
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA

v.

STEVEN FISHOFF,
RONALD CHERNIN,
STEVEN COSTANTIN
(a/k/a "Steven Constantin"), and
PAUL PETRELLO

:
:
: Hon. Mark Falk
:
: Mag. No. 15-3622 (MF)
:
: **CRIMINAL COMPLAINT**
:
:
:

I, Matthew J. Reynolds, being duly sworn, state the following is true and correct to the best of my knowledge and belief:

SEE ATTACHMENT A

I further state that I am a Special Agent with the Federal Bureau of Investigation, and that this Complaint is based on the following facts:

SEE ATTACHMENT B

continued on the attached pages and made a part hereof.



Matthew J. Reynolds, Special Agent
Federal Bureau of Investigation

Sworn to before me and subscribed in my presence,

May 29, 2015
Date

at

Newark, New Jersey
City and State

Honorable Mark Falk
United States Magistrate Judge
Name and Title of Judicial Officer



Signature of Judicial Officer

ATTACHMENT A

COUNT 1

(Conspiracy to Commit Securities Fraud)

From in or about June 2010 through at least as late as in or about July 2013, in the District of New Jersey and elsewhere, defendants

STEVEN FISHOFF,
RONALD CHERNIN,
STEVEN COSTANTIN, a/k/a "Steven Constantin," and
PAUL PETRELLO

did knowingly and willfully combine, conspire and agree with each other and others to commit an offense against the United States, namely securities fraud, by using and employing by the direct and indirect use of the means and instrumentalities of interstate commerce, and of the mails, and of facilities of national securities exchanges, in connection with the purchase and sale of securities, manipulative and deceptive devices, including the purchases and sales of securities of issuers on the basis of material nonpublic information about those securities and issuers, in breach of a duty of trust and confidence that was owed directly, indirectly, and derivatively, to the issuers of those securities, the shareholders of those issuers, and to other persons who are the source of the material nonpublic information, contrary to Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Section 240.10b-5.

Overt Acts

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

1. On or about July 9, 2012, defendant STEVEN FISHOFF ("FISHOFF"), on behalf of Featherwood Capital Inc. ("Featherwood"), and his business associate, defendant RONALD CHERNIN ("CHERNIN"), on behalf of Cedar Lane Enterprises, Inc. ("Cedar Lane"), received inside information concerning a confidentially marketed secondary stock offering by Ampio Pharmaceuticals, Inc. (the "Inside Information"), pursuant to defendants' entry into confidentiality or "wall-crossing" agreements prohibiting them from trading in Ampio securities or disclosing the inside information to anyone else prior to the public announcement of the Ampio offering.

2. On or about July 9, 2012, defendant FISHOFF passed the Inside Information of the Ampio offering to his friend and former colleague, defendant PAUL PETRELLO ("PETRELLO").

3. On or about July 9, 2012, defendant CHERNIN passed the Inside Information of the Ampio offering to his business associate, defendant STEVEN COSTANTIN, a/k/a "Steven Constantin" ("COSTANTIN").

4. Between on or about July 9 and July 12, 2012, defendants CHERNIN and COSTANTIN, via trading entity Cedar Lane, and defendant PETRELLO, via trading entity Brielle Properties, Inc. ("Brielle"), illegally short sold thousands of shares of Ampio stock based on the Inside Information obtained by defendants CHERNIN and FISHOFF, respectively.

In violation of Title 18, United States Code, Section 371.

COUNTS 2 Through 5

(Securities Fraud – Insider Trading)

On or about the dates set forth below, in the District of New Jersey and elsewhere, defendants

STEVEN FISHOFF,
RONALD CHERNIN,
STEVEN COSTANTIN, a/k/a “Steven Constantin,” and
PAUL PETRELLO,

by use of the means and instrumentalities of interstate commerce, the mails, and facilities of national securities exchanges, directly and indirectly, knowingly and willfully used manipulative and deceptive devices and contrivances in contravention of Title 17, Code of Federal Regulations, Section 240.10b-5 (Rule “10b-5”) in connection with the purchases and sales of securities by (a) employing devices, schemes, and artifices to defraud members of the investing public; (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 a course of business which operated and would operate as a fraud and deceit upon persons, in that they executed and caused the execution of the securities transactions listed below based upon the material nonpublic information defendant STEVEN FISHOFF, defendant RONALD CHERNIN, defendant STEVEN COSTANTIN (a/k/a “Steven Constantin”), and their business associate, “Trader A,” obtained through their participation in confidentially marketed secondary offerings, and elsewhere:

COUNT	DEFENDANT(S)	APPROX. DATE(S)	SECURITIES TRANSACTION(S)
2	STEVEN FISHOFF RONALD CHERNIN	3/28/2011- 4/12/2011	Short sales of approximately 208,189 shares of Solitario Exploration & Royalty Co. stock.
3	STEVEN FISHOFF PAUL PETRELLO	3/29/2011- 4/12/2011	Short sales of approximately 246,342 shares of Solitario Exploration & Royalty Co. stock.
4	STEVEN FISHOFF STEVEN COSTANTIN (a/k/a "Steven Constantin") RONALD CHERNIN	5/11/2011- 5/24/2011	Short sales of approximately 231,633 shares of Plug Power, Inc. stock.
5	STEVEN FISHOFF PAUL PETRELLO	5/18/2011- 5/24/2011	Short sales of approximately 268,709 shares of Plug Power, Inc. stock.

