



*United States Attorney  
Southern District of New York*

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**FORMER HIGH-LEVEL CBOE, AMEX AND AMEX COMMODITIES  
EXCHANGE OFFICIAL PLEADS GUILTY TO  
OBSTRUCTION OF JUSTICE**

LEV L. DASSIN, the Acting United States Attorney for the Southern District of New York, announced that ELLIOT J. SMITH, a former director and founding member of the Chicago Board Options Exchange, a former director of the American Stock Exchange ("AMEX"), and a former chairman and founding member of the AMEX Commodities Exchange, pleaded guilty today to a one count Information charging him with obstruction of justice. SMITH was charged with submitting false documents and information to the Securities and Exchange Commission ("SEC") during his investigation for insider trading. According to the Information to which he pleaded guilty:

In 2003, Smith was the managing director of Broadband Capital Management LLC ("Broadband"), a registered broker-dealer located in New York, New York. In July 2003, the SEC began investigating whether SMITH had traded in the securities of a pharmaceutical company located in North Carolina ("Pharmaceutical Company") based on material non-public information.

In December 2003, SMITH produced documents to the SEC in response to a subpoena, including memos that appeared to support his claim to the SEC that he had traded in the Pharmaceutical Company's stock based on his own independent research, not based on inside information from another source. Specifically, one memo was dated prior to the trades in question and purported to be written by SMITH to "Account Executives" at Broadband. In that memo SMITH referred to an attached list of companies, including the Pharmaceutical Company, that had been the subject of so-called "private investment in public equity" or "PIPE" transactions by "top-tier" investors, and SMITH suggested these might be "good candidates to watch." Also attached to that

memo was an article from Forbes Magazine dated prior to SMITH's trades in the Pharmaceutical Company. In truth and in fact, as SMITH well knew when he provided these documents to the SEC, the memos were fake and had not been created prior to his Pharmaceutical Company trades.

In July 2004, SMITH gave sworn testimony before the SEC in Atlanta, Georgia. SMITH testified that he had circulated the memos described above to brokers at his firm, that he had printed the attached Forbes Magazine article prior to his trades in the Pharmaceutical Company, and that he may have relied on the attachments in making those trades, when in fact he had not.

In February 2006, SMITH was informed that the SEC was expanding its insider trading investigation to include his trades in the stock of two additional companies, including a Florida based medical implant company ("Implant Company"). In April 2006, SMITH had delivered to the SEC another memo and attachments designed to show that SMITH had made the Implant Company trades based on his own independent research, not on inside information from another source. Specifically, that memo was purportedly from him to "The Firm," and was dated just four days prior to his trades in Implant Company stock. In it SMITH recommended that brokers at Broadband consider buying stock on an attached list, including the Implant Company. Also attached to the memo were two independent analyst research reports recommending the purchase of Implant Company's stock. In truth and in fact, as SMITH well knew, this memo was also fake. Smith never circulated this memo to his firm and had only obtained the attached analyst reports after he learned that the SEC was investigating his Implant Company trades.

In addition, in April 2006, prior to having this fake memo delivered to the SEC, SMITH asked his administrative assistant, who had worked for him for 17 years, to lie about the source of the memo. Specifically, SMITH asked his administrative assistant to state that recently, while packing some of SMITH's files for an office move, she had discovered the memo and attachments in one of his general research files. In truth and in fact, contrary to SMITH's direction and as SMITH well knew, his assistant had never seen the documents before and had not recently discovered them in any of SMITH's files.

SMITH pleaded guilty today before the Honorable GEORGE B. DANIELS to one count of obstruction of justice, which carries a maximum sentence of 5 years in prison and a fine of \$250,000 or twice the gross gain or gross loss from the offense. He is scheduled to be sentenced on March 18, 2009.

SMITH, 76, lives in New York, New York.

Mr. DASSIN commended the Federal Bureau of Investigation and the SEC for their assistance in the investigation.

Assistant United States Attorney JONATHAN R. STREETER is in charge of the prosecution.

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