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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

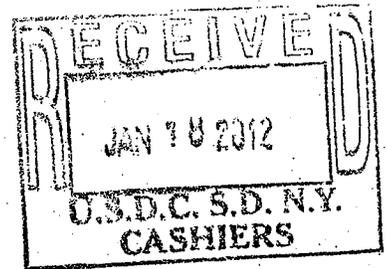
-against-

**SPYRIDON ADONDAKIS,
ANTHONY CHIASSON,
SANDEEP GOYAL,
JON HORVATH,
DANNY KUO,
TODD NEWMAN,
JESSE TORTORA,
DIAMONDBACK CAPITAL MANAGEMENT, LLC,
and
LEVEL GLOBAL INVESTORS, L.P.,**

Defendants.

COMPLAINT

ECF CASE



Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against defendants Spyridon "Sam" Adondakis ("Adondakis"), Anthony Chiasson ("Chiasson"), Sandeep "Sandy" Goyal ("Goyal"), Jon Horvath ("Horvath"), Danny Kuo ("Kuo"), Todd Newman ("Newman"), Jesse Tortora ("Tortora"), Diamondback Capital Management, LLC ("Diamondback") and Level Global Investors, L.P. ("Level Global"), (collectively, "Defendants"), alleges as follows:

SUMMARY

1. This case involves insider trading by members of a network of closely associated hedge fund traders who illegally obtained material nonpublic information concerning public companies Dell, Inc. ("Dell") and/or Nvidia Corporation ("Nvidia"), exchanged that information with others, and reaped massive profits from trading on that information.

Insider Trading in the Securities of Dell

2. During at least 2008, a Dell insider (the "Dell Insider") passed material nonpublic information regarding Dell to defendant Goyal, an analyst at Investment Adviser A who previously worked at Dell. This material nonpublic information included quarterly earnings information and other performance data regarding Dell that Goyal obtained in advance of Dell's quarterly earnings announcements.

3. Goyal, in turn, passed this material nonpublic information to defendant Tortora, who at the time was an analyst at the investment adviser firm, defendant Diamondback. At various times, Goyal informed Tortora that the material nonpublic information that Goyal was providing came from a source inside Dell.

4. Tortora passed the material nonpublic information that he received from Goyal to defendant Newman, the portfolio manager at Diamondback to whom Tortora reported, and informed Newman that the information had come from a source inside Dell. Newman used the inside information he received from Tortora to trade Dell securities on behalf of hedge funds managed by Diamondback, reaping approximately \$3.8 million in profits for those funds during 2008.

5. Tortora and Newman paid Goyal for providing material nonpublic information regarding Dell by arranging for Diamondback to direct soft dollar payments¹ totaling at least \$175,000 to a brokerage account in the name of a nominee of Goyal. These payments were arranged by Tortora and approved by Newman.

6. Tortora also passed the Dell inside information that he received from Goyal to at least three individuals at other investment adviser firms with whom Tortora regularly shared information: (i) defendant Adondakis, an analyst at defendant Level Global; (ii) defendant Horvath, an analyst at Hedge Fund A; and (iii) defendant Kuo, a vice-president and fund manager at Investment Adviser B.

7. After receiving the Dell information from Tortora, Adondakis provided the information to defendant Chiasson, one of Level Global's two founding partners. Adondakis informed Chiasson that the Dell information had originated from a source inside Dell. Chiasson caused Level Global's hedge funds to trade Dell securities based on the tips he received from Adondakis, thereby causing Level Global's hedge funds to reap profits totaling approximately \$57 million in 2008.

8. In addition, soon after Horvath received the Dell inside information from Tortora – in some instances just minutes after Tortora passed the information to Horvath – Horvath communicated with the portfolio manager at Hedge Fund A to whom he reported and the portfolio manager then executed trades in Dell securities that were

¹ "Soft dollars" are created when an investment firm causes its trading activity to be directed through a designated broker-dealer, and, in return, the broker-dealer credits the investment firm with a portion of the commissions or fees from the executed trading activity. These credits can then be used to pay for goods and services consumed by the investment firm, such as third-party research. The investment firm can direct the broker-dealer to pay a third-party research consultant directly (thereby utilizing the soft dollar credits it has accumulated with the broker-dealer).

consistent with the information that Tortora provided to Horvath. Those trades resulted in approximately \$1.4 million in profits for Hedge Fund A in 2008.

9. Finally, Kuo, upon receiving the Dell inside information from Tortora, directly or indirectly caused a hedge fund managed by Investment Adviser B to execute trades in Dell securities that were consistent with the information that Tortora provided, and which resulted in over \$180,000 in profits and losses avoided for Investment Adviser B's hedge fund in 2008.

Insider Trading in the Securities of Nvidia

10. In addition to engaging in insider trading in Dell securities, at least five of the seven individual defendants and both investment adviser firm defendants obtained material nonpublic information concerning the public company Nvidia, and traded on the basis of that information and/or passed the information on to others who traded.

11. During at least 2009, Kuo obtained material nonpublic information concerning Nvidia's calculation of its revenues, gross profit margins and other financial metrics prior to the company making these figures public in its quarterly earnings announcements. In addition to using this information for the benefit of his employer, Investment Adviser B, Kuo also passed the information to other investment professionals with whom he regularly shared information including Adondakis and Tortora.

12. After receiving the information from Kuo, Adondakis passed the information to his superior, Chiasson, who used the information to trade Nvidia securities on behalf of Level Global hedge funds. Similarly, Tortora passed the information to his superior, Newman, who used the information to trade Nvidia securities on behalf of Diamondback hedge funds.

