UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 66990 / May 15, 2012

ADMINISTRATIVE PROCEEDING
File No. 3-14879

In the Matter of **EDWARD J. MARINO** **Respondent.**	**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 ("Exchange Act") against Edward J. Marino ("Marino" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease--and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

Summary

On Thursday, September 28, 2006, Marino, the former President and chief executive officer ("CEO") of Presstek, Inc. ("Presstek") caused[1] Presstek's violation of Section 13(a) of the

[1] Respondent has separately consented to an order to pay a $50,000 penalty in the previously filed United States

Exchange Act and Regulation FD promulgated thereunder. While acting on behalf of Presstek, Marino selectively disclosed negative material nonpublic information regarding Presstek's financial performance during the third quarter of 2006 to a managing partner ("managing partner") of an investment adviser then registered with the Commission ("investment adviser"). Within minutes after receiving the information from Marino, the managing partner decided to sell all of the shares of Presstek held by the investment funds advised by the investment adviser.

Facts

1. Presstek is a Delaware corporation headquartered in Greenwich, Connecticut. Presstek is in the business of designing, manufacturing, selling and servicing high-technology digital imaging equipment to the worldwide graphic arts industry. Presstek's stock is registered with the Commission pursuant to Section 12(g) of the Exchange Act and trades on the NASDAQ National Market System. Presstek's fiscal year ends on December 31, and the quarter ending September 30 is its fiscal third quarter.

2. Respondent Edward J. Marino, 61, is a resident of Cambridge, Massachusetts. Marino became a member of Presstek's Board of Directors in 1999 and served as Chairman of Presstek's Audit Committee. Marino served as Presstek's president and CEO from April 2002 through May 2007.

3. In 2006, Marino was one of three persons authorized by Presstek to speak on its behalf to investors, analysts, and other securities professionals, along with the chief financial officer and the director of investor relations.

4. By at least 2006, Marino was aware of Presstek's internal policy concerning periods of "corporate silence" generally starting on the 15th day of the last month of a quarter, whereby he could discuss with outside parties only information that was already publicly known. At that time, Marino was also aware that Exchange Act Regulation FD [17 C.F.R. §§ 243.100 *et seq*.] prohibited him from selectively disclosing material nonpublic information to one party that was not publicly disclosed to all.

5. In September 2006, Marino was aware that the investment adviser was an institutional investor with holdings of Presstek stock

6. On September 10, 2006, Presstek's controller sent an e-mail to Marino advising him that "[w]eak August performance in both North America and Europe has negatively impacted [Presstek's] margin and operating income relative to plan."

7. On September 18, 2006, Marino sent an e-mail to certain Presstek senior personnel stating that "[t]he reality is that our forecast for the quarter has dropped precipitously as we approach quarter end."

8. Presstek planned to issue a preliminary announcement in early October 2006 to

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District Court case *SEC v. Presstek, Inc. et al.*, 10 CV 10406 (D. Mass. 2010). In that case the complaint alleged that Marino had aided and abetted Presstek's violation of Section 13(a) of the Exchange Act and Regulation FD thereunder.

report its lower than expected financial performance for the third quarter of 2006 (the quarter ended September 30, 2006). As of September 28, 2006, Presstek had not issued any announcement regarding its third quarter financial performance. Thus, the information about Presstek's lower than expected financial performance in the third quarter of 2006 was still nonpublic as of September 28, 2006.

9. On September 28, 2006, at or about 10:39 a.m., the managing partner called Presstek to speak with Presstek's chief financial officer ("CFO"). When the CFO was unavailable, he was transferred to Marino and spoke with him by telephone, as reflected in telephone records and a text message the managing partner sent to a business associate indicating that he was "on with ed marino."

10. In the conversation between Marino and the managing partner, the managing partner asked Marino about Presstek's performance in Europe during the summer of 2006. The managing partner took handwritten notes of Marino's reply.

11. The managing partner's notes indicate that Marino replied that "[s]ummer [was] not as vibrant as [they] expected in North America and Europe." The managing partner's notes also indicate that Marino summarized the situation as while "Europe [had] gotten better since [the summer]" it was "overall a mixed picture [for Presstek's performance that quarter]."

12. At or about 10:42 a.m., while on the telephone with Marino, the managing partner sent another text message to his business associate indicating that the information he was receiving from Marino "sounds like a disaster."

13. The business associate then asked the managing partner by text message whether he should buy puts and Barone responded affirmatively.

14. At or about 10:50 a.m. on September 28, 2006, the telephone call ended between Marino and the managing partner.

15. At or about 10:52 a.m., the investment adviser began placing sell orders for Presstek shares.

16. At or about 10:53 a.m., the managing partner sent a text message to the investment adviser's trader directing him to "sell all prst." "PRST" is the trading symbol for Presstek.

17. During the day, the investment adviser sold substantially all of its Presstek shares.

18. Marino was acting on behalf of Presstek when he revealed the negative material nonpublic information to the managing partner, and he disclosed the information to the managing partner under circumstances in which it was reasonably foreseeable that the managing partner would sell (and did sell) Presstek's securities on the basis of the information .

19. Presstek did not simultaneously disclose to the public the information provided to the investor during the telephone call between Marino and the investor.

20. As a result of the conduct described above, Marino caused a violation of Section 13(a) of the Exchange Act [15 U.S.C. § 78m(a)] and Regulation FD [17 C.F.R. §§ 243.100 *et seq.*] promulgated thereunder by Presstek in connection with the selective disclosure of material nonpublic information described above.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Edward J. Marino's Offer.

Accordingly, pursuant to Section 21C of the Exchange Act, it is hereby ORDERED that Respondent Edward J. Marino cease and desist from committing or causing any violations and any future violations of Section 13(a) of the Exchange Act and Regulation FD promulgated thereunder.

By the Commission.

Elizabeth M. Murphy
Secretary