

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v. -

ROLAND MATHYS,

Defendant.

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:
INDICTMENT

:
19 Cr.

:
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19 CRIM 442

COUNT ONE

(Fraud in Connection with a Tender Offer)

The Grand Jury charges:

Relevant Entities and Individuals

1. At all times relevant to this Indictment, Bioverativ, Inc. ("Bioverativ") was a multinational biotechnology company headquartered in Waltham, Massachusetts that specialized in the development and commercialization of therapies for the treatment of hemophilia. Bioverativ's stock was traded under the ticker symbol "BIVV" on the NASDAQ Stock Exchange.

2. At all times relevant to this Indictment, Sanofi S.A. ("Sanofi") was a multinational pharmaceutical company headquartered in Paris, France that engaged in the research, development, manufacturing and marketing of pharmaceutical drugs, principally in the prescription market.

3. At all times relevant to this Indictment, Credit Suisse Securities (USA) LLC ("CSSU") was a broker-dealer based in New York, New York.

4. At all times relevant to this Indictment, Credit Suisse (Switzerland), Ltd. ("CS Ltd.") was based in Zurich, Switzerland and provided securities brokerage and investment banking services to its customers. CS Ltd. maintained omnibus trading accounts with CSSU (the "CSSU Accounts").

5. At all times relevant to this Indictment, an individual not named as a defendant herein ("Individual-1") was a citizen of Switzerland and Italy, and an Executive Vice President of Sanofi in Paris, France. A second individual not named as a defendant herein ("Individual-2") was a family member of Individual-1 and a citizen of Switzerland and Italy.

6. At all times relevant to this Indictment, ROLAND MATHYS, the defendant, was a citizen of Switzerland, was a close personal friend of Individual-2 and an acquaintance of Individual-1, and maintained a brokerage account at CS Ltd.

Background to Sanofi's Tender Offer for Bioverativ Shares

7. On or about November 3, 2017, Sanofi delivered to Bioverativ a non-binding proposal offering to acquire all outstanding shares of Bioverativ at a price of \$98.50 per share in cash.

8. On or about December 5, 2017, Sanofi and Bioverativ entered into a confidentiality agreement regarding the acquisition negotiations.

9. On or about December 18, 2017, representatives of Sanofi and Bioverativ met in New York, New York for a management presentation, which included a review of Bioverativ's business, products and pipeline, operations, and projections.

10. On or about January 4, 2018, Sanofi indicated that it would be willing to pursue an acquisition of Bioverativ at a price of \$105 per share, subject to Sanofi's successful completion of due diligence and Bioverativ's agreement to engage exclusively with Sanofi.

11. On or about January 6, 2018, Sanofi and Bioverativ executed an exclusivity agreement, which provided Sanofi with the right, through January 26, 2018, to negotiate exclusively the potential acquisition of all the outstanding shares of Bioverativ at the price of \$105 per share.

12. From on or about January 8, 2018 through on or about January 21, 2018, Sanofi conducted a due diligence review of Bioverativ.

13. On or about Friday, January 19, 2018, Sanofi's Board of Directors met and approved the proposed terms of the acquisition. Bioverativ shares closed that day at a price of \$64.11.

14. On or about the evening of Sunday, January 21, 2018, Sanofi and Bioverativ entered into a merger agreement (the "Merger Agreement"). Pursuant to the Merger Agreement, Sanofi would commence a tender offer no later than 15 business days after the date of the Merger Agreement, to acquire all of the outstanding shares of common stock of Bioverativ, at a purchase price of \$105.00 per share (the "Tender Offer"), which represented a premium of approximately 64% over Bioverativ's closing price the prior trading day.

15. On or about the morning of Monday, January 22, 2018, prior to the opening of the financial markets in Paris and New York, Sanofi and Bioverativ issued a joint press release announcing the signing of the Merger Agreement (the "Announcement").