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

FORFEITURE ALLEGATIONS

1. As the result of committing the offenses constituting specified unlawful activity as defined in 18 U.S.C. § 1956(c)(7), as charged in Counts One through Five of this Complaint, defendants STEVEN FISHOFF, RONALD CHERNIN, STEVEN COSTANTIN (a/k/a "Steven Constantin"), and PAUL PETRELLO, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461(c), all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the said conspiracy and securities fraud offenses, and all property traceable to such property.

2. If any of the property described above, as a result of any act or omission of the defendants:

- 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 21 U.S.C. § 853(p), as incorporated by 28 U.S.C. § 2461(c), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

ATTACHMENT B

I, Matthew J. Reynolds, have been a Special Agent with the Federal Bureau of Investigation ("FBI") for more than two years, and I have been personally involved in the investigation of this matter. The information contained in this Complaint is based upon my personal knowledge, as well as information obtained from other sources, including: (a) statements made or reported by various witnesses with knowledge of relevant facts; (b) my review of publicly available information relating to the companies and individuals referenced herein; (c) information provided to law enforcement by the U.S. Securities and Exchange Commission; and (d) documents, including bank records, brokerage records, business records, phone records, email records, and other information obtained from various entities. Because this Complaint is being submitted for the limited purpose of establishing probable cause, it does not include every fact that I have learned during the course of the investigation. Where the content of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated. Where figures, calculations, dates and times are reported herein, they are approximate.

OVERVIEW OF THE INSIDER TRADING SCHEME

1. As set forth in more detail below, there is probable cause to believe that defendants STEVEN FISHOFF ("FISHOFF"), RONALD CHERNIN ("CHERNIN"), STEVEN COSTANTIN, a/k/a "Steven Constantin" ("COSTANTIN"), PAUL PETRELLO ("PETRELLO"), and others, acting individually and through their associated trading entities, namely Featherwood Capital, Inc. ("Featherwood"), Gold Coast Total Return, Inc. ("Gold Coast"), Seaside Capital, Inc. ("Seaside"), Cedar Lane Enterprises, Inc. ("Cedar Lane"), Data Complete, Inc. ("Data Complete"), Brielle Properties, Inc. ("Brielle"), Oceanview Property Management, LLC ("Oceanview"), and others (collectively, the "Trading Entities"), engaged in an insider trading scheme from in or about June 2010 to at least as late as in or about July 2013, where they netted more than approximately \$3.2 million in illicit profits by short selling¹ stock based on inside information obtained by defendant FISHOFF, defendant CHERNIN, defendant COSTANTIN, and their business associate, "Trader A," through their

¹ "Short selling" is the sale of stock that an investor has borrowed from a third party. The investor later "closes out" or "covers" the short position by returning the stock to the lender, typically by purchasing the shares on the open market or, as was sometimes the case here, with shares purchased by the investor in a secondary offering. The short seller hopes to profit from a decline in the stock price between the sale of the borrowed stock and the later purchase of the stock.

solicitations to participate in confidentially marketed secondary stock offerings² by publicly traded companies (collectively, the “Subject Offerings”).

2. During the course of the insider trading scheme, the coconspirators exhibited the same general pattern of conduct:

a. First, defendants FISHOFF, CHERNIN, and COSTANTIN – either directly or, later in the scheme, indirectly through Trader A – cultivated contacts within certain investment banks (collectively, the “Investment Banks”), for the purpose of, among other things, ensuring that if any of the Investment Banks were confidentially marketing a secondary offering on behalf of a client issuer, they would reach out to FISHOFF, CHERNIN, COSTANTIN, and/or Trader A as potential investors.

b. Second, for each of the Subject Offerings, defendant FISHOFF, defendant CHERNIN, defendant COSTANTIN, and/or Trader A – as representatives of one or more of the Trading Entities – entered into confidentiality or “wall-crossing” agreements whereby they were brought “over the wall” – that is, they were provided material nonpublic information concerning the offering (“Inside Information”), such as the name of the issuer and the general timing of the transaction, for the narrow purpose of determining whether to purchase securities in the offering. By the terms of the wall-crossing agreements, which were generally communicated telephonically and confirmed in writing via email, FISHOFF, CHERNIN, COSTANTIN, and Trader A agreed, among other things, (i) not to trade the securities of the offering company, which included a bar from short selling³ the offeror’s securities; and (ii) not to disclose the Inside Information to anyone else before the offering was publicly announced.

² In a “secondary” offering, a company whose securities are already publicly traded conducts an offering of additional shares. There are three primary types of confidential secondary offerings: (1) confidentially marketed public offerings (“CMPOs”); (2) private investment in public equities (“PIPE”) offerings; and (3) registered direct offerings (“RDOs”). Unlike in PIPE offerings, investors in CMPOs and RDOs receive unrestricted stock, which can be freely transferred and sold in public markets. CMPOs differ from RDOs in that CMPOs are opened up to public investors after the deal is publicly announced, while RDOs are not opened up to public investors. Most of the Subject Offerings involved in the insider trading scheme were CMPOs.

