

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

MATTHEW J. BROWNE,

Defendant.

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Civil Action No.

4:09-cv-248-GKF-FHM

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COMPLAINT

The United States Securities and Exchange Commission files this Complaint against Defendant Matthew J. Browne (“Browne” or “Defendant”) and would respectfully show the Court as follows:

I. Summary

1. This case involves insider trading in the securities of SemGroup Energy Partners, LP (“SGLP”), a Tulsa, Oklahoma-based petroleum transportation and storage company, by Browne, a Tulsa attorney. SGLP’s common units represent limited partnership interests and trade on the Nasdaq Stock Market.

2. On July 14, 2008, Browne was working at a law firm based in Tulsa, Oklahoma (the “law firm”). On the morning of July 14, Browne learned that SGLP’s privately-held parent company and largest customer, SemGroup, LP, was experiencing liquidity issues. Specifically, Browne learned that: (1) a longstanding law firm client who was a large, SemGroup, LP lender (“the bank”), had made a \$50 million margin call on SemGroup, LP in connection with certain derivatives trading transactions; (2) SemGroup, LP failed to satisfy the margin call; (3) the bank

was seeking to setoff amounts owed by SemGroup, LP against other SemGroup, LP accounts maintained at the bank; and (4) the bank was looking to exercise its right to terminate its International Swaps and Derivatives Association Master Agreement with SemGroup, LP, resulting in the closing out of all open swap and derivatives transactions between the parties.

3. Shortly after learning this information, Browne liquidated 5,200 SGLP units—his entire position—at an average price of \$24.06 per share. Days later, on July 17, after the close of trading, SGLP announced that SemGroup, LP was “experiencing liquidity issues” and was considering bankruptcy. On July 18, SGLP’s unit price closed at \$8.30 per share, 65.5% lower than Browne’s July 14 average sale price. By liquidating his SGLP holdings on July 14, Browne avoided losses of \$81,773.

4. By reason of these activities, Defendant violated Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder. The Commission, in the interest of protecting the public from any further fraudulent activity, brings this action against Defendant seeking permanent injunctive relief, disgorgement of illicit profits and accrued prejudgment interest, and civil monetary penalties.

II. Jurisdiction

5. The Commission brings this action pursuant to the authority conferred upon it by Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)]. The Commission seeks the imposition of civil penalties pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)].

6. This Court has jurisdiction over this action pursuant to Sections 21(d), 21A and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u-1 and 78aa]. Defendant, directly and indirectly, made use of the mails and of the means and instrumentalities of interstate commerce in connection with the acts, practices and courses of business described in this Complaint.

7. Venue is proper because transactions, acts, practices and courses of business described below occurred within the jurisdiction of the Northern District of Oklahoma.

III. Defendant

8. **Matthew J. Browne**, age 56, resides in Tulsa. He is a banking, corporate, and oil and gas attorney admitted to the Oklahoma State Bar. Browne was an eight-year employee at the law firm until his termination on October 31, 2008. During his employment at the law firm, Browne provided legal advice to the bank on various topics, including preparing and enforcing swaps and derivatives agreements.

IV. Statement of Facts

A. Browne Learns Material Nonpublic Information

9. On the morning of July 14, 2008, Browne arrived at his office. Shortly after his arrival, Browne received a call from his boss. During the call, his boss told Browne that he was informed by a high level official at the bank that the bank had a derivative and swap agreement problem with its customer, SemGroup, LP.¹ Browne's boss told him that SemGroup, LP had failed to pay a margin call on certain financial derivative transactions (largely options on oil swaps), and that the bank was seeking to setoff the margin call against other SemGroup, LP accounts it maintained.

10. After internally discussing the matter, at approximately 8:40 a.m., Browne and his boss called the bank official to discuss the matter with him. The bank official then patched in (via conference call) a bank vice president to provide additional information on the balances of SemGroup, LP's accounts at the bank.

