

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:   
UNITED STATES OF AMERICA :   
:   
-v.- :   
: INFORMATION   
YVES BENHAMOU, :   
: 11 Cr. \_\_\_\_   
:   
Defendant. :   
:   
:   
- - - - - X

COUNT ONE

(Conspiracy to Commit Securities Fraud)

The United States Attorney charges:

Relevant Entities and Individuals

1. At all times relevant to this Information, YVES BENHAMOU, the defendant, was a medical doctor with an expertise in the field of hepatology.

2. At all times relevant to this Information, Human Genome Science, Inc. ("HGSI") was a Delaware corporation headquartered in Rockville, Maryland, that operated as a biopharmaceutical company. HGSI's common stock was traded on the NASDAQ stock market under the ticker symbol "HGSI."

3. At all times relevant to this Information, YVES BENHAMOU, the defendant, also worked as a consultant for HGSI in connection with the clinical trials of a drug called Albuferon, which was designed to treat the liver disease Hepatitis C. At certain times relevant to this Information, BENHAMOU helped

oversee the third phase of a clinical trial that tested the effects of Albuferon on certain patients. At all times relevant to this Information, BENHAMOU knew that he was required to keep confidential any nonpublic information concerning HGSI's drug trials.

4. At all times relevant to this Information, YVES BENHAMOU, the defendant, also worked as a consultant for an expert networking firm that paid BENHAMOU to speak with hedge fund representatives and other investors who purchased and sold securities of public companies in the healthcare sector.

5. At all times relevant to this Information, a certain hedge fund management company (hereinafter "Hedge Fund A") was a privately owned hedge fund sponsor, operating as a subsidiary of a major investment bank. Hedge Fund A paid the expert networking firm substantial fees for access to certain healthcare experts, such as YVES BENHAMOU, the defendant.

6. At all times relevant to this Information, a coconspirator not named as a defendant herein ("CC-1") worked for Hedge Fund A as a portfolio manager for six related healthcare funds. CC-1, at times, used the expert networking firm to consult with YVES BENHAMOU, the defendant, and, on other occasions, CC-1 and BENHAMOU directly contacted each other to discuss personal and business matters.

### The Insider Trading Scheme

7. From at least in or about April 2007 through in or about November 2010, YVES BENHAMOU, the defendant, participated with CC-1 in a scheme to defraud by disclosing to CC-1 material, nonpublic information ("Inside Information") about HGSI, for his own benefit and with the understanding that CC-1 would engage in securities transactions on the basis of that Inside Information.

8. YVES BENHAMOU, the defendant, disclosed Inside Information to CC-1 regarding HGSI in violation of (a) the fiduciary and other duties of trust and confidence owed by BENHAMOU to HGSI, (b) expectations of confidentiality regarding HGSI information, and (c) written policies of HGSI regarding the use and safekeeping of Inside Information.

9. At all times relevant to this Information, YVES BENHAMOU, the defendant, provided Inside Information about HGSI to CC-1 for a benefit and to develop their business and personal relationship.

### The Insider Trading Conspiracy

10. From at least in or about April 2007 through at least in or about November 2010, in the Southern District of New York and elsewhere, YVES BENHAMOU, the defendant, CC-1, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate and agree together and with each other to commit offenses against the United States, to wit,

securities fraud, in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

Object of the Conspiracy

Securities Fraud

11. It was a part and an object of the conspiracy that YVES BENHAMOU, the defendant, CC-1, and others known and unknown, unlawfully, willfully and knowingly, directly and indirectly, by the use of means and instrumentalities of interstate commerce, and of the mails, and of facilities of national securities exchanges, 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 any person, 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

12. Among the means and methods by which YVES BENHAMOU, the defendant, CC-1, and others known and unknown, would and did carry out the conspiracy were the following:

a. BENHAMOU misappropriated Inside Information in violation of (a) fiduciary and other duties of trust and confidence that BENHAMOU owed to HGSI, (b) expectations of confidentiality regarding HGSI information, and (c) policies of HGSI regarding the use and safekeeping of Inside Information.

b. BENHAMOU disclosed Inside Information to CC-1, with the understanding that CC-1 would use the Inside Information to engage in securities transactions, and thereby benefit from the use of the Inside Information.

c. BENHAMOU and CC-1 attempted to conceal and cover up their participation in the fraudulent scheme with misleading statements regarding their communications about the clinical drug trials of Albuferon and other drugs.

Overt Acts

13. In furtherance of the conspiracy and to effect the illegal object thereof, YVES BENHAMOU, the defendant, CC-1, and others known and unknown, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. In or about January 2008, CC-1 caused Hedge Fund A to sell all of its remaining shares of HGSI common stock on

the NASDAQ stock market in New York, New York.

b. In or about February 2008, CC-1 placed a telephone call from New York, New York to BENHAMOU in Paris, France.

c. In or about April 2008, CC-1 made a cash payment to BENHAMOU.