13. In April and May 2009, for example, Kuo obtained and forwarded material nonpublic information concerning Nvidia's first quarter financial results in advance of the company's quarterly earnings announcement on May 7, 2009. Trading on the basis of that information, Level Global's hedge funds reaped profits and avoided losses of at least \$15.6 million, a hedge fund managed by Investment Adviser B reaped profits and avoided losses of at least \$90,000, and Diamondback's hedge funds reaped profits of at least \$73,000.

NATURE OF THE PROCEEDINGS AND RELIEF SOUGHT

14. The Commission brings this action pursuant to the authority conferred upon it by Section 20(b) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77t(b)] and Section 21(d) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78u(d)]. The Commission seeks permanent injunctions against each of the defendants, enjoining them from engaging in the transactions, acts, practices, and courses of business alleged in this Complaint, and disgorgement of ill-gotten gains or losses avoided from the unlawful insider trading activity set forth in this Complaint, together with prejudgment interest. The Commission also seeks civil penalties pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1]. The Commission seeks any other relief the Court may deem appropriate pursuant to Section 21(d)(5) of the Exchange Act [15 U.S.C. § 78u(d)(5)].

JURISDICTION AND VENUE

15. This Court has jurisdiction over this action pursuant to Sections 20(b), 20(d), and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b), 77t(d), and 77v(a)] and

Sections 21(d), 21(e), and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

16. Venue lies in this Court pursuant to Sections 20(b) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(b) and 77v(a)], and Sections 21(d), 21A, and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u-1, and 78aa]. Certain of the acts, practices, transactions, and courses of business alleged in this Complaint occurred within the Southern District of New York. Defendants Diamondback and Level Global have offices in New York, New York; defendants Tortora, Adondakis and Chiasson resided and worked in New York, New York at all times relevant to this action; defendant Horvath currently resides in New York, New York and worked in New York, New York at all times relevant to this action; and defendant Goyal works in New York, New York. Many of the communications described herein took place while at least one of the parties to the communication was physically located in New York, New York.

DEFENDANTS

17. **Adondakis**, age 40, resides in Santa Monica, California. From 2006 until 2010, Adondakis resided in New York, New York and worked as an analyst at Level Global. From 2002 to 2006, he worked as a research analyst at Prudential Equity Group ("Prudential") in San Francisco, California. Adondakis has held Series 7, 63, 65, 86 and 87 licenses.

18. **Chiasson**, age 38, resides in New York, New York. Chiasson is a founding partner at Level Global. During the relevant time period, he served as the firm's Director of Research and the Sector Head of the technology, media and telecommunications sector, and also had authority to execute trades for the hedge funds

managed by Level Global. Chiasson previously held Series 7 and 63 licenses, which he obtained while employed at Credit Suisse First Boston Corporation.

19. **Goyal**, age 39, resides in Princeton, New Jersey. Since July 2007, Goyal has worked as an analyst for Investment Adviser A. In 2006 and 2007, Goyal worked as a research analyst at Prudential in San Francisco, California. While at Prudential, he held Series 7, 63, and 87 licenses. Immediately prior to working at Prudential, Goyal worked as a manager of corporate planning at Dell for approximately three years.

20. **Horvath**, age 42, resides in New York, New York. During the relevant time period, Horvath was a technology research analyst at Hedge Fund A. Horvath previously held Series 7 and 63 licenses, which he obtained while employed at Lehman Brothers in San Francisco.

21. **Kuo**, age 36, resides in San Marino, California. Kuo has been a vice-president and fund manager at Investment Adviser B since 2008. Kuo previously held a Series 7 license, which he obtained while employed at Merrill Lynch in San Francisco, and a Series 63 license, which he obtained while employed at J.P. Morgan Securities, Inc.

22. **Newman**, age 47, resides in Needham, Massachusetts. Newman was a portfolio manager at Diamondback from March 2006 through January 2011. Newman previously held a Series 7 license which he obtained while employed at Merrill Lynch in New York, as well as a Series 63 license which he obtained while employed at Freedom Capital in Boston.

23. **Tortora**, age 34, resides in Pembroke Pines, Florida. From late 2007 until early 2010, Tortora worked as an analyst at Diamondback. Prior to working at Diamondback, Tortora was a research analyst at Prudential in San Francisco, California.

from 2004 to mid-2007. While at Prudential, Tortora held Series 7, 63, 86, and 87 licenses.

24. **Diamondback** is an investment adviser based in Stamford, Connecticut. Diamondback has been registered with the Commission since January 2006 and serves as adviser to hedge funds with approximately \$4 billion worth of assets under management.

25. **Level Global** is an unregistered investment adviser located in Greenwich, Connecticut and New York, New York that managed hedge funds with approximately \$4 billion worth of assets in 2010.

RELEVANT ENTITIES

26. **Dell** is a Delaware corporation headquartered in Round Rock, Texas. Dell develops and sells computers and related products and services. Dell's securities are registered with the Commission pursuant to Section 12(b) of the Exchange Act and its stock is traded on the NASDAQ under the symbol "DELL."

27. **Nvidia** is a Delaware corporation headquartered in Santa Clara, California. Nvidia develops and sells graphics processors used in smart phones, tablets, video game systems, and other computing devices. Nvidia's securities are registered with the Commission pursuant to Section 12(b) of the Exchange Act and its stock is traded on the NASDAQ under the symbol "NVDA."

28. **Investment Adviser A** is a registered investment adviser based in New York, New York.

29. **Investment Adviser B** is an unregistered investment adviser based in South Pasadena, California and Reno, Nevada.

30. **Hedge Fund A** is an unregistered investment adviser based in New York, New York.

