

ORIGINAL

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED NOV 18 2011

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA

- v. -

SCOTT ALLEN,

Defendant.

- - - - - x

INDICTMENT

11 CRIM 997

COUNT ONE

(Conspiracy to Commit Securities Fraud)

The Grand Jury charges:

Relevant Persons and Entities

1. At all times relevant to this Indictment, SCOTT ALLEN, the defendant, resided in the state of Georgia and served as a principal of a global human-resources consulting firm (the "Consulting Firm") that, among other things, advised clients on human resources issues related to mergers and acquisitions. ALLEN maintained offices in Atlanta, Georgia, and in New York, New York.

2. At all times relevant to this Indictment, SCOTT ALLEN, the defendant, maintained a personal relationship and friendship with John Bennett, a co-conspirator not named as a defendant herein.

3. At all times relevant to this Indictment, Millennium Pharmaceuticals, Inc. ("Millennium") was a bio-pharmaceutical company based in Cambridge, Massachusetts. The common stock of Millennium traded on the Nasdaq stock market under the trading symbol "MLNM."

4. At all times relevant to this Indictment, Sepracor, Inc. ("Sepracor") was a specialty pharmaceutical company headquartered in Marlborough, Massachusetts. The common stock of Sepracor traded on the Nasdaq stock market under the trading symbol "SEPR."

The Consulting Firm's Confidentiality Policy

5. At all times relevant to this Indictment, the Consulting Firm was a wholly-owned subsidiary of a global professional services firm that maintained a written "Code of Business Conduct & Ethics" (the "Code of Conduct") that, among other things, imposed on its employees a duty of confidentiality to their employer and its clients.

6. In addition, at all relevant times, the Code of Conduct explained that "U.S. law prohibits insider trading and 'tipping,' which is communicating nonpublic material information to anyone who might use it to buy or sell securities." The Code of Conduct specifically identified knowledge of a merger or acquisition as an example of material, non-public information.

The Insider Trading Scheme

7. In his capacity as a principal of the Consulting Firm, SCOTT ALLEN, the defendant, came into possession of material, non-public information concerning potential mergers and acquisitions involving clients of the Consulting Firm, including Takeda Pharmaceutical Company Limited ("Takeda") and Dainippon Sumitomo Pharma Co., Ltd. ("Dainippon").

8. Takeda hired the Consulting Firm in or about February 2008 in connection with a potential acquisition of Millennium, and Dainippon hired the Consulting Firm in or about April 2009 in connection with a potential acquisition of Sepracor. Those acquisitions were announced publicly on or about April 10, 2008, and on or about September 3, 2009, respectively.

9. Prior to the public announcements of those acquisitions, and in exchange for cash payments totaling more than \$100,000, SCOTT ALLEN, the defendant, disclosed material, non-public information concerning Takeda's acquisition of Millennium and Dainippon's acquisition of Sepracor (the "Inside Information") to John Bennett, with the understanding that Bennett would use the Inside Information to engage in securities transactions.

10. On the basis of the Inside Information provided by SCOTT ALLEN, the defendant, Bennett executed transactions in the securities of Millennium and Sepracor, resulting in illegal profits of more than \$1.1 million.

STATUTORY ALLEGATIONS

The Conspiracy

11. From in or about February 2008 through and including in or about October 2010, in the Southern District of New York and elsewhere, SCOTT ALLEN, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate and agree together and with each other to commit an offense against the United States, to wit, securities fraud, in violation of Title 15, United States Code, Sections 78j(b) & 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

Object of the Conspiracy

12. It was a part and object of the conspiracy that SCOTT ALLEN, the defendant, and others known and unknown, directly and indirectly, by the use of the means and instrumentalities of interstate commerce, and of the mails, and of facilities of national securities exchanges, willfully and knowingly would and did use and employ, in connection with the purchase and sale of securities, manipulative and deceptive devices and contrivances in violation of Title 17, Code of Federal Regulations, Section 240.10b-5 by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting 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; and (c) engaging in acts,

practices and courses of business which operated and would operate as a fraud and deceit upon persons, all in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

Means And Methods Of The Conspiracy

13. Among the means and methods by which SCOTT ALLEN, the defendant, and his co-conspirators would and did carry out the conspiracy were the following:

a. ALLEN misappropriated the Inside Information in violation of (a) the fiduciary and other duties of trust and confidence that ALLEN owed to the Consulting Firm and its clients; (b) the expectations of confidentiality of the Consulting Firm's clients; and (c) the Consulting Firm's written policies regarding the use and safekeeping of confidential and material, non-public information.

b. Because of ALLEN's friendship with Bennett, and in exchange for cash payments from Bennett, ALLEN disclosed Inside Information to Bennett, with the understanding that Bennett would use the Inside Information to engage in securities transactions and thereby benefit from the use of the Inside Information.

c. Bennett executed transactions in the securities of Millennium and Sepracor on the basis of the Inside

Information provided by ALLEN, knowing that the Inside Information had been misappropriated by ALLEN.