³ CMPOs, PIPEs, and RDOs, though less so, generally price at a discount to the current market price of the securities. The Subject Offerings involved the issuance of additional shares by relatively small (i.e., “midmarket”) or thinly traded public companies. Offerings by these midmarket companies generally have an adverse impact on the market price when announced because they dilute the holdings of the existing shareholders and are sold at a discount to the prevailing market price. As a result, investors can make significant profits by shorting the securities prior to the public announcement of the transaction and covering the short positions with discounted shares allocated to the investor in the offering and/or with discounted shares purchased in the market following the public announcement of the transaction.

c. Third, the coconspirators breached the confidentiality and trading restrictions of the wall-crossing agreements. In many instances where defendant FISHOFF was not personally wall-crossed in an offering, defendants CHERNIN and COSTANTIN tipped defendant FISHOFF telephonically or by email about the offering prior to the public announcement, in breach of the wall-crossing agreement. Even where FISHOFF ostensibly was a party to the wall-crossing agreement, through his affiliation with the wall-crossed trading entity, FISHOFF himself breached the wall-crossing agreement by executing short sales based on the Inside Information and by divulging the Inside Information to his friend, defendant PETRELLO, so that PETRELLO could conduct parallel short sales. There were also instances where defendants CHERNIN and/or COSTANTIN breached the wall-crossing agreements by placing short sales themselves before the offering. The coconspirators executed the short sales through one or more of the trading accounts of the Trading Entities or through other related accounts that they controlled. Typically, the coconspirators had never traded in the subject securities prior to the receipt of the Inside Information.

d. Fourth, after the offering was publicly announced, the coconspirators often profitably covered their short sales with the stock purchased in the offering at a discount or with shares purchased in the market, since the market price of the stock usually fell upon the public announcement of the transaction.

e. Finally, the coconspirators shared the proceeds of the insider trading scheme, with defendant FISHOFF wiring money to defendants CHERNIN and COSTANTIN for their services, and FISHOFF receiving compensation from defendant PETRELLO for the tips related to the Subject Offerings that FISHOFF provided to him.

RELEVANT INDIVIDUALS AND ENTITIES

3. Defendant FISHOFF, a resident of Westlake Village, California, was the president and sole owner of the Featherwood trading entity, which he named after the street on which he lived. FISHOFF also owned, controlled, and/or was financially affiliated with several of the other Trading Entities, including Gold Coast, Seaside, Data Complete, and Cedar Lane, through which he engaged, or directed others to engage, in securities and other financial transactions. Prior to in or about 2009, FISHOFF was associated with a day trading firm based in eastern New York ("Day Trading Firm A").

4. Defendant PETRELLO, a former resident of Brielle, New Jersey with a second residence in Boca Raton, Florida, relocated full-time to Boca Raton in or about August 2014. PETRELLO was the president and sole owner of two of the Trading Entities, namely Brielle and Oceanview. PETRELLO was a personal friend and longtime business associate of defendant FISHOFF.

PETRELLO, like FISHOFF, was associated with Day Trading Firm A prior to in or about 2009, and they have vacationed together.

5. Defendant CHERNIN, a resident of Oak Park, California, was a personal friend and longtime business associate of defendant FISHOFF. Formerly admitted to practice law in California, CHERNIN was disbarred due to his misappropriation of client assets. With respect to the Trading Entities, CHERNIN was the president of Gold Coast and Cedar Lane, and an officer of Data Complete.

6. Defendant COSTANTIN, a resident of Farmingdale, New Jersey, was defendant FISHOFF's brother-in-law and a personal friend and business associate of defendant CHERNIN. A former pipefitter, COSTANTIN was the president of Seaside and vice president and secretary of Cedar Lane.

7. Starting in or about October 2012, Trader A, a resident of New York, New York, was employed as a portfolio manager of Cedar Lane.

8. Featherwood was a California corporation owned by defendant FISHOFF and whose business address was defendant FISHOFF's residence. Featherwood maintained numerous trade execution accounts (collectively, "Trade Execution Accounts") with various brokers in its own name and in various additional names under which Featherwood did business ("DBAs"). After the Featherwood DBAs executed securities transactions through the Trade Execution Accounts, the trades ultimately settled into, i.e., cleared through, one of Featherwood's prime brokerage accounts (the "Trade Settlement Account"), including an account at "Prime Broker A."

9. Gold Coast was a California corporation with business addresses at defendant FISHOFF's residence and at a strip mall located near defendant CHERNIN's residence. Corporate documents listed CHERNIN as the president of Gold Coast and FISHOFF as an officer. Gold Coast was one of the Featherwood DBAs and FISHOFF identified himself as its owner in Prime Broker A's account documents.

10. Seaside was a New York corporation whose business address was defendant COSTANTIN's home address in Farmingdale, New Jersey. Seaside was a Featherwood DBA, and corporate documents listed COSTANTIN as president. In addition, defendant FISHOFF identified himself as its owner in Prime Broker A account documents.

11. Data Complete was a California corporation with a business address in Woodland Hills, California. Data Complete was a Featherwood DBA, and corporate documents listed defendant CHERNIN as an officer. Defendant FISHOFF identified himself as its owner in Prime Broker A account documents.

12. Cedar Lane was a New York corporation whose business address was defendant CHERNIN's home address in Oak Park, California. Defendants CHERNIN and COSTANTIN were co-owners of Cedar Lane. Defendant CHERNIN was president of Cedar Lane and COSTANTIN was vice president and secretary of the company. As reflected in Prime Broker A's account opening documents, Featherwood (through defendant FISHOFF) guaranteed Cedar Lane's Trade Settlement Account at Prime Broker A until at least in or about June 2012.

