email, noting "your memory was flawed – no one ever gave me information – but I am a keen observer of client behavior and have seen enough of them over the years to know when something is up. I

don't think under any definition this constitutes being inside or told by someone on the inside anything improper." Blumstein responded to Ellerin's email by stating in a reply email "Cya?" (a common abbreviation for "cover your ass").

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

32. The Commission repeats and incorporates by reference the allegations in paragraphs 1–31 of the Complaint as if set forth fully herein.

33. As alleged herein, Ellerin and Blumstein directly or indirectly, singly or in concert, by the use of the means and instrumentalities of interstate commerce or of the mails, in connection with the purchase or sale of securities, intentionally, knowingly or recklessly: (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material fact or omitted and are omitting to state a material fact necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; and/or (c) engaged in acts, practices or courses of business which operate as a fraud or deceit upon other persons.

34. By reason of the foregoing, Ellerin and Blumstein have violated and, unless enjoined, will continue to 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].

**PRAYER FOR RELIEF**

WHEREFORE, the Commission requests that this Court:

A. Enter a permanent injunction restraining Ellerin and Blumstein, as well as their agents, servants, employees, attorneys, and other persons in active concert or participation with them, from directly or indirectly engaging in the conduct described above, or in conduct of similar purport and effect, in violation of 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. Require Ellerin and Blumstein to disgorge their ill-gotten gains, plus prejudgment interest;
- C. Order Ellerin and Blumstein to pay an appropriate civil penalty pursuant to Section 21A of the Exchange Act [15 U.S.C. §78u-1];
- D. Retain jurisdiction over this action to implement and carry out the terms of all orders and decrees that may be entered; and
- E. Award such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, the Commission demands a jury trial in this action of all issues so triable under the claims in this Complaint.

Respectfully submitted,

*/s/ Michael J. Vito*

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