

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

UNITED STATES OF AMERICA :
 : INFORMATION
 -v- :
 MICHAEL A. LUCARELLI, : 14 Cr. ___ (JMF)
 :
 Defendant. :
 :
 - - - - -x

COUNT ONE
(Securities Fraud)

The United States Attorney charges:

Relevant Entities

1. At all times relevant to this Information, Lippert/Heilshorn & Associates, Inc. ("LHA") provided investor relations services to publicly-traded and private companies. Among the services provided by LHA to its clients was the preparation of press releases announcing significant corporate events of LHA's clients, such as earning releases, proposed merger transactions and other newsworthy information. In connection with its business, LHA was often in possession of material, non-public information regarding its clients. LHA maintained certain client-related documents, including draft and final versions of press releases, on a network server located at LHA's headquarters in New York, New York.

All employees and consultants of LHA had access to the documents on the network server from their work computers.

2. At all times relevant to this Information, TREX Company, Inc. ("TREX") was a recycled materials manufacturer of wood-alternative decking, railings and other outdoor items headquartered in Winchester, Virginia. TREX's securities traded under the symbol "TREX" on the New York Stock Exchange ("NYSE").

3. At all times relevant to this Information, FAB Universal Corp. ("FAB") was a distributor of digital entertainment products and services headquartered in Pittsburgh, Pennsylvania. FAB's securities traded under the symbol "FU" on the NYSE.

4. At all times relevant to this Information, PhotoMedex, Inc. ("PhotoMedex") was a dermatological health care manufacturer headquartered in Horsham, Pennsylvania. PhotoMedex's securities traded under the symbol "PHMD" on the NASDAQ Stock Market LLC ("NASDAQ").

5. At all times relevant to this Information, LCA-Vision, Inc. ("LCAV") was a provider of laser eye surgery headquartered in Cincinnati, Ohio. LCAV's securities traded under the symbol "LCAV" on the NASDAQ.

6. At all times relevant to this Information, Pacific Ethanol, Inc. ("Pacific") was a marketer and producer of low-carbon

renewable fuels headquartered in Sacramento, California. Pacific's securities traded under the symbol "PEIX" on the NASDAQ.

7. At all times relevant to this Information, Dot Hill Systems Corp. ("Dot Hill") was a designer, manufacturer and marketer of hardware and software storage systems headquartered in Longmont, Colorado. Dot Hill's securities traded under the symbol "HILL" on the NASDAQ.

8. At all times relevant to this Information, Lifetime Brands, Inc. ("Lifetime") was a designer and seller of branded kitchenware, tableware, and other products headquartered in Garden City, New York. Lifetime's securities traded under the symbol "LCUT" on the NASDAQ.

The Defendant

9. From on or about September 4, 2012, through on or about August 26, 2014, MICHAEL A. LUCARELLI, the defendant, was engaged as a consultant by LHA and served as the firm's Director of Market Intelligence in LHA's New York, New York office. In that role, LUCARELLI was partly responsible for LHA's business development efforts, including the identification and recruitment of new clients that could benefit from LHA's services. LUCARELLI also assisted LHA's clients with capital-raising efforts. LUCARELLI's job responsibilities did not include the drafting of

press releases for LHA's clients, and LUCARELLI had no need to access draft press releases in order to complete his job responsibilities.

Summary of the Insider Trading Scheme

10. As an LHA consultant, MICHAEL A. LUCARELLI, the defendant, had access to LHA's network server, which maintained working drafts of press releases prepared by LHA for its clients prior to their issuance to the investing public. These draft press releases contained material, non-public information about LHA's clients.

11. In violation of LHA's policies and in breach of his duties to LHA and its clients, MICHAEL A. LUCARELLI, the defendant, on multiple occasions took positions in the stock of LHA clients shortly before the announcement by these companies of material information through press releases prepared by LHA. The issuance of the press releases drafted by LHA for its clients generally impacted the prices of the shares of these clients in which LUCARELLI invested.

12. Shortly after the issuance of the press releases prepared by LHA, MICHAEL A. LUCARELLI, the defendant, exited his positions in the shares of LHA clients, thereby profiting on the movement in stock price.

13. MICHAEL A. LUCARELLI, the defendant, traded in the shares of LHA clients through at least four different brokerage

accounts. LUCARELLI did not reveal his affiliation with LHA in the opening documents for any of the four accounts. On two occasions, LUCARELLI opened new brokerage accounts soon after his ability to trade in other accounts had been suspended by the respective brokerage firms.

Statutory Allegation

14. From on or about August 2, 2013 up to and including on or about August 4, 2014, in the Southern District of New York and elsewhere, MICHAEL A. LUCARELLI, the defendant, willfully and knowingly, directly and indirectly, by use of the means and instrumentalities of interstate commerce, and of the mails and the facilities of national securities exchanges, in connection with the purchase and sale of securities, used and employed manipulative and deceptive devices and contrivances, in violation of Title 17, Code of Federal Regulations, Sections 240.10b-5 and 240.10b5-2, by: (a) employing devices, schemes, and artifices to defraud; (b) engaging in acts, practices, and courses of business which operated and would operate as a fraud and deceit upon persons; and (c) 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, to wit, on the basis of material, non-public information that LUCARELLI

obtained as part of his employment at an investor relations firm in New York, New York, LUCARELLI executed and caused to be executed the securities transactions listed below, among others:

Dates	Transaction
August 2 through August 5, 2013	Short sale of 2,550 shares of TREX
August 6 through August 13, 2013	Purchase of 42,000 shares of FAB
November 4 through November 5, 2013	Short sale of 9,300 shares of PhotoMedex
November 12, 2013	Purchase of 27,000 shares of FAB
December 26 through December 31, 2013	Purchase of 100 call options on PhotoMedex shares
December 26 through December 31, 2013	Purchase of 11,500 shares of PhotoMedex
February 13, 2014	Purchase of 44,921 shares of LCAV
February 19 through February 21, 2014	Purchase of 6,900 shares of TREX
February 25 through February 26, 2014	Purchase of 51,771 shares of Pacific
March 5 through March 6, 2014	Short sale of 63,420 shares of Dot Hill
April 28, 2014	Short sale of 25,600 shares of Lifetime
May 1 through May 2, 2014	Short sale of 8,500 shares of TREX
July 25 through August 4, 2014	Purchase of 40,800 shares of TREX

(Title 15, United States Code, Sections 78j(b) & 78ff; Title 17, Code of Federal Regulations, Sections 240.10b-5 & 240.10b5-2; and Title 18, United States Code, Section 2.)

FORFEITURE ALLEGATION

15. As a result of committing the offense alleged in Count One of this Information, MICHAEL A. LUCARELLI, 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(c), all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense including, but not limited to, a sum of United States currency equal to at least \$955,521.62, representing the amount of proceeds obtained as a result of the charged offense, and all right, title and interest in the contents of OptionsXpress Account No. 0815-1102, held in the name of Michael Lucarelli, and any property traceable thereto.

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

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided 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 the defendant up to the value of the forfeitable property described above.

(Title 18, United States Code, Section 981; Title 21 United States Code, Section 853; Title 28, United States Code, Section 2461.)


PREET BHARARA
United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

MICHAEL A. LUCARELLI,

Defendant.

INFORMATION

14 Cr. ___ (JMF)

(15 U.S.C. §§ 78j(b) & 78ff; 17 C.F.R. §§
240.10b-5 & 240.10b5-2; 18 U.S.C. § 2.)

PREET BHARARA
United States Attorney.