13. Brielle was a New Jersey corporation named after the New Jersey town that defendant PETRELLO, its president and sole owner, principally lived in prior to his full-time relocation to Boca Raton, Florida in or about August 2014. Prior to his relocation, PETRELLO's New Jersey residential address was listed as Brielle's business address on its Trade Settlement Account documents. Brielle also was registered as a foreign for-profit corporation in the State of Florida with a business address in Boca Raton, Florida. Like Featherwood, Brielle maintained numerous Trade Execution Accounts, either in the name of Brielle or one of Brielle's various DBAs, as well as a single Trade Settlement Account at Prime Broker A. When those DBAs executed securities transactions, the trades ultimately settled into, i.e., cleared through, Brielle's prime brokerage account. PETRELLO was an authorized trader on the Brielle account.

14. Oceanview was a New Jersey limited liability company owned by defendant PETRELLO and registered to his former home address in Brielle, New Jersey. Like Featherwood and Brielle, Oceanview had a Trade Settlement Account at Prime Broker A and Trade Execution Accounts with other brokers in its own name and in the name of numerous DBAs. When those DBAs executed securities transactions, the trades ultimately settled into, i.e., cleared through, Oceanview's prime brokerage account.

15. The securities sold and/or purchased by the coconspirators in connection with the insider trading scheme were listed on the NASDAQ Stock Market ("NASDAQ") and/or the New York Stock Exchange ("NYSE").

16. NASDAQ was the largest electronic equity securities trading market in the United States and was the second largest equities-based exchange in the world based on market capitalization. NASDAQ did not have a central trading floor. Instead, it relied on computer servers to facilitate all trading activity. Since at least 2006, NASDAQ maintained computer servers in Carteret, New Jersey.

17. NYSE was the largest equities-based exchange in the world based on total market capitalization of its listed securities. By in or about August 2010, all of NYSE's trade processing and data services were performed at its U.S. data center in Mahwah, New Jersey.

18. At various times during the course of the insider trading scheme, defendants FISHOFF, PETRELLO, CHERNIN, and COSTANTIN executed numerous illegal trades via online trading platforms. The Internet Protocol addresses used to log into the trading platforms to execute several of these illicit trades returned to Internet Service Provider ("ISP") accounts subscribed to by PETRELLO and COSTANTIN, respectively, at New Jersey addresses.⁴

**ILLICIT TRADING BASED ON THE OFFERING
COMPANIES' INSIDE INFORMATION**

The Synutra Offering (Announced After Markets Closed on June 24, 2010)

19. The insider trading scheme started in or about June 2010, by which time defendants FISHOFF and PETRELLO had left Day Trading Firm A and started trading through their own investment vehicles – namely, FISHOFF through Featherwood and its related entities, and PETRELLO through Brielle, Oceanview, and their related entities.

20. On or about June 15, 2010, defendant CHERNIN, on behalf of Gold Coast, was brought over the wall by the investment bank soliciting investors for a CMPO involving Synutra International, Inc. (NASDAQ: "SYUT")⁵ (the "Synutra Offering"). As CHERNIN's business partner in Gold Coast, defendant FISHOFF was equally subject to the disclosure and trading restrictions set forth in the wall-crossing agreement.

21. Shortly after defendant CHERNIN was wall-crossed, CHERNIN passed the Inside Information related to the planned Synutra Offering to defendant FISHOFF. FISHOFF, in turn, relayed the Inside Information to defendant PETRELLO.

22. Defendants FISHOFF and PETRELLO then traded in Synutra stock in parallel fashion, with FISHOFF short selling thousands of shares of Synutra stock through Featherwood between on or about June 22 and June 24, 2010 and PETRELLO likewise short selling thousands of shares of Synutra stock between on or about June 23 and June 24, 2010.

⁴ "Internet Protocol Address" ("IP Address") refers to the unique address assigned to every computer or device on the Internet, the same way that every telephone has a unique telephone number. Each time an individual accesses the Internet, the computer from which that individual initiates access is assigned an IP address. A central authority provides each ISP a limited block of IP addresses for use by that ISP's customers or subscribers. Most ISP's employ "dynamic" IP addressing, that is, they allocate any unused IP address at the time of initiation of an Internet session to the customer or subscriber gaining access to the Internet. A dynamic IP address is reserved by an ISP to be shared among a group of computers over a period of time. The ISP logs the date, time, and duration of the Internet session for each IP address and can identify the user of that IP address for such a session from these records.

⁵ For each of the Subject Offerings, the offering companies' respective NASDAQ or NYSE ticker symbols are noted in parentheses.

23. The Synutra Offering was publicly announced shortly after the market closed on or about June 24, 2010 and the pricing of the deal was announced not long before the market opened the following day, on or about June 25, 2010. Synutra priced the offering at a discount of approximately 8.87% from the prior day's closing, and the market price of Synutra stock decreased approximately 12.7% from the prior day's closing price.

24. Defendant FISHOFF, via Featherwood, made a profit of approximately \$57,832 by short selling Synutra stock based on the Inside Information FISHOFF had received from defendant CHERNIN. FISHOFF split these profits with CHERNIN, as reflected by a Featherwood "Profit Details Report" that FISHOFF emailed to CHERNIN's Gold Coast email address on or about July 2, 2010 with the subject line, "PLEASE LOOK OVER AND ADVISE[.]" The Report reflected their short sales of Synutra stock on or about June 22 and June 24, 2010, prior to the public announcement of the offering, and therefore in breach of the wall-crossing agreement.