FACTS

INSIDER TRADING IN THE SECURITIES OF DELL

31. During at least 2008, the Dell Insider regularly provided material nonpublic information concerning Dell's quarterly financial results to Goyal, an analyst at Investment Adviser A.

32. Goyal, who previously worked at Dell, was friends with the Dell Insider and during the period that the Dell Insider was providing Goyal with inside information about Dell, the Dell Insider sought and received career advice from Goyal.

33. The Dell Insider provided Goyal with material nonpublic financial performance metrics including Dell quarterly revenues and gross margins. The Dell Insider provided these figures to Goyal before the company made them public at its quarterly earnings announcements.

34. The Dell Insider's provision of this information to Goyal was in clear violation of the Dell Code of Conduct, which specifically prohibits "using any material inside information about Dell or any other company (such as [a] supplier or vendor) to trade any stock," and also prohibits "provid[ing] 'tips' or shar[ing] material inside information with any other person who might trade the stock."

35. Goyal passed the information that he received from the Dell Insider to his friend Tortora, an analyst at Diamondback.

36. In exchange for Goyal providing material nonpublic information regarding Dell, Tortora and his supervisor Newman arranged for Diamondback to make soft dollar

payments totaling at least \$175,000 to a brokerage account maintained by a nominee of Goyal. Goyal's nominee never performed any services for Diamondback that would warrant soft-dollar payments by Diamondback.

37. After receiving the Dell information from Goyal, Tortora passed the information to Newman and informed Newman that the Dell information originated from a Dell insider.

38. After receiving the Dell information from Tortora, Newman used this material nonpublic information to trade Dell securities on behalf of Diamondback hedge funds and reaped profits totaling approximately \$3.8 million.

39. Tortora also passed the information to Adondakis, Horvath and Kuo, with whom Tortora regularly exchanged information regarding various technology companies.

40. After receiving the Dell information from Tortora, Adondakis passed the information to Chiasson, one of his superiors at Level Global. Chiasson and others at Level Global used that information to reap huge profits for Level Global hedge funds by trading Dell securities around the time of two of the company's quarterly earnings announcements. During 2008, hedge funds managed by Level Global reaped approximately \$57 million in profits from trading Dell securities on the basis of the inside information that originated from the Dell Insider.

41. Similarly, the employers of Horvath and Kuo also profited from the Dell inside information provided by Tortora. Horvath's employer, Hedge Fund A, and Kuo's employer, Investment Adviser B, executed trades in Dell based upon the information that Horvath and Kuo received from Tortora. In the days surrounding two separate quarterly announcements by Dell in 2008, these trades generated \$1.4 million in profits for Hedge

Fund A and \$180,000 in profits and losses avoided for a hedge fund managed by Investment Adviser B.

Dell's First Quarter 2008 Earnings Announcement

42. In the weeks leading up to Dell's May 29, 2008 announcement of its first quarter financial results (the three-month period from February 2, 2008 to May 2, 2008), the Dell Insider had several telephone calls with Goyal in which the Dell Insider provided Goyal with material nonpublic information. Beginning in at least early May, as Dell was in the initial stages of computing its financial results, the Dell Insider provided Goyal with preliminary estimates of the company's revenues and gross profit margin. Over time, as the company got closer to finalizing its earnings report, the information that the Dell Insider provided to Goyal became more precise.

43. Soon after each of Goyal's calls with the Dell Insider, Goyal called Tortora and passed along the information that the Dell Insider had provided. And soon after speaking with Goyal, Tortora passed the information along to Newman, Adondakis, Horvath, and Kuo.

44. On the evening of Monday, May 5, 2008, the Dell Insider passed to Goyal material nonpublic information concerning Dell's first quarter results during a 71-minute phone call. Approximately two minutes later, Goyal placed a call to Tortora, and then called Tortora again about one hour later. After checking his voicemail, Tortora telephoned Goyal and the two spoke for 17 minutes.

45. The next morning, May 6, 2008, Tortora placed phone calls to Newman (8 minutes) and Adondakis (10 minutes). In each of those calls, Tortora passed along the estimates of Dell's first quarter results that Tortora had received from Goyal the night

before (and which Goyal had received from the Dell Insider). Tortora also indicated to Newman and Adondakis that the information he was passing to them came from a source within Dell.

46. Later that day, Tortora placed phone calls to Horvath (11 minutes) and Kuo (4 minutes) and passed along to them the same information regarding Dell that Tortora had shared with Newman and Adondakis that morning.

47. Kuo's employer, Investment Adviser B, purchased 3,600 shares of Dell on behalf of a hedge fund that it managed in the two consecutive days after Tortora spoke to Kuo on May 6, 2008.

48. On the evening of May 11, 2008, Goyal and the Dell Insider had a 32-minute phone call. During that call, the Dell Insider provided updated details about Dell's first quarter results. Approximately one minute after that call ended, Goyal telephoned Tortora. About 15 minutes later, Goyal and Tortora had a 24-minute call in which Goyal provided Tortora with the information he had just received from the Dell Insider.

49. At 7:10 the next morning, May 12, Tortora spoke to Horvath via telephone for 14 minutes, passing along the information regarding Dell that Tortora had received from Goyal. About nine minutes later, Horvath telephoned the portfolio manager at Hedge Fund A to whom Horvath reported, and the two spoke for ten minutes. The next day, May 13, the portfolio manager at Hedge Fund A to whom Horvath reported purchased 1,000 Dell call options² with a strike price of \$20 on behalf of Hedge Fund A.

