

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

JONATHAN HOLLANDER,

Defendant.

Civil Action No.

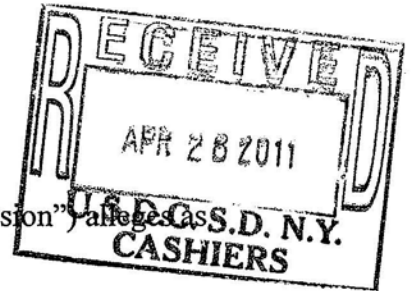
COMPLAINT

Plaintiff Securities and Exchange Commission (the "Commission") alleges as

follows:

SUMMARY

1. This case involves unlawful insider trading by Jonathan Hollander ("Hollander" or "Defendant"), a former hedge fund professional at an unregistered investment adviser. In January 2006, while Hollander was still employed as an analyst for the investment adviser, he traded in the securities of Albertson's, LLC ("ABS") on the basis of material nonpublic information regarding the impending corporate acquisition of ABS, prior to the public announcement of the acquisition on January 23, 2006. Hollander placed the illegal trades through his own brokerage accounts, and also tipped the material nonpublic information about the ABS acquisition to a family member ("Tippee 1") and a friend ("Tippee 2"), who then traded ABS securities on the basis of that information. In total, Hollander and his tippees generated \$95,807 in illegal profits by trading securities based on material nonpublic information concerning the ABS acquisition.



2. Specifically, Hollander received the material nonpublic information about the impending ABS acquisition from a close friend (the “Tipper”) who was employed by the company retained by ABS to serve as its financial advisor (the “Financial Advisor”) in connection with the acquisition. The Tipper was privy to material nonpublic information regarding the ABS acquisition prior to its public announcement by virtue of his employment at the Financial Advisor and his role as a member of the Financial Advisor’s team assigned to advise ABS on the acquisition. The Tipper passed the material nonpublic information about the ABS transaction to Hollander.

3. Based on the material nonpublic information the Tipper passed to Hollander about the ABS acquisition, Hollander and his tippees illegally traded in ABS securities prior to the January 23, 2006 public announcement regarding the acquisition of the company.

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

JURISDICTION AND VENUE

5. 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], to enjoin such acts, practices, and courses of business, and to obtain disgorgement, prejudgment interest, civil money penalties and such other and further relief as the Court may deem just and appropriate.

6. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e), 21A and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e), 78u-1 and 78aa].

7. Venue in this district is proper under Section 27 of the Exchange Act [15 U.S.C. § 78aa]. Certain of the transactions, acts, practices, and courses of business constituting the violations alleged herein occurred within the Southern District of New York and elsewhere, and were effected, directly or indirectly, by making use of the means or instruments of transportation or communication in interstate commerce, or of the mails, or the facilities of a national securities exchange.

DEFENDANT

8. Jonathan Hollander, a United States citizen who resides in New York, was, during the relevant time period, employed as a hedge fund professional at an unregistered investment adviser. During the relevant period, Hollander maintained personal brokerage accounts at E*Trade, Banc of America Investment Services, Inc., and Harrisdirect.

OTHER RELEVANT INDIVIDUALS

9. Tippee 1 is a family member of Hollander's and resides in Maryland. During the relevant time period, Tippee 1 maintained a brokerage account at Merrill Lynch.

10. Tippee 2 is a personal friend and former classmate of Hollander's from business school. During the relevant time period, Tippee 2 maintained a brokerage account at E*Trade.

11. The Tipper is a personal friend of Hollander's. The two met while working together at another international financial services firm in the late 1990s. From 2001 until 2009, the Tipper was employed in the Corporate and Mergers and Acquisitions

Advisory Group for an international asset manager and financial advisory firm and registered broker-dealer.

FACTS

A. The Tipper Possessed Material Nonpublic Information About the ABS Acquisition.

12. Prior to its acquisition, ABS, headquartered in Boise, Idaho, was a supermarket retailer, operating grocery stores across the western United States. ABS common stock was traded on the New York Stock Exchange under the ticker symbol, "ABS." In the six months prior to its announcement on January 23, 2006, that it would be acquired, the daily trading volume in ABS stock averaged 6,056,162 shares and the daily stock price averaged \$23.15 per share.

13. In March 2005, ABS retained the Financial Advisor to assist in its consideration of strategic alternatives. On July 14, 2005, ABS's board of directors instructed the Financial Advisor to solicit preliminary indications of interest from potential acquirers.

14. The Financial Advisor agreed to maintain in confidence all information related to ABS's exploration of an acquisition. The Tipper was aware that he owed a duty to maintain the confidentiality of information provided to him and the Financial Advisor by the firm's clients, including ABS, and to abstain from trading based on that information or disclosing that information to others.