25. Defendant PETRELLO, via Brielle, also profited from illegally short selling Synutra stock prior to the offering announcement, making a profit of approximately \$25,168.

The Telestone Offering (Announced Before Markets Opened on November 24, 2010)

26. On or about November 17, 2010, defendant CHERNIN, on behalf of Gold Coast, was brought over the wall by the investment bank soliciting investors for a CMPO involving Telestone Technologies Corp. (NASDAQ: "TSTC") (the "Telestone Offering"). As CHERNIN's business partner in Gold Coast, defendant FISHOFF was equally subject to the disclosure and trading restrictions set forth in the wall-crossing agreement.

27. Shortly after being wall-crossed, defendant CHERNIN passed the Inside Information of the planned Telestone Offering to defendant FISHOFF. FISHOFF, in turn, passed the Inside Information to defendant PETRELLO.

28. Between on or about November 18, 2010, the day after defendant CHERNIN was wall-crossed, and continuing through on or about November 23, 2010, defendant FISHOFF short sold thousands of shares of Telestone stock. Defendant PETRELLO similarly short sold thousands of shares of Telestone stock during an overlapping time period, from on or about November 22 to November 23, 2010.

29. The Telestone Offering was publicly announced the following day, just before markets opened on November 24, 2010. The Offering was priced at approximately \$12 per share, a discount from the prior day's closing price of approximately \$14.13 per share. Telestone shares opened at approximately \$12.36 per share and closed at approximately \$12 per share.

30. Defendant FISHOFF, via Featherwood, made a profit of approximately \$134,106 by short selling Telestone stock prior to the public announcement based on the Inside Information FISHOFF had received from defendant CHERNIN. Defendant PETRELLO, via Brielle, likewise profited from short selling Telestone stock based on the Inside Information passed on to him by FISHOFF, making a total profit of approximately \$21,833.

The Puda Coal Offering (Announced Before Markets Opened on December 8, 2010)

31. On or about December 1, 2010, defendant CHERNIN, on behalf of Gold Coast, was wall-crossed by the investment bank soliciting investors for an offering by Puda Coal, Inc. (NYSE: "PUDA") (the "Puda Coal Offering"). Defendant COSTANTIN, on behalf of Seaside, likewise was wall-crossed that same day by the investment bank.

32. Shortly after being wall-crossed, defendants CHERNIN and COSTANTIN passed the Inside Information related to the planned Puda Coal Offering to defendant FISHOFF. FISHOFF, in turn, relayed the Inside Information to defendant PETRELLO.

33. On or about December 5, 2010, a representative of the investment bank emailed defendant CHERNIN, stating, in substance and in part, that the pricing of the Puda Coal Offering would be announced overnight on Tuesday, December 7, 2010 and would be at a "substantial discount."

34. The following day, on or about December 6, 2010, and on or about December 7, 2010, defendants FISHOFF and PETRELLO each short sold thousands of shares of Puda Coal stock based on the Inside Information obtained by defendants CHERNIN and COSTANTIN.

35. The Puda Coal Offering was publicly announced on or about December 8, 2010, just before markets opened. Puda Coal shares opened at approximately \$12.19 per share and closed at approximately \$12.04 per share, representing an approximately 17.3% decline off of the prior day's closing price.

36. Defendant FISHOFF, via Featherwood, made a profit of approximately \$323,271 by short selling Puda Coal stock prior to the public announcement of the offering based on the Inside Information FISHOFF had received from defendants CHERNIN and COSTANTIN. Defendant PETRELLO, via Brielle, likewise profited from short selling Puda Coal stock based on the Inside Information passed on to him by FISHOFF, making a total profit of approximately \$118,485.

The Lannett Offering (Announced After Markets Closed on December 13, 2010)

37. On or about December 13, 2010, defendant CHERNIN, on behalf of Gold Coast, was wall-crossed by the investment bank soliciting investors for an offering by Lannett Company, Inc. (NYSE: "LCI") (the "Lannett Offering"). As CHERNIN's business partner in Gold Coast, defendant FISHOFF was equally subject to the disclosure and trading restrictions set forth in the wall-crossing agreement.

38. Shortly after being wall-crossed, defendant CHERNIN passed the Inside Information related to the planned Lannett Offering to defendant FISHOFF.

39. On or about December 13, 2010, defendant FISHOFF short sold thousands of shares of Lannett stock.

40. The Lannett Offering was announced on or about December 13, 2010, shortly after markets closed. The offering was priced overnight at approximately \$5.00 per share, representing an approximately 14.82% discount off the day's closing price. The next morning, Lannett shares opened at approximately \$5.06 per share and closed at approximately \$4.93 per share.

41. Defendant FISHOFF, via Featherwood, made a profit of approximately \$56,686 by short selling Lannett stock prior to the public announcement of the offering based on the Inside Information FISHOFF had received from defendant CHERNIN.

The Quantum Offering (Announced After Markets Closed on February 16, 2011)

42. On or about January 31, 2011, defendant CHERNIN, on behalf of Gold Coast, was wall-crossed by the investment bank soliciting investors for an offering by Quantum Fuel Systems Technologies Worldwide, Inc. (NASDAQ: "QTTWW") (the "Quantum Offering"). As CHERNIN's business partner in Gold Coast, defendant FISHOFF was equally subject to the disclosure and trading restrictions set forth in the wall-crossing agreement.