² A call option is a financial contract between two parties that gives the buyer the right, but not the obligation, to buy an agreed quantity of stock during a specified time period for a specified price, known as the strike price. A buyer pays a fee, or premium, to

50. At 8:46 am on May 12, Tortora emailed Adondakis saying that he wanted to “catch up on Dell.” Eight minutes after Tortora sent that email, Adondakis called Tortora and they spoke for 14 minutes. The two spoke again about an hour later (for 8 minutes). During these calls, Tortora and Adondakis discussed the information regarding Dell that Tortora had received from Goyal the previous night. Two hours after Adondakis’s second call with Tortora, Adondakis called Chiasson and they spoke for 13 minutes. Later that day, Level Global funds purchased 3,500 Dell call options.

51. At 12:12 pm on May 12, 2008, Kuo sent an instant message to Tortora asking if there were “any positives out of dell recently?” Tortora responded that he would call Kuo with an update. Later that day, Tortora telephoned Kuo and during this 14-minute telephone call, Tortora provided Kuo with the Dell inside information he had obtained from Goyal. The next day, Kuo’s employer, Investment Adviser B, bought 1,300 shares of Dell stock on behalf of a hedge fund that it managed.

52. Goyal had another call with the Dell Insider on the evening of May 15, 2008. Minutes after completing his call with the Dell Insider, Goyal telephoned Tortora and provided Tortora with the Dell inside information that Goyal had just received. The following morning, Tortora spoke with Adondakis, Horvath and Newman and conveyed the Dell inside information to them.

53. On the morning of Friday, May 16, 2008, Goyal and Tortora had a brief email exchange in which they agreed that the numbers received from the Dell Insider indicated that Dell’s earnings per share of common stock (“EPS”) for the first quarter would be three cents above the then-current consensus among Wall Street analysts.

purchase this right. A buyer of a call option generally stands to gain if the price of the stock increases.

54. Minutes after that email exchange, Tortora called Newman and the two spoke for two minutes. During that call, Tortora passed along the information he had received from Goyal regarding Dell, as well as his observation that – based on the inside information received from Goyal – Dell’s first quarter EPS would exceed analyst expectations.

55. Approximately 30 minutes after Tortora’s call with Newman, the Diamondback portfolio controlled by Newman began purchasing shares of Dell. Newman caused Diamondback’s hedge funds to purchase 250,000 shares of Dell stock over the next 23 minutes and an additional 225,000 shares later that day. By the end of that trading day, Diamondback hedge funds for which Newman had trading authority had purchased 475,000 shares of Dell (valued at over \$10 million at the market close).

56. Five minutes after emailing with Goyal on May 16, 2008, Tortora called Adondakis at work and passed along the Dell inside information he had received from Goyal. Adondakis, in turn, conveyed this information to Chiasson, one of his superiors at Level Global. Adondakis informed Chiasson that this information had originated from a Dell insider.

57. Approximately fourteen minutes after the end of Adondakis’s call with Tortora, Level Global hedge funds began purchasing Dell stock, obtaining 750,000 shares (worth approximately \$15.5 million) by the end of the day.

58. In the weeks leading up to Dell’s first quarter earnings announcement, two Level Global hedge funds amassed more than 1.7 million shares of Dell stock, as well as call options to buy additional Dell shares, in anticipation of Dell announcing its better-than-expected first quarter performance.

59. On the afternoon of Friday, May 16, 2008, Tortora sent an instant message to Kuo instructing Kuo to call Tortora's cell phone. Kuo telephoned Tortora immediately and during the ensuing call Tortora passed the updated Dell inside information to Kuo. During the next three trading days, May 19, May 20, and May 21, a hedge fund managed by Investment Adviser B purchased 5,000 shares of Dell.

60. On May 28, 2008 (the day before Dell's earnings release), Goyal spoke to the Dell Insider and received a final update regarding Dell's first quarter performance. Consistent with prior tips, the information indicated that Dell's first quarter earnings per share would surpass analysts' expectations. Minutes after completing his call with the Dell Insider, Goyal called Tortora and passed the Dell Insider's updated information to him. The next morning, May 29, Tortora spoke with Adondakis, Horvath and Newman by telephone and passed the information to them.

61. Approximately 45 minutes after Tortora spoke with Horvath, the Hedge Fund A portfolio manager to whom Horvath reported sold the Dell call options with a strike price of \$20 that he had purchased on behalf of Hedge Fund A on May 13, netting profits of over \$126,000, and staked a more aggressive long position by purchasing 1,750 Dell call options with a strike price of \$22. Later that day, the same portfolio manager also bought 1,000 Dell call options with a strike price of \$21 on behalf of Hedge Fund A.

62. After market close on May 29, 2008, Dell announced its first quarter financial results. The company reported adjusted earnings of \$0.38 per share, a number which – as Goyal's inside information had indicated – substantially exceeded analysts' consensus estimate of \$0.34 per share. The next day, Dell's share price, which had

closed at \$21.81 just before the announcement, increased more than 5 percent to a close at \$23.06.

63. In the days that followed, the Level Global hedge funds sold their Dell shares and option contracts and reaped over \$4 million in trading profits.

64. The increase in Dell's share price after the announcement also yielded significant profits for Diamondback hedge funds, as Newman sold the long position in Dell that he had acquired on behalf of the Diamondback funds. In total, between May 7 and June 3, 2008, Newman realized for Diamondback's hedge funds profits of approximately \$1 million from his trades in Dell based on the material nonpublic information he received from Tortora.

65. After Dell announced its first quarter earnings, Hedge Fund A sold its Dell options positions. Including the approximately \$126,000 in profits that Hedge Fund A made readjusting its options positions on May 28, it realized profits of approximately \$430,000.