16. On or about February 7, 2018, Sanofi commenced the Tender Offer. On or about March 8, 2018, Sanofi announced that the minimum tender conditions had been satisfied, Sanofi accepted for payment all BIVV shares that were validly tendered, and the merger was effected.

Individual-1 Learns MNPI Through His Employment at Sanofi

17. On or before January 7, 2018, Individual-1, in connection with his employment at Sanofi, learned that an acquisition of Bioverativ by Sanofi was being negotiated, that such an acquisition was likely to happen, and that such an acquisition would take place in the near future, which information was material non-public information ("MNPI") that Individual-1 had a duty to keep confidential.

Individual-2 Obtains MNPI from
Individual-1 and Relays it to MATHYS

18. On or about January 8, 2018, during a telephone conversation, Individual-1 disclosed to Individual-2 MNPI regarding Sanofi's planned acquisition of Bioverativ. Specifically, Individual-1 told Individual-2, in sum and substance, that Sanofi was acquiring a Boston-based biotech company involved in developing a hemophilia drug.

19. Between on or about January 8, 2018 and on or about January 12, 2018, Individual-2 disclosed to ROLAND MATHYS, the defendant, MNPI regarding Sanofi's planned acquisition and the fact that Individual-2 had learned the MNPI from Individual-1. Based on MATHYS's prior dealings with Individual-1, MATHYS knew that Individual-1 was an Executive Vice President at Sanofi.

MATHYS Trades in Bioverativ Call Options
While in Possession of MNPI About the Acquisition

20. From on or about January 12, 2018 through on or about January 19, 2018, ROLAND MATHYS, the defendant, through an account that he held at CS Ltd. (the "CS Ltd. Account"), purchased approximately 1,607 Bioverativ call option contracts, all with an expiration date of February 16, 2018, for a total purchase price of approximately \$170,071. These purchases were executed in the United States through one or more of the CSSU Accounts.

21. From on or about January 12, 2018 through on or about January 19, 2018, the purchases of Bioverativ call options by ROLAND MATHYS, the defendant, constituted a significant percentage of the trading in Bioverativ call options on each day, as shown in the table below.

22. Specifically, ROLAND MATHYS, the defendant, purchased the following Bioverativ call option contracts:

Date of purchase	Number of call option contracts purchased	Strike price	Average premium paid	Percentage of trading by MATHYS
1/12/18	342	\$65	\$2.44	75%
1/12/18	370	\$70	\$0.79	82%
1/12/18	100	\$75	\$0.59	96%
1/16/18	100	\$75	\$0.80	97%
1/17/18	20	\$65	\$2.29	32.2%
1/17/18	100	\$75	\$0.50	95%
1/18/18	300	\$75	\$0.59	100%
1/19/18	275	\$75	\$0.56	50%

The Acquisition is Announced, and Bioverativ's Share Price Increases by Approximately 62%

23. On or about January 22, 2018, following the Announcement, Bioverativ shares opened trading at \$104.21 per share, reached an intra-day high of \$104.30 per share, and closed at \$103.79 per share, an increase of approximately 62% over the closing price on the prior trading day. Since Bioverativ shares had begun trading on NASDAQ in January 2017, they had never closed at or above \$64.12.

**MATHYS's Insider Trading Generates
an Illicit Profit of Over \$4.7 Million**

24. On or about January 22, 2018, ROLAND MATHYS, the defendant, sold all the Bioverativ call option contracts that had a strike price of \$65 or \$70, for a net profit of approximately \$2,518,622.70. MATHYS's trades were executed through one or more CSSU Accounts, and the proceeds were then transferred to the CS Ltd. Account.

25. On or about January 23 and 26, 2018, ROLAND MATHYS, the defendant, sold 325 Bioverativ call option contracts with a strike price of \$75, for a net profit of approximately \$711,000.81. Those proceeds remain in the CSSU Accounts.