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

COUNT TWO

(Securities Fraud)

The United States Attorney further charges:

14. The allegations contained in paragraphs 1 through 9, 12, and 13 are repeated and realleged as though fully set forth herein.

15. In or about January 2008, in the Southern District of New York and elsewhere, YVES BENHAMOU, the defendant, unlawfully, willfully and knowingly, directly and indirectly, by 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, 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 facts 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, BENHAMOU provided Inside Information to CC-1 for a benefit and to develop their business and personal relationship, knowing that CC-1 would execute securities transactions in HGSI stock.

(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.)

COUNT THREE

(Conspiracy to Obstruct Justice)

The United States Attorney further charges:

16. The allegations contained in paragraphs 1 through 9, 12, and 13 are repeated and realleged as though fully set forth herein.

17. In or about February 2008, the United States Securities and Exchange Commission ("SEC"), an agency of the United States, commenced an investigation into Hedge Fund A's transactions in HGSI's securities in advance of HGSI's press release on January 23, 2008, containing negative news regarding the clinical trials of its drug Albuferon. The investigation focused on whether such trades were made in violation of federal securities laws and regulations that prohibit trading on the basis of material, nonpublic information.

18. In or about February 2008, after learning of the SEC investigation, CC-1 and YVES BENHAMOU, the defendant, entered into an unlawful agreement to provide false and misleading information directly and indirectly to the SEC to conceal CC-1's and BENHAMOU's involvement in a fraudulent scheme to engage in securities transactions in HGSI stock. In furtherance of BENHAMOU's agreement with CC-1, BENHAMOU falsely claimed to Hedge Fund A's outside counsel and representatives of the SEC that BENHAMOU and CC-1 had not discussed material, nonpublic information regarding HGSI's clinical drug trials of Albuferon.

19. From in or about February 2008 through in or about November 2010, in the Southern District of New York and elsewhere, YVES BENHAMOU, the defendant, CC-1, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate and agree together and with each other to commit an offense against the United States, to wit, obstruction of justice, in violation of Title 18, United States Code, Section 1505.

**Object of the Conspiracy**

20. It was a part and an object of the conspiracy that YVES BENHAMOU, the defendant, and CC-1, and others known and unknown, unlawfully, willfully and knowingly, would and did corruptly influence, obstruct and impede, and endeavor to influence, obstruct and impede the due and proper administration of the law under which a pending proceeding was being had before a

department and agency of the United States, to wit, an investigation by the SEC, in violation of Title 18, United States Code, Section 1505.

Overt Acts

21. In furtherance of the conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about February 2008, CC-1 placed a telephone call from New York, New York, to YVES BENHAMOU, the defendant, in Paris, France.

b. In or about December 2009, CC-1 met with BENHAMOU at a medical conference in Hawaii and discussed the SEC's investigation of BENHAMOU and CC-1.

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

COUNT FOUR

(False Statements)

The United States Attorney further charges:

22. The allegations contained in paragraphs 1 through 9, 12, and 13 are repeated and realleged as though fully set forth herein.

23. From in or about November 2010 through in or about January 2011, in the Southern District of New York and elsewhere, YVES BENHAMOU, the defendant, unlawfully, willfully, and knowingly, in a matter within the jurisdiction of the executive

branch of the Government of the United States, falsified, concealed, and covered up by trick, scheme, and device material facts, and made materially false, fictitious, and fraudulent statements and representations, to wit, in interviews with the Federal Bureau of Investigation ("FBI"), BENHAMOU knowingly made false statements and concealed and covered up facts that were material to the FBI's criminal investigation of BENHAMOU and CC-1's participation in the insider trading scheme charged in Counts One and Two of this Information.

(Title 18, United States Code, Sections 1001(a)(1) and (2)).

#### **FORFEITURE ALLEGATION**

24. As a result of committing the offenses alleged in Counts One and Two of this Information, YVES BENHAMOU, 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 either of the offenses, including but not limited to a sum of money in United States currency which was derived from proceeds traceable to the commission of the offenses.

#### **Substitute Assets Provision**

25. 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;

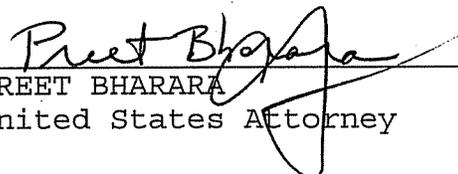
c. has been placed beyond the jurisdiction of the court;

d. has been substantially diminished in value; or

e. has been commingled with other property which cannot be 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 the defendant up to the value of the forfeitable property described above.

(Title 15, United States Code, Sections 78j(b) and 78ff;  
Title 18, United States Code, Section 981(a)(1)(C);  
Title 28, United States Code, Section 2461(c);  
and Title 17, Code of Federal Regulations, Section 240.10b-5.)

  
PREET BHARARA  
United States Attorney