66. Approximately 40 minutes after Dell's May 29, 2008 earnings announcement, Kuo sent an instant message to Tortora saying "nice call on Dell." A hedge fund managed by Investment Adviser B reaped at least \$103,000 in profits trading Dell securities around the May 29 announcement.

Dell's Second Quarter 2008 Earnings Announcement

67. The Dell Insider once again provided Goyal with inside information concerning Dell's revenues and gross profit margin in advance of the company's August 28, 2008 announcement of its financial results for its second quarter (the period from May 3, 2008 to August 1, 2008).

68. Goyal began receiving this information no later than July 2, 2008. As in the prior quarter, Goyal received updates as the company revised its calculations in the weeks leading up to the announcement of quarterly results.

69. Goyal provided the Dell inside information to Tortora, who passed it to Newman, Adondakis, Horvath, and Kuo.

70. On the evening of August 4, 2008, during a 40-minute telephone call between the Dell Insider and Goyal, the Dell Insider provided Goyal with updated inside information concerning Dell's second quarter financial results. Early the following morning, Goyal telephoned Tortora and the two spoke for approximately ten minutes. During this call, Goyal communicated to Tortora the inside information he had received from the Dell Insider.

71. While he was still on the phone with Goyal, Tortora sent an email to Newman that conveyed the inside information he had just received from Goyal — including Dell's calculation of its revenues and gross margin. Shortly afterwards, Tortora forwarded to Adondakis, Horvath, and Kuo the email he had sent to Newman.

72. Among other information, Tortora's email conveyed that Dell's then-current calculation of its gross profit margin for the second quarter was 17.5 percent, which was significantly worse than the 18.3 percent figure that analysts were expecting at that time.

73. One minute after receiving Tortora's email, Newman responded by sending Tortora an instant message asking if "the dell [information was] from sandy?" and Tortora replied that it was.

74. On August 5, 2008, shortly after Adondakis received the email from Tortora concerning Dell's gross margin, Adondakis passed this information to Chiasson, who directed Adondakis to estimate the impact of the worse-than-expected gross margin figure on the price of Dell's stock.

75. After presenting his analysis to Chiasson and at least one other person at Level Global, Adondakis sent an email to Chiasson and other Level Global employees stating that Dell's gross margin would likely cause the price of the company's stock – which was trading at approximately \$25 per share – to drop approximately 20% and suggested that Level Global “use the pending GM data” (*i.e.*, the updated inside information that Adondakis expected to continue to receive from Tortora) to adjust Level Global's short position in advance of Dell's quarterly earnings announcement.

76. On the evening of August 14, 2008, the Dell Insider placed a fifty-minute telephone call to Goyal and passed Goyal material nonpublic information, including that Dell's second quarter gross margin was still expected to be lower than analysts were predicting.

77. The following morning, August 15, a telephone number associated with Goyal's office at Investment Adviser A placed a call to Tortora's mobile phone that lasted for approximately three minutes. At approximately 2:00 pm that afternoon, Tortora spoke with Goyal again. Approximately one hour later, the Diamondback portfolio controlled by Newman shorted Dell stock.³ Newman shorted a total of 325,000 shares on behalf of Diamondback hedge funds between 3:13 pm and the close of trading.

³ “Shorting” or “short selling” is the practice of selling a security that one does not own, but rather has arranged to borrow from a third party, with the intention of purchasing (also called “covering”) the security at a later date. A short seller stands to gain if the

78. On the next trading day, Monday, August 18, 2008, Tortora passed the update concerning Dell's disappointing gross margin results to Adondakis, Horvath and Kuo.

79. On August 18 at approximately 9:13 am, Tortora telephoned Adondakis (who was in California with Chiasson attending business meetings) and spoke to him for 18 minutes. Later that day, Chiasson sent an email to a trader at Level Global instructing him to short Dell stock. By the close of trading, Level Global hedge funds had shorted 700,000 shares of Dell.

80. The following day, August 19, Chiasson continued to build Level Global's short position in Dell, including by purchasing Dell put options.⁴

81. At approximately 12:09 pm on August 18, Tortora telephoned Kuo and spoke to him for approximately three minutes, then immediately called him again at 12:12 pm and spoke for another 3 minutes. During these calls, Tortora passed the updated information concerning Dell's worse-than expected results to Kuo. About fifteen minutes after this second call, a hedge fund managed by Kuo's employer, Investment Adviser B, sold 9,300 shares of Dell stock (approximately one-third of its total position).

82. At approximately 12:20 pm on August 18, Tortora spoke to Horvath via telephone for approximately 10 minutes and passed the updated inside information concerning Dell's worse-than-expected results to Horvath. About three minutes after that

price of the security declines between the short sale and the purchase because the short seller has sold the security at a price that is greater than the purchase price.

⁴ A put option is a financial contract between two parties that gives the buyer the right, but not the obligation, to sell an agreed quantity of stock during a specified time period at a specified price. As with a call option, a buyer pays a premium to purchase this right. A buyer of a put option generally stands to gain if the price of the stock decreases.

call, Horvath telephoned the Hedge Fund A portfolio manager to whom he reported, and spoke to him for two minutes. One minute after that call ended, Hedge Fund A began selling Dell stock short, amassing a Dell short position of 167,368 shares by the end of the day.

83. On the evening of August 24, 2008, Goyal received another update from the Dell Insider. The following day, August 25, Goyal placed a telephone call to Tortora. During this call, which lasted approximately two minutes, Goyal informed Tortora that Dell was still planning to announce a worse-than-expected gross margin.

84. Approximately 20 minutes after that call, Tortora sent an email to Adondakis, Horvath, and Kuo indicating that Tortora had done a new "dell check" and that it was the "same as before" and sounded bad for Dell.