43. Shortly after being wall-crossed, defendant CHERNIN passed the Inside Information related to the planned Quantum Offering to defendant FISHOFF. FISHOFF, in turn, relayed the Inside Information to defendant PETRELLO.

44. Between on or about February 10 and February 16, 2011, defendant FISHOFF short sold thousands of shares of Quantum stock based on the Inside Information received from defendant CHERNIN. Defendant PETRELLO similarly short sold thousands of shares of Quantum stock during an overlapping time period, between on or about February 11 and February 16, 2011, based on the Inside Information passed to him by FISHOFF.

45. The Quantum Offering was publicly announced on or about February 16, 2011, shortly after markets closed. The offering was priced at approximately \$5.07 per share. Quantum shares opened at approximately \$5.17 per share and closed at approximately \$5.12 per share.

46. Defendant FISHOFF, via Featherwood, made a profit of approximately \$105,362 by short selling Quantum stock prior to the public announcement of the offering based on the Inside Information FISHOFF had received from defendant CHERNIN. Defendant PETRELLO, via Brielle, likewise profited from short selling Quantum stock based on the Inside Information passed on to him by FISHOFF, making a total profit of approximately \$110,342.

The Solitario Offering (Announced After Markets Closed on April 12, 2011)

47. On or about March 28, 2011, defendant CHERNIN, on behalf of Gold Coast, was wall-crossed by the investment bank soliciting investors for an offering by Solitario Exploration & Royalty Co. (NYSE: "XPL") (the "Solitario Offering"). As CHERNIN's business partner in Gold Coast, defendant FISHOFF was equally subject to the disclosure and trading restrictions set forth in the wall-crossing agreement.

48. Shortly after being wall-crossed, defendant CHERNIN passed the Inside Information related to the planned Solitario Offering to defendant FISHOFF. FISHOFF, in turn, relayed the Inside Information to defendant PETRELLO.

49. Between on or about March 28, 2011 and on or about April 12, 2011, defendants FISHOFF, CHERNIN, and PETRELLO short sold hundreds of thousands of shares of Solitario stock based on the Inside Information obtained by defendant CHERNIN.

50. The Solitario Offering was publicly announced on or about April 12, 2011, just after markets closed. The offering was priced at approximately \$2.50 per share. On or about April 13, 2011, Solitario shares opened at approximately \$2.74 per share and closed at approximately \$2.76 per share, representing an approximately 10% decline from the prior day's closing price and an approximately 21% decline from the April 11 opening.

51. Defendants FISHOFF and CHERNIN, via Featherwood, made a profit of approximately \$164,516 by short selling Solitario stock prior to the public announcement of the offering based on the Inside Information FISHOFF had received from defendant CHERNIN. Defendant PETRELLO, via Brielle, likewise profited from short selling Solitario stock based on the Inside Information passed on to him by FISHOFF, making a total profit of approximately \$172,047.

The China Metro Offering (Announced After Markets Closed on May 5, 2011)

52. On or about March 31, 2011, defendant COSTANTIN, on behalf of Seaside, and on or about April 5, 2011, defendant CHERNIN, on behalf of Data Complete, were wall-crossed by the investment bank soliciting investors for an offering by China Metro-Rural Holdings Ltd. (NYSE: "CNR") (the "China Metro Offering").

53. Shortly after being wall-crossed, defendants COSTANTIN and CHERNIN passed the Inside Information related to the planned China Metro Offering to defendant FISHOFF. FISHOFF, in turn, relayed the Inside Information to defendant PETRELLO.

54. Between on or about April 1, 2011 and on or about May 5, 2011, defendants FISHOFF, CHERNIN, and PETRELLO each short sold thousands of shares of China Metro stock based on the Inside Information obtained by defendants COSTANTIN and CHERNIN.

55. The China Metro Offering was publicly announced on or about May 5, 2011, just after markets closed. The offering was priced at approximately \$2.88 per share, representing a discount of approximately 15% from the prior closing price. On or about May 6, 2011, China Metro shares opened at approximately \$3.32 per share and closed at approximately \$2.32 per share, representing an approximately 30% decline off of the prior day's closing price.

56. Defendants FISHOFF and CHERNIN, via Featherwood, made a profit of approximately \$198,052 by short selling China Metro stock prior to the public announcement of the offering based on the Inside Information FISHOFF had received from defendants CHERNIN and COSTANTIN. Defendant PETRELLO, via Brielle, likewise profited from short selling China Metro stock based on the Inside Information passed on to him by FISHOFF, making a total profit of approximately \$98,327.

The Plug 1 Offering (Announced After Markets Closed on May 24, 2011)

57. On or about May 11, 2011, defendant COSTANTIN, on behalf of Seaside, was wall-crossed by the investment bank soliciting investors for an offering by Plug Power, Inc. (NASDAQ: "PLUG") (the "Plug 1 Offering").

58. Shortly after being wall-crossed, defendant COSTANTIN passed the Inside Information related to the planned Plug 1 Offering to defendants FISHOFF and CHERNIN. FISHOFF, in turn, relayed the Inside Information to defendant PETRELLO.

59. Between on or about May 11 and May 24, 2011, defendants FISHOFF and CHERNIN short sold hundreds of thousands of shares of Plug stock based on the Inside Information obtained by defendant COSTANTIN.

Defendant PETRELLO likewise short sold hundreds of thousands of shares of Plug stock, between on or about May 18 and May 24, 2011, based on the Inside Information passed by FISHOFF.