¹ SemGroup, LP is a Tulsa-based privately-held limited partnership. Until its Chapter 11 bankruptcy filing on July 22, 2008, SemGroup, LP was a petroleum transportation, storage, distribution, and marketing company that accounted for a vast majority of SGLP's revenues (89%). As of December 31, 2007, SemGroup, LP owned 36.4% of the limited partnership interests in SGLP, and 2% of SGLP's general partner.

11. Based on his discussions with his boss and the bank officials, by approximately 9:00 a.m. on July 14, Browne knew that: (1) the bank had made a \$50 million margin call on SemGroup, LP; (2) SemGroup, LP had failed to satisfy the margin call; (3) the bank was seeking to setoff amounts owed by SemGroup, LP against other SemGroup, LP accounts maintained at the bank; and (4) the bank was seeking to exercise its right to terminate the ISDA Agreement, which would result in closing out all open swap and derivative transactions between the parties.

B. Browne Liquidates His SGLP Holdings

12. After learning of the issues affecting SemGroup, LP, between approximately 9:05 a.m. and 9:10 a.m. on July 14, Browne directed the liquidation of his SGLP holdings. Between 9:22 a.m. and 11:15 a.m., SGLP sell orders were placed at three brokerage firms. By the close of trading on July 14, Browne had sold his entire SGLP position – 5,200 units – at an average price of \$24.06 per share, for total sale proceeds of \$125,112.

13. Days later, on July 17, after the close of trading, SGLP announced that SemGroup, LP was “experiencing liquidity issues and is exploring various alternatives, including raising additional equity, debt capital or the filing of a voluntary petition for reorganization under Chapter 11 of the Bankruptcy Code.” On July 18, SGLP’s unit price closed at \$8.30 per share, 65.5% lower than Browne’s July 14 average sale price. By liquidating his position on July 14, Browne avoided losses of \$81,773.

14. Ultimately, on July, 22, 2008, SemGroup, LP filed for bankruptcy after losing \$3.2 billion trading oil and gas futures and options.

B. Browne Did Not Have Permission to Use Bank and/or Law Firm Information

15. When the bank contacted the law firm for assistance on handling the margin call situation with SemGroup, LP, it was specifically seeking the counsel of Browne, who had

previously worked closely with the bank on swap and derivatives contract claims and enforcement issues. The law firm's policies required Browne to maintain client confidences, and prohibited him from using client information for his own benefit. Browne did not seek permission from the bank or the law firm to use, for stock trading purposes, the information he learned about SemGroup, LP from the bank and/or the law firm. In fact, on October 31, 2008, after the law firm discovered from the bank's affiliated broker-dealer that Browne had traded in the securities of SGLP on July 14, Browne's employment was terminated.

CLAIM FOR RELIEF

Violations of 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

16. Plaintiff Commission repeats and incorporates by reference paragraphs 1 through 15 of this Complaint as if set forth verbatim herein.

17. Defendant, as an associate at the law firm hired by the bank, owed a fiduciary duty to the law firm to keep its client's confidences. Alternatively, Defendant owed duties to the bank as the source of the confidential information. As a result, he had a duty of trust and confidence to not trade SGLP securities on the basis of material nonpublic information.

18. In breach of these duties, and for his personal benefit, Defendant sold all of his SGLP stock on the basis of material nonpublic information. Defendant knew or was severely reckless in not knowing that the information in his possession was material and nonpublic and that his trading on the basis of the information was improper and in breach of his duties.

19. By reason of the foregoing, Defendant 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, Plaintiff respectfully requests that this Court:

- (i) permanently enjoin Defendant 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) order Defendant to pay civil penalties pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1] for his violations of the federal securities laws as alleged herein;
- (iii) order Defendant to disgorge all ill-gotten gains from the conduct alleged herein, with prejudgment interest; and
- (vi) grant such other relief as this Court may deem just and appropriate.

DATED: April 28, 2009

Respectfully submitted,

/s/Jennifer D. Brandt

Jennifer D. Brandt

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Securities and Exchange Commission

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