85. Later that day, Adondakis placed a short telephone call to Chiasson's mobile phone.

86. The following morning, August 26, 2008, Adondakis had a more lengthy telephone conference call with Chiasson and another Level Global employee during which the three of them discussed the updated inside information that Adondakis had received from Tortora. Immediately after that telephone call, Chiasson sent an email to another Level Global portfolio manager stating: "our call [on the dell gross margin] is 17.5ish" Later that day, Chiasson sent an instant message to the same Level Global portfolio manager and indicated that another hedge fund investor who also had sources at Dell was also expecting Dell to announce a worse-than-expected gross margin figure.

87. On August 27, 2008, the day before Dell announced its second quarter financial results, Adondakis, Chiasson and at least one other Level Global portfolio

manager participated in a forty-minute telephone call during which Adondakis conveyed the latest inside information that he had received concerning Dell's gross margin and the group discussed this updated inside information.

88. After the close of trading on August 28, 2008, Dell announced its second quarter financial results. Its announcement of a gross margin of 17.2 percent was substantially worse than the 18.4 percent that analysts had expected just prior to the announcement. The following day, Dell's share price dropped more than 13 percent, from \$25.21 at the close of trading on August 28, 2008 to \$21.73 at the close of trading on August 29.

89. Minutes after Dell's disappointing announcement, Kuo sent an instant message to Tortora stating: "nice call on Dell."

90. In the weeks leading up to Dell's second quarter earnings announcement, Goyal's tippees had caused their funds to short Dell and/or sell the long positions that they had previously accumulated.

91. Between July 8, 2008 and August 28, 2008, Level Global hedge funds accumulated a net short position in Dell stock of 8.6 million shares and added to this short position by purchasing put options to sell additional shares of Dell stock.

92. Between July 3 and August 28, Newman caused the Diamondback funds he controlled to amass a short position of 700,000 shares and to add to this short position by purchasing put options to sell additional shares.

93. Between August 18 and August 28, the Hedge Fund A portfolio manager to whom Horvath reported, established a Dell short position of approximately 150,000

shares on behalf of Hedge Fund A and added to this short position by purchasing put options to sell additional shares and by short-selling Dell call options.

94. Between July 8 and August 28, a hedge fund managed by the investment adviser for whom Kuo worked, Investment Adviser B, sold approximately 28,500 shares of Dell stock or 75 percent of its preexisting Dell position.

95. In the weeks following the announcement, the Level Global hedge funds that had established Dell short positions (in equity and/or options) based on the Dell Insider's information closed these positions and reaped over \$53 million in profits.

96. The Diamondback hedge funds managed by Newman also reaped significant profits from the drop in Dell's share price as Newman closed out his short position. In total, the Diamondback funds reaped approximately \$2.8 million in profits from Newman's trading in Dell shares and options from August 5 to September 4, 2008, all of which was based on material nonpublic information that Newman obtained from Tortora.

97. The Hedge Fund A portfolio to which Horvath was assigned realized profits of approximately \$1 million from trading Dell equities and options based on the material nonpublic information that Horvath obtained from Tortora.

98. A hedge fund managed by Kuo's employer, Investment Adviser B, avoided approximately \$78,000 in losses by selling most of its Dell holdings in advance of the company's announcement of its disappointing second quarter results.

INSIDER TRADING IN THE SECURITIES OF NVIDIA

99. In addition to engaging in insider trading in the securities of Dell, defendants Kuo, Adondakis, Tortora, Newman, Chiasson, and Diamondback and Level

Global obtained material nonpublic information concerning the publicly traded company Nvidia and either traded on the basis of that information or passed the information on to others who traded.

100. During at least 2009, Kuo obtained material nonpublic information concerning Nvidia's calculation of its revenues, gross profit margins and other important financial metrics before the company made these figures public in its quarterly earnings announcements. As was the case with the information that Goyal obtained from the Dell Insider, Kuo sometimes received not just one but a series of tips — with ever improving accuracy and reliability — as Nvidia finalized its financial results for a given quarter and prepared to publicly report them.

101. In April and May 2009, for example, Kuo obtained and forwarded material nonpublic information concerning Nvidia's financial performance for the first quarter of the company's 2010 fiscal year — a period running from January 26, 2009 to April 26, 2009 — in advance of the company's earnings announcement on May 7, 2009. Trading on the basis of that inside information, hedge funds managed by Diamondback, Level Global, and Investment Adviser B realized profits and avoided losses of more than \$15.8 million.

102. In early April 2009, Kuo obtained material nonpublic information concerning Nvidia's first quarter financial performance, including the company's preliminary calculations of its overall revenue and gross profit margin. These early tips indicated that the company might announce a first quarter gross profit margin that was substantially worse than Wall Street analysts were expecting. Based on this information,

a hedge fund managed by Investment Adviser B sold 4,000 shares of Nvidia stock on April 15 and an additional 5,000 shares on April 20, 2009.

103. On or about the morning of April 27, 2009, Kuo obtained an update concerning Nvidia's financial performance and sent an email to Adondakis, Tortora, and others in which he summarized the inside information he had received. Among other metrics, Kuo reported that the company was expecting to report a gross profit margin of approximately 30 percent, which was substantially lower than analysts' then-current consensus of approximately 35 percent.

104. Within three minutes of receiving Kuo's April 27 email, Tortora forwarded the email to Newman. Less than four minutes later, the Diamondback portfolio controlled by Newman initiated a short position in Nvidia stock, betting that the price of the stock would go down.