Overt Acts

14. In furtherance of the conspiracy and to effect the illegal object thereof, SCOTT ALLEN, the defendant, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about February 28, 2008, ALLEN spoke to Bennett by telephone.

b. On or about February 29, 2008, Bennett purchased Millennium call option contracts.

c. On or about March 5, 2008, Bennett purchased Millennium call option contracts.

d. On or about April 2, 2008, Bennett purchased Millennium call option contracts.

e. On or about July 1, 2008, in New York, New York, Bennett withdrew approximately \$5,200 in cash.

f. On or about July 1, 2008, ALLEN and Bennett met in the vicinity of West 58th Street in New York, New York.

g. On or about May 27, 2009, Bennett purchased Sepracor call option contracts.

h. On or about June 5, 2009, Bennett purchased Sepracor call option contracts.

i. On or about July 22, 2009, Bennett purchased Sepracor call option contracts.

j. On or about October 15, 2009, in New York, New York, Bennett withdrew approximately \$7,000 in cash.

k. On or about October 15, 2009, ALLEN and Bennett met in the vicinity of Columbus Circle in New York, New York.

l. On or about December 8, 2009, ALLEN called Bennett from a telephone at LaGuardia Airport.

m. On or about December 9, 2009, in New York, New York, Bennett made a cash withdrawal of approximately \$5,000.

n. On or about December 9, 2009, ALLEN and Bennett met in the vicinity of Columbus Circle in New York, New York.

o. On or about March 16, 2010, in New York, New York, Bennett made a cash withdrawal of approximately \$5,000.

p. On or about March 16, 2010, ALLEN and Bennett met in the vicinity of Columbus Circle in New York, New York.

q. On or about May 14, 2010, ALLEN called Bennett from a telephone at LaGuardia Airport.

(Title 18, United States Code, Section 371.)

COUNTS TWO THROUGH EIGHT
(Securities Fraud)

The Grand Jury further charges:

15. The allegations contained in paragraphs 1 through 10 and 13 through 14 above are hereby repeated, realleged and incorporated by reference as if fully set forth herein.

16. On or about the dates set forth below, in the Southern District of New York and elsewhere, SCOTT ALLEN, the defendant, directly and indirectly, by the use of the means and instrumentalities of interstate commerce, and of the mails, and of the facilities of national securities exchanges, in connection with the purchase and sale of securities, willfully and knowingly did use and employ manipulative and deceptive devices and contrivances, in violation of Title 17, Code of Federal Regulations, Section 240.10b-5, by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting 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; and (c) engaging in acts, practices and courses of business which operated and would operate as a fraud and deceit upon persons, to wit, on the basis of the Inside Information provided by ALLEN, Bennett executed the securities transactions listed below:

COUNT	DATE	SECURITY	TRANSACTION
TWO	2/29/08	Millennium	Purchase of approximately 65 call option contracts
THREE	3/5/08	Millennium	Purchase of approximately 200 call option contracts
FOUR	3/24/08	Millennium	Purchase of approximately 200 call option contracts
FIVE	4/2/08	Millennium	Purchase of approximately 100 call option contracts
SIX	5/27/09	Sepracor	Purchase of approximately 50 call option contracts
SEVEN	6/5/09	Sepracor	Purchase of approximately 300 call option contracts
EIGHT	7/22/09	Sepracor	Purchase of approximately 200 call option contracts

(Title 15, United States Code, Sections 78j(b) & 78ff;
Title 17, Code of Federal Regulations, Section 240.10b-5;
and Title 18, United States Code, Section 2.)

FORFEITURE ALLEGATION

17. As a result of committing one or more of the foregoing securities fraud offenses alleged in Counts One through Eight of this Indictment, SCOTT ALLEN, the defendant, shall forfeit to the United States pursuant to Title 18, United States Code, Section 981(a)(1)(C) and Title 28, United States Code Section 2461, all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the securities fraud offenses alleged in Counts One through Eight of this Indictment, including but not limited to the following:

Money Judgment

a. At least a sum of money in United States currency that constitutes or was derived from proceeds traceable to the commission of the securities fraud offenses alleged in Counts One through Eight of this Indictment.

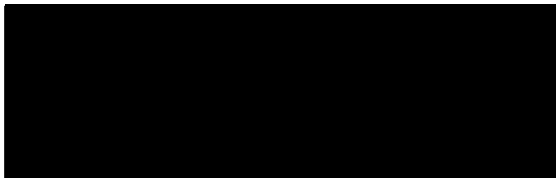
Substitute Assets Provision

18. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

- (i) cannot be located upon the exercise of due diligence;
- (ii) has been transferred or sold to, or deposited with, a third party;
- (iii) has been placed beyond the jurisdiction of the court;
- (iv) has been substantially diminished in value; or
- (v) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of said defendant up to the value of the forfeitable property described above.

(Title 15, United States Code, Sections 78j(b) & 78ff;
Title 18, United States Code, Sections 371 & 981;
Title 21, United States Code, Section 853(p);
Title 28, United States Code, Section 2461; and
Title 17, Code of Federal Regulations, Section 240.10b-5.)





PREET BHARARA
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

SCOTT ALLEN,

Defendant.

INDICTMENT

11 Cr. ____

(Title 15, United States Code,
Sections 78j(b) and 78ff;
Title 17, Code of Federal Regulations,
Section 240.10b-5; and Title 18, United
States Code, Sections 2 and 371.)

PREET BHARARA

United States Attorney.

A TRUE BILL



Nov 18, 2011

Filed Indictment. Case assigned to Judge Baer
Debra Freeman, U.S.M.J.