15. Through the course of his employment with the Financial Advisor, the Tipper learned in July 2005 that ABS had retained the Financial Advisor for the purpose of advising it in connection with exploring a potential acquisition of ABS. From at least

October 2005, the Tipper began assisting in the ABS acquisition and, by December 2005, the Tipper was fully engaged in working on the ABS acquisition.

16. As part of his participation on the ABS deal team, the Tipper learned material nonpublic information about the ABS acquisition and negotiations surrounding it prior to the public announcement.

17. On December 12, 2005, Cerberus Capital (“Cerberus”), a private equity firm, formed a consortium with Supervalu, Inc. (“Supervalu”) and CVS Caremark Corporation (“CVS”). The Cerberus-Supervalu-CVS consortium (the “consortium”) sought to explore a potential acquisition of ABS and commenced its due diligence process.

18. On December 22, 2005, ABS’s board of directors considered and rejected the consortium’s proposed acquisition, which offered \$20.31 in cash plus 0.182 shares of Supervalu for each ABS share. As of the close of trading on December 22, 2005, the offer was equivalent to approximately \$26.20 in cash value, and represented a 12.53% premium over ABS’s last closing price of \$23.28 per share. The next day, on December 23, 2005, the consortium and ABS issued press releases announcing the termination of discussions regarding the potential sale of ABS.

19. During the following few weeks, discussions between ABS and the consortium were revived, and the consortium worked on a revised proposal. On January 9, 2006, the consortium held a nonpublic kick-off meeting to discuss a renewed and revived acquisition.

B. The Tipper Tipped Hollander, who Traded on the Basis of the Material Nonpublic Information about the ABS Acquisition and Tipped Tippee 1 and Tippee 2 Who Also Traded on the Basis of That Information.

20. In or about early January, 2006, the Tipper, Hollander, and another friend of Hollander's who also was working on the ABS acquisition through his employment with the investment bank serving as the financial advisor to Cerberus, attended a dinner together, during which Hollander discussed material nonpublic information about the status of the ABS transaction that he had previously obtained from the Tipper. In addition, the Tipper informed Hollander during the dinner that certain issues that had previously threatened the viability of the deal were no longer an obstacle and that the transaction was going to proceed. The Tipper also provided Hollander with material nonpublic information regarding the anticipated acquisition price and timing of the announcement.

21. After receiving the information, Hollander offered to take the Tipper on a trip for a weekend. In addition, in the fall of 2005, the two had discussed employment opportunities for the Tipper.

22. The nonpublic information the Tipper provided Hollander regarding the progress of the ABS acquisition was material. For the foregoing and other reasons, a reasonable investor would have viewed this information as being important to his or her investment decision and a significant alteration of the total mix of information made available to the public.

23. On the evening of January 11, 2006, two days after the January 9 ABS kick-off meeting, Hollander called the Tipper twice at approximately 7:35 p.m. and

approximately 9:52 p.m. Hollander also sent the Tippee a text message at approximately 9:53 p.m.

24. Early the next day, on January 12, 2006, at 8:58 a.m., Hollander called Tippee 1. Immediately after that telephone call, at 9:00 a.m., Hollander called a branch office of a brokerage firm at which Tippee 1's stockbroker worked. One minute after that call, at 09:04 a.m., Hollander called Tippee 1 again.

25. That same morning, on January 12, 2006, at 10:25 a.m., Tippee 1 purchased 425 ABS call options at \$0.70 per contract.

26. Also on January 12, 2006, at 10:44 a.m., Hollander purchased a total of 5,600 shares of ABS stock in his personal brokerage accounts at an average price of \$21.98 per share.

27. Later in the day on January 12, 2006, Hollander placed six telephone calls to Tippee 1. Hollander also called the Tippee on January 12, 2006 at approximately 9:35 p.m.

28. From January 12 through January 16, 2006, Hollander made approximately six phone calls and sent approximately nine text messages to Tippee 2. In addition, Hollander visited Tippee 2 in Miami, Florida, from on or about January 13 through on or about January 16, 2006.

29. On January 17, 2006, the next business day after visiting with Hollander, Tippee 2 purchased 25 ABS call options for \$1.30 per contract and on January 18, Tippee 2 purchased an additional 15 ABS call options for \$1.20 per contract.

30. From January 15 to January 16, 2006, Hollander made approximately four phone calls and sent approximately five text messages to the Tippee.