105. Less than eight minutes after receiving Kuo's April 27 email, Adondakis sent an email to Chiasson advising him of Nvidia's worse-than-expected first quarter gross margin. Less than seven minutes later, Chiasson caused two Level Global hedge funds to start selling Nvidia stock. By the close of trading on April 27, the two Level Global hedge funds had sold all of their Nvidia holdings — this amounted to a sale of more than \$32.7 million worth of Nvidia securities.

106. As Nvidia's quarterly earnings announcement approached, Kuo obtained and relayed updates concerning the revenue and gross margin numbers the company would report. On May 4, Kuo emailed Adondakis, Tortora and others to advise them that his source had stated that Nvidia would report first quarter revenues of "around \$668

million” and was still planning to report a worse-than-expected gross profit margin of 30 percent.

107. Based on this May 4 update, a hedge fund managed by Investment Adviser B sold approximately 29,000 shares of Nvidia stock between May 5 and May 7 and established a short position in advance of the quarterly earnings announcement on the evening of May 7.

108. Within 45 minutes of receiving Kuo’s May 4 email, Adondakis informed Chiasson of the updated inside information and Chiasson caused Level Global’s hedge funds to start shorting Nvidia stock. By the time of Nvidia’s earnings announcement on May 7, Level Global hedge funds had acquired a short position in Nvidia stock of approximately 3.9 million shares.

109. Trading on the basis of the inside information that Tortora received from Kuo on April 27 and May 4, Newman established a short position in Nvidia stock. By the time of the company’s May 7 earnings announcement, Diamondback hedge funds controlled by Newman held a short position in Nvidia of approximately 70,000 shares.

110. After the close of trading on May 7, Nvidia announced its first quarter financial results including a gross profit margin of 30.6%. The gross margin number fell substantially short of analysts’ consensus estimate of 35%. On May 8, the day after the announcement, Nvidia stock, which had closed at \$10.73 per share on May 7, fell as low as \$9.11 and closed at \$9.25.

111. On May 8, Newman closed the short position he had established for Diamondback’s hedge funds based on material nonpublic information that Kuo passed to

Tortora. Diamondback hedge funds realized profits of approximately \$73,000 trading on the basis of this information between April 27 and May 8.

112. On May 11, a hedge fund managed by Investment Adviser B covered the Nvidia short position that it had established based on the material nonpublic information Kuo had obtained. By selling Nvidia stock and establishing a short position instead, Investment Adviser B's hedge fund benefited by more than \$90,000 through a combination of profits and avoidance of losses that it otherwise would have suffered.

113. Between May 8 and May 13, Level Global hedge funds covered the short positions they had acquired in the days leading up to the Nvidia earnings announcement. In doing so, Level Global hedge funds reaped over \$10.1 million in trading profits. Those profits were in addition to \$5.4 million in losses that Level Global avoided by selling Nvidia shares on April 27.

CLAIMS FOR RELIEF

CLAIM I

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder (Against all Defendants)

114. The Commission realleges and incorporates by reference paragraphs 1 through 113, as though fully set forth herein.

115. The information provided by the Dell Insider to defendant Goyal, was, in each case, material and nonpublic. In addition, the information was, in each case, considered confidential by Dell, the company that was the source of the information, and Dell had policies protecting confidential information.

116. The Dell Insider provided the material nonpublic information to Goyal in breach of the fiduciary duty that the Dell Insider owed to Dell, and did so with the expectation of receiving a benefit.

117. Goyal knew, recklessly disregarded, or should have known, that the Dell Insider owed a fiduciary duty, or obligation arising from a similar relationship of trust and confidence, to keep the information confidential.

118. The information that defendant Kuo obtained regarding Nvidia was material and nonpublic. In addition, the information was considered confidential by Nvidia, the company that was the source of the information and which had policies protecting confidential information.

119. Goyal, Tortora, Adondakis, Horvath, Kuo, Newman, and Chiasson each tipped their respective tippees material nonpublic information concerning Dell and/or Nvidia, with the expectation of a benefit from doing so, and each knew, recklessly disregarded, or should have known, that the information was conveyed in breach of a fiduciary duty, or obligation arising from a similar relationship of trust and confidence.

120. Goyal, Tortora, Adondakis, Horvath, Kuo, Newman, Chiasson, Diamondback and Level Global each knew, recklessly disregarded, or should have known, that the material nonpublic information concerning Dell and/or Nvidia that each received from their respective tippers was disclosed or misappropriated in breach of a fiduciary duty, or similar relationship of trust and confidence.

121. Tortora, Newman, and Diamondback are jointly and severally liable for the Diamondback funds' trading because they each directly or indirectly effectuated the

trades on behalf of the Diamondback funds and/or unlawfully disclosed the material nonpublic information to the Diamondback funds.

122. Adondakis, Chiasson, and Level Global are jointly and severally liable for the Level Global funds' trading because they each directly or indirectly effectuated the trades on behalf of the Level Global funds and/or unlawfully disclosed the material nonpublic information to the Level Global funds.

123. Horvath is liable for Hedge Fund A's trading because he directly or indirectly effectuated the trades on behalf of Hedge Fund A and/or unlawfully disclosed the material nonpublic information to Hedge Fund A.

124. Kuo is liable for Investment Adviser B's trading because he directly or indirectly effectuated the trades on behalf of a fund managed by Investment Adviser B and/or unlawfully disclosed the material nonpublic information to Investment Adviser B's fund.

125. By virtue of the foregoing, Adondakis, Chiasson, Goyal, Horvath, Kuo, Newman, Tortora, Diamondback and Level Global, and each of them, in connection with the purchase or sale of securities, by the use of the means or instrumentalities of interstate commerce, or of the mails, or a facility of a national securities exchange, directly or indirectly: (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 the light of the circumstances under which they were made, not misleading; or (c) engaged in acts, practices or courses of business which operated or would have operated as a fraud or deceit upon persons.