26. On or about January 26, 2018, at the request of his relationship manager at CS Ltd. (the "CS Relationship Manager"), ROLAND MATHYS, the defendant, executed a declaration in which he represented that (translated from German):

[His transactions in Bioverativ call options] were only based on publicly available information and/or personal market analysis, and no insider information was used in the sense of Art. 2 let. F of the Federal Law for Markets and Securities Trading. I additionally state that at no time was I in possession of insider information (i.e. confidential information whose knowledge could significantly influence the price of securities traded on markets) in connection with the aforementioned companies and/or with related companies.

27. Also on or about January 26, 2018, ROLAND MATHYS, the defendant, stated to the CS Relationship Manager, in sum and

substance and among other things, that MATHYS was extremely surprised by the developments relating to Bioverativ, that he had nothing to do with Bioverativ or Sanofi, and that he did not have any information relating to Bioverativ's acquisition when he purchased Bioverativ options.

28. On or about February 8, 2018, the Securities and Exchange Commission (the "SEC") obtained a preliminary injunction freezing the approximately \$2,518,622.70 in proceeds held in the CS Ltd. Account and the approximately \$711,000.81 in proceeds held in the CSSU Accounts (the "Preliminary Injunction"). On or about February 14, 2018, the District Court issued an order permitting the SEC to direct the liquidation of the remaining 550 Bioverativ call option contracts, and, on or about February 16, 2018, the liquidation of the remaining 550 Bioverativ call option contracts resulted in net profits of approximately \$1,568,732.47, which were frozen in the CSSU Accounts pursuant to the Preliminary Injunction.

29. Between on or about February 8, 2018 and February 10, 2018, ROLAND MATHYS, the defendant, acknowledged to Individual-2, in sum and substance, that MATHYS had traded in Bioverativ based on the MNPI that MATHYS had obtained from Individual-2.

Statutory Allegation

30. From on or about January 12, 2018 through on or about January 19, 2018, in the Southern District of New York and elsewhere, ROLAND MATHYS, the defendant, willfully and knowingly engaged in fraudulent, deceptive, and manipulative acts and practices in connection with a tender offer, in that after the offering person had taken substantial steps to commence a tender offer, MATHYS, while in possession of material information relating to such tender offer, which information MATHYS knew and had reason to know was non-public and which he knew and had reason to know had been acquired directly and indirectly from the offering person, the issuer of the securities sought and to be sought by such tender offer, and an officer, director, partner, and employee and other person acting on behalf of the offering person and such issuer, purchased and sold and caused to be purchased and sold such securities, and securities convertible into and exchangeable for any such securities, and options and rights to obtain and to dispose of any of the foregoing securities, without public disclosure by press release and otherwise of such information and its source having been made within a reasonable time prior to any purchase and sale, to wit, MATHYS executed and caused to be executed purchases of Bioverativ call options, based on material, non-public

information about Bioverativ, which was to be the subject of a tender offer.

(Title 15, United States Code, Sections 78n(e) & 78ff; Title 17, Code of Federal Regulations, Sections 240.14e-3(a) and 240.14e-3(d); and Title 18, United States Code, Section 2.)

FORFEITURE ALLEGATION

31. As the result of committing the offense charged in Count One of this Indictment, ROLAND MATHYS, 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 offense and all property traceable to such property, including but not limited to:

a. A sum of money of at least \$4,798,355.98 in United States currency.

Substitute Asset Provision

32. 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 person;

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(a)(1)(C); Title 21, United States Code, Section 853(p); and Title 28, United States Code, Section 2461.)



FOREPERSON


GEOFFREY S. BERMAN
United States Attorney

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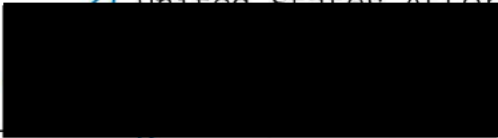
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(15 U.S.C. §§ 78n(e) & 78ff;
17 C.F.R. §§ 240.14e-3(a) and
240.14e-3(d); and 18 U.S.C. § 2.)

GEOFFREY S. BERMAN

United States Attorney


Foreperson