31. During the evening of January 17, 2006, at approximately 7:45 p.m., Hollander again called the Tipper.

32. In total, from January 12 through January 22, 2006, the Tipper and Hollander had at least twenty telephone conversations and exchanged at least eighteen text messages during that time period, even though the Tipper was in the Bahamas for part of that time period.

33. On January 19, 2006, the Wall Street Journal published an article citing anonymous sources stating that a consortium of private-equity investors and Supervalu submitted a new bid to acquire ABS at slightly more than \$26 per share. That same day, after the close of trading, the Tipper made approximately four telephone calls to Hollander.

34. On Friday, January 20, 2006, ABS issued a press release announcing that it had received a bid from a consortium that had previously submitted an offer for the company in December. ABS common stock closed at \$24.11 per share that day.

35. On Monday, January 23, 2006, prior to the opening of trading, ABS, Supervalu, and CVS each issued a press release officially announcing the acquisition of ABS by the consortium at \$26.29 per share. That day, ABS common stock opened at \$24.85 per share and reached a high of \$25.42 per share. As a result of this announcement, ABS common stock closed at \$25.42 per share, up 5.43% from the closing price of \$24.11 per share on the preceding business day. Further, the volume increased approximately 321% from 10,836,800 shares on January 20, 2006, to 45,578,700 shares on January 23, 2006.

36. Following the announcement, on January 23 and 24, 2006, Tippee 1 and Tippee 2 closed out of their ABS holdings entirely. Tippee 1 sold 425 call options for actual profits of \$72,815. Tippee 2 sold 40 call options for actual profits of \$5,250.

37. On or about February 13, 2006, Hollander closed out of his ABS position in his personal brokerage accounts by selling 5,600 shares of ABS stock earning actual profits of \$17,742.

38. As a result of all of their trading in ABS, Hollander and his tippees made actual profits of \$95,807.

C. The Tipper and Hollander Breached Their Duties of Trust and Confidence.

39. ABS hired the Financial Advisor in connection with its efforts to explore strategic alternatives including the possible sale of the company. The Financial Advisor assigned the Tipper to work on the ABS transaction and, as a result, the Tipper obtained access to material nonpublic information solely for the purpose of assisting ABS. Accordingly, the Tipper became a temporary insider and fiduciary of ABS and its shareholders. The Tipper owed a duty to maintain the confidence of any nonpublic information about ABS's pending transaction that he learned in the course of providing services to ABS and abstain from disclosing that information to others.

40. By tipping the material nonpublic information about ABS to Hollander, who then traded on the basis of this information and tipped other individuals, the Tipper knowingly or recklessly breached this duty.

41. Hollander knew or was reckless in not knowing that the Tipper, due to his employment and position at the Financial Advisor, had access to material nonpublic information and that the Tipper was under a duty to keep that information confidential.

Hollander also knew or was reckless in not knowing that the information concerning the ABS transaction revealed to him by the Tipper was confidential and nonpublic.

Therefore, Hollander assumed the Tipper's fiduciary duty or similar duty of trust and confidence to the Financial Advisor, ABS, and ABS's shareholders, to maintain that information in confidence, and not to trade on that information. By trading on that information, and tipping the information to Tippee 1 and Tippee 2, Hollander breached that duty.

CLAIM FOR RELIEF

Violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder

42. The Commission realleges and incorporates by reference each and every allegation in paragraphs 1 through 41, inclusive, as if they were fully set forth herein.

43. Defendant Hollander, by engaging in the conduct described above, knowingly or recklessly, in connection with the purchase or sale of securities, directly or indirectly, by use of the means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange:

- (a) employed devices, schemes or artifices to defraud;
- (b) made untrue statements of material facts 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; and/or
- (c) engaged in acts, practices, or courses of business which operated or would operate as a fraud or deceit upon any person in connection with the purchase or sale of any security.

44. By engaging in the foregoing conduct, Defendant Hollander violated Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5], thereunder.

PRAAYER FOR RELIEF

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

I.

Permanently restraining and enjoining Defendant Hollander from violating Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], and Rule 10b-5 [17 C.F.R. § 240.10b-5], thereunder;

II.

Ordering Defendant Hollander to disgorge the unlawful trading profits from his tipples derived from the activities set forth in this Complaint, together with prejudgment interest thereon;

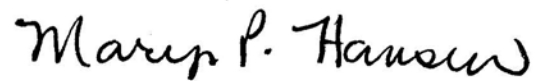
III.

Ordering Defendant Hollander to pay a civil penalty pursuant to Section 21A or, in the alternative, Section 21(d)(3) of the Exchange Act [15 U.S.C. §§ 78u-1 and 78u(d)(3)]; and

IV.

Granting such other and further relief as the Court may deem just and appropriate.

Respectfully submitted,



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