126. By virtue of the foregoing, defendants Adondakis, Chiasson, Goyal, Horvath, Kuo, Newman, Tortora, Diamondback and Level Global, and each of them, directly or indirectly, 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].

CLAIM II

Aiding and Abetting Violations of Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder (Against Defendants Goyal, Tortora, Newman, Adondakis, Chiasson, Horvath, and Kuo)

127. The Commission realleges and incorporates by reference paragraphs 1 through 126, as though fully set forth herein.

128. By knowingly or recklessly passing along information which he knew to be material nonpublic information and which he knew had been provided to him in breach of a fiduciary duty, or obligation arising from a similar relationship of trust and confidence, Goyal, by use of the means or instrumentalities of interstate commerce, or of the mails, with scienter, aided and abetted violations 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] by the Dell Insider and Tortora, in contravention of Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

129. By knowingly or recklessly passing along information which he knew to be material nonpublic information and which he knew had been provided to him in breach of a fiduciary duty, or obligation arising from a similar relationship of trust and confidence, Tortora, by use of the means or instrumentalities of interstate commerce, or of the mails, with scienter, aided and abetted violations 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] by Goyal, Adondakis, Newman, Diamondback, Horvath, Kuo and others in contravention of Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

130. By knowingly or recklessly passing along information which he knew to be material nonpublic information and which he knew had been provided to him in breach of a fiduciary duty, or obligation arising from a similar relationship of trust and confidence, Newman, by use of the means or instrumentalities of interstate commerce, or of the mails, with scienter, aided and abetted violations 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] by Goyal, Tortora and Diamondback, in contravention of Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

131. By knowingly or recklessly passing along information which he knew to be material nonpublic information and which he knew had been provided to him in breach of a fiduciary duty, or obligation arising from a similar relationship of trust and confidence, Adondakis, by use of the means or instrumentalities of interstate commerce, or of the mails, with scienter, aided and abetted violations 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] by Tortora, Kuo, Chiasson, Level Global and others, in contravention of Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

132. By knowingly or recklessly passing along information which he knew to be material nonpublic information and which he knew had been provided to him in breach of a fiduciary duty, or obligation arising from a similar relationship of trust and confidence, Chiasson, by use of the means or instrumentalities of interstate commerce, or

of the mails, with scienter, aided and abetted violations 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] by Adondakis, Level Global and others, in contravention of Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

133. By knowingly or recklessly passing along information which he knew to be material nonpublic information and which he knew had been provided to him in breach of a fiduciary duty, or obligation arising from a similar relationship of trust and confidence, Horvath, by use of the means or instrumentalities of interstate commerce, or of the mails, with scienter, aided and abetted violations 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] by Tortora and the Hedge Fund A portfolio manager to whom Horvath reported, in contravention of Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

134. By knowingly or recklessly passing along information which he knew to be material nonpublic information and which he knew had been provided to him in breach of a fiduciary duty, or obligation arising from a similar relationship of trust and confidence, Kuo, by use of the means or instrumentalities of interstate commerce, or of the mails, with scienter, aided and abetted violations 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] by Adondakis, Tortora, Investment Adviser B and others in contravention of Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)].

CLAIM III
Violations of Section 17(a) of the Securities Act
(Against All Defendants)

135. The Commission realleges and incorporates by reference paragraphs 1 through 134, as though fully set forth herein.

136. By virtue of the foregoing, in the offer or sale of securities, by the use of means or instruments of transportation or communication in interstate commerce or by the use of the mails, directly or indirectly, defendants Adondakis, Chiasson, Goyal, Horvath, Kuo, Newman, Tortora, Diamondback and Level Global, and each of them: (a) employed devices, schemes or artifices to defraud; (b) obtained money or property by means of an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, practices or courses of business which operate or would operate as a fraud or deceit upon a purchaser.

137. By reason of the conduct described above, each of the defendants directly or indirectly violated, and unless enjoined will again violate, Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

RELIEF SOUGHT

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

I.

Permanently restraining and enjoining defendants Adondakis, Chiasson, Goyal, Horvath, Kuo, Newman, Tortora, Diamondback and Level Global, and each of them, 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];

II.

Permanently restraining and enjoining defendants Adondakis, Chiasson, Goyal, Horvath, Kuo, Newman, Tortora, Diamondback and Level Global, and each of them, from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)];

III.

Ordering defendants Adondakis, Chiasson, Goyal, Horvath, Kuo, Newman, Tortora, Diamondback and Level Global to disgorge, with prejudgment interest, all ill-gotten gains received as a result of the conduct alleged in this Complaint, including their ill-gotten gains, and the illicit trading profits, other ill-gotten gains, and/or losses avoided of their direct and downstream tippees;

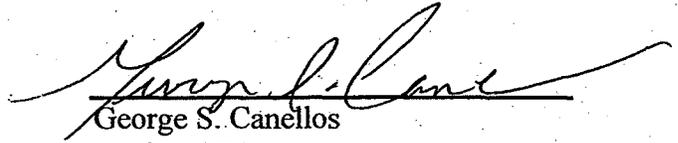
IV.

Ordering defendants Adondakis, Chiasson, Goyal, Horvath, Kuo, Newman, Tortora, Diamondback and Level Global to pay civil monetary penalties pursuant to Section 21A of the Exchange Act [15 U.S.C. §§ 78u(d)(3), 78u-1]; and

V.

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

Dated: New York, New York
January 18, 2012



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