60. The Plug 1 Offering was publicly announced on or about May 24, 2011, just after markets closed. The offering was priced at approximately \$2.41 per share. On or about May 25, 2011, Plug opened at approximately \$2.39 per share and closed at approximately \$2.40 per share, down from the prior day's closing price of approximately \$2.85 per share.

61. Defendants FISHOFF and CHERNIN, via Featherwood, made a profit of approximately \$190,062 by short selling Plug stock prior to the public announcement of the offering based on the Inside Information FISHOFF and CHERNIN had received from defendant COSTANTIN. Defendant PETRELLO, via Brielle, likewise profited from short selling Plug stock based on the Inside Information passed on to him by FISHOFF, making a total profit of approximately \$238,522.

The Plug 2 Offering (Announced After the Markets Closed on March 22, 2012)

62. On or about March 9, 2012, defendant CHERNIN, on behalf of Gold Coast, was wall-crossed by the investment bank soliciting investors for another planned offering by Plug (the "Plug 2 Offering"). As CHERNIN's business partner in Gold Coast, defendant FISHOFF was equally subject to the disclosure and trading restrictions set forth in the wall-crossing agreement.

63. Shortly after being wall-crossed, defendant CHERNIN passed the Inside Information related to the Plug 2 Offering to defendant FISHOFF. FISHOFF, in turn, relayed the Inside Information to defendant PETRELLO.

64. Between on or about March 20 and March 22, 2012, defendants FISHOFF, CHERNIN, and PETRELLO short sold hundreds of thousands of shares of Plug stock based on the Inside Information obtained by defendant CHERNIN.

65. The Plug 2 Offering was publicly announced on or about March 22, 2012 just after markets closed. The discounted offering price was approximately \$1.15 per share.

66. Defendants FISHOFF and CHERNIN, via Cedar Lane, made a profit of approximately \$102,145 by short selling Plug stock prior to the public announcement of the offering based on the Inside Information that CHERNIN had obtained. Defendant PETRELLO, via Brielle, likewise profited from short selling Plug stock based on the Inside Information passed on to him by FISHOFF, making a total profit of approximately \$52,223. Defendant FISHOFF also made a profit of approximately \$28,683 by trading through Oceanview, an entity owned by PETRELLO.

The Synergy Offering (Announced After Markets Closed on May 3, 2012)

67. On or about April 30, 2012, defendant FISHOFF, on behalf of Featherwood, and defendant CHERNIN, on behalf of Gold Coast, were each wall-crossed by the investment bank soliciting investors for an offering by Synergy Pharmaceuticals, Inc. (NASDAQ: "SGYP") (the "Synergy Offering").

68. Shortly after being wall-crossed, defendant FISHOFF passed the Inside Information to defendant PETRELLO.

69. Between on or about April 30, 2012 and on or about May 3, 2012, defendant FISHOFF, via Featherwood, defendant CHERNIN, via Cedar Lane, and defendant PETRELLO, via Brielle, each short sold thousands of shares of Synergy stock based on the Inside Information obtained by FISHOFF and CHERNIN.

70. The Synergy Offering was publicly announced on or about May 3, 2012, just after markets closed. Synergy shares opened and closed at approximately \$4.50 per share, down from the prior day's closing price of approximately \$5.69.

71. Defendants FISHOFF, CHERNIN, and PETRELLO, via their respective trading entities, made illegal profits by trading on the Inside Information obtained by FISHOFF and CHERNIN. FISHOFF, via Featherwood, made a profit of approximately \$74,951; CHERNIN, via Cedar Lane, made a profit of approximately \$86,475; and PETRELLO, via Brielle, made a profit of approximately \$145,988.

The CPI Offering (Announced After Markets Closed on June 7, 2012)

72. On or about May 30, 2012 defendant CHERNIN, on behalf of Gold Coast, was wall-crossed by the investment bank soliciting investors for an offering by CPI Aerostructures (NYSE: "CVU") (the "CPI Offering"). As CHERNIN's business partner in Gold Coast, defendant FISHOFF was equally subject to the disclosure and trading restrictions set forth in the wall-crossing agreement

73. Shortly after being wall-crossed, defendant CHERNIN passed the Inside Information related to the CPI Offering to defendant FISHOFF. FISHOFF, in turn, relayed the Inside Information to defendant PETRELLO.

74. Between on or about May 30, 2012 and on or about June 7, 2012, defendants FISHOFF, CHERNIN, and PETRELLO each short sold thousands of shares of CPI stock based on the Inside Information obtained by defendant CHERNIN.

75. The CPI Offering was publicly announced on or about June 7, 2012, just after markets closed. The offering priced at approximately \$12 per share. The following day, CPI opened at approximately \$12.49 per share and closed at approximately \$12 per share, representing a decline of approximately 14.9% from the previous day's opening price of approximately \$14.10.

76. Defendants FISHOFF, CHERNIN, and PETRELLO, via their respective trading entities, made illegal profits by trading on the Inside Information obtained by CHERNIN. FISHOFF, via Featherwood, made a profit of approximately \$92,110; CHERNIN, via Cedar Lane, made a profit of approximately \$54,231; and PETRELLO, via Brielle, made a profit of approximately \$98,706.

The Ampio Offering (Announced After Markets Closed on July 12, 2012)

77. On or about July 9, 2012, defendant FISHOFF, on behalf of Featherwood, and defendant CHERNIN, on behalf of Cedar Lane, were wall-crossed by the investment bank soliciting investors for an offering by Ampio Pharmaceuticals, Inc. (NASDAQ: "AMPE") (the "Ampio Offering").

78. Shortly after they were wall-crossed, defendant FISHOFF passed the Inside Information related to the Ampio Offering to defendant PETRELLO, and defendant CHERNIN passed the Inside Information to defendant COSTANTIN.

79. Between on or about July 9, 2012, the same day that defendants FISHOFF and CHERNIN were wall-crossed, and on or about July 12, 2012, defendants CHERNIN, COSTANTIN, and PETRELLO each short sold thousands of shares of Ampio stock based on the Inside Information obtained by FISHOFF and CHERNIN.

80. The Ampio Offering was publicly announced on or about July 12, 2012, just after markets closed. The offering was priced at approximately \$3.25 per share. The following day, Ampio shares opened at approximately \$3.28 per share and closed at approximately \$3.21 per share, representing a decline of approximately 12% from the previous day's closing price.

81. Defendants CHERNIN and COSTANTIN, via Cedar Lane, made illegal profits of approximately \$186,459 by trading on the Inside Information related to the Ampio offering. Defendant PETRELLO, via Brielle, also made illegal profits of approximately \$172,039.

The Bidel Offering (Announced After Markets Closed on June 18, 2013)

82. On or about June 13, 2013, Trader A, on behalf of Cedar Lane, was wall-crossed by the investment bank soliciting investors for a planned offering by Bidel Inc. (NASDAQ: "BIOD") (the "Bidel Offering").

83. Shortly after being wall-crossed, Trader A passed the Inside Information related to the Bidel Offering to defendants FISHOFF and CHERNIN. FISHOFF, in turn, relayed the Inside Information to defendant PETRELLO.

84. Between on or about June 13 and June 18, 2013, defendants FISHOFF and CHERNIN, via Cedar Lane, short sold thousands of shares of Bidel stock. During an overlapping time period, on or about June 13 and June 14, 2013, defendant PETRELLO also short sold thousands of shares of Bidel stock based on the Inside Information passed to him by FISHOFF.

85. At market close on or about June 17, 2013, the stock price of Bidel was approximately \$4.39 per share, following a positive news release related to a Bidel pharmaceutical drug development program. The stock price of Bidel continued to increase the following day, prompting an email with subject line, "Bidel Inc.," from defendant PETRELLO to defendant FISHOFF that stated, in substance and in part: "RUNNING IT DOESN'T END."

86. The Bidel Offering was publicly announced on or about June 18, 2013, just after markets closed. The offering was priced at a discount of approximately \$4.35 per share.

87. Defendants FISHOFF and CHERNIN, via Cedar Lane, and defendant PETRELLO, via Brielle, incurred losses from illegally short selling Bidel stock based on Inside Information obtained by Trader A.

The AEZS Offering (Announced After Markets Opened on July 25, 2013)

88. On or about July 15, 2013, Trader A, on behalf of Cedar Lane, was wall-crossed by the investment bank soliciting investors for an offering by Aeterna Zentaris Inc. (NASDAQ: "AEZS") (the "AEZS Offering").

89. Shortly after being wall-crossed, Trader A passed the Inside Information related to the AEZS Offering to defendant CHERNIN, who then passed it on to defendant FISHOFF. FISHOFF, in turn, relayed the Inside Information to defendant PETRELLO.

90. Between on or about July 15 and July 24, 2013, defendant CHERNIN, via Cedar Lane, and defendant PETRELLO, via Brielle, each short sold more than approximately 100,000 of shares of AEZS stock based on the Inside Information obtained by Trader A.

91. The AEZS Offering was publicly announced on or about July 25, 2013, just after markets opened. The offering was priced at approximately \$1.50 per share. AEZS shares opened at approximately \$1.50 per share and closed at approximately \$1.40 per share.

92. Defendant CHERNIN, via Cedar Lane, made approximately \$33,929 in illegal profits and defendant PETRELLO, via Brielle, made approximately \$52,031 in illegal profits.

**DEFENDANTS' TOTAL ILLICIT PROFITS AND
THEIR PROFIT-SHARING ARRANGEMENT**

93. The total profits from the defendants' insider trading scheme was more than approximately \$3.2 million.

94. As shown in numerous "payroll" spreadsheets that defendant FISHOFF caused to be circulated to his team of traders, which included defendants CHERNIN, COSTANTIN, and others, FISHOFF compensated CHERNIN and COSTANTIN on a monthly basis based on Featherwood's trading profits, usually splitting the profits between himself and CHERNIN and/or COSTANTIN on an approximately 50-50 basis.

95. Defendant FISHOFF, via Featherwood, wired or caused the wire of payroll payment funds totaling several hundred thousand dollars directly to defendants CHERNIN and COSTANTIN. In an effort to conceal their sharing of illicit profits amongst themselves, CHERNIN received some of the funds from Featherwood through an entity he controlled called Morgan Lane, and COSTANTIN received some of his share of the profits through entities he controlled named Riverside Capital Resources and Shore Resources, respectively. FISHOFF also caused Featherwood to wire large sums totaling approximately \$1 million directly to COSTANTIN's personal and business accounts.

96. Defendant PETRELLO compensated defendant FISHOFF for the offering-related Inside Information, wiring at least several hundred thousand dollars to FISHOFF over the course of the scheme through Brielle and other entities that PETRELLO controlled.