Approved: _____
BRENDAN F. QUIGLEY
Assistant United States Attorney

Before: HONORABLE ANDREW J. PECK
United States Magistrate Judge
Southern District of New York

17 MAG .5156

UNITED STATES OF AMERICA	:	**SEALED COMPLAINT**
	:	Violations of
- v. -	:	15 U.S.C. §§ 78j(b) & 78ff;
	:	17 C.F.R. §§ 240.10b-5 &
FEI YAN,	:	240.10b5-2; 18 U.S.C. §§ 2,
	:	1343, and 1348
Defendant.	:	
	:	COUNTY OF OFFENSE:
	x	New York

SOUTHERN DISTRICT OF NEW YORK, ss.:

NICHOLAS J. SWANSON, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI") and charges as follows:

COUNT ONE
(Securities Fraud)

1. From at least in or about November 2016 through at least in or about December 2016, in the Southern District of New York and elsewhere, FEI YAN, 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, and caused others to use and employ, 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, and causing others to employ, devices, schemes, and artifices to defraud; (b) making, and causing others to make, untrue statements of material fact and omitting to state, and causing others to omit 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, and causing others to engage, 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 material, non-public information obtained in breach of a duty, YAN executed and caused to be executed trades in the securities of Stillwater Mining Company.

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

COUNT TWO
(Wire Fraud)

2. From at least in or about November 2016 through at least in or about December 2016, in the Southern District of New York and elsewhere, FEI YAN, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures and sounds for the purpose of executing such scheme and artifice, to wit, YAN used the internet to engage in trades of the stock of Stillwater Mining Company, based in part on misappropriated material, non-public information.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT THREE
(Securities Fraud)

3. From at least in or about November 2016 through at least in or about December 2016, in the Southern District of New York and elsewhere, FEI YAN, the defendant, knowingly and intentionally executed a scheme and artifice to (a) defraud persons in connection with securities of an issuer with a class of securities registered under Section 12 of the Securities Exchange Act of 1934 and that was required to file reports under section 15(d) of the Securities Exchange Act of 1934 and (b) obtain, by means of false and fraudulent pretenses, representations, and promises, money and property in connection with the purchase and sale of securities of an issuer with a class of securities registered under Section 12 of the Securities Exchange Act of 1934 and that was required to file reports under Section 15(d) of the Securities Exchange Act of 1934, to wit, YAN used material, non-public information obtained in a breach of duty to trade in the securities of Stillwater

Mining Company.

(Title 18, United States Code, Sections 1348 and 2.)

The bases for my knowledge and for the foregoing charges are, in part, as follows:

4. I have been a Special Agent with the FBI for approximately two years. I am currently assigned to a squad responsible for investigating violations of the federal securities laws and related offenses. I have participated in investigations of such offenses, and have made and participated in arrests of individuals who have committed such offenses.

5. The information contained in this Complaint is based upon my personal knowledge, as well as information obtained during this investigation, directly or indirectly, from other sources, including, but not limited to records and other documents I have reviewed in the course of this investigation. Because this Complaint is being submitted for the limited purpose of establishing probable cause, it does not include all of the facts that I have learned during the course of my investigation. Where the contents of documents and the actions and statements of others are reported herein, they are reported in substance and in part. Where figures, calculations, and dates are set forth herein, they are approximate, unless stated otherwise.

Relevant Persons and Entities

6. At all times relevant to this Complaint:

a. FEI YAN, the defendant, was a post-doctoral associate at a major research university, located in Cambridge, Massachusetts (the "Research University").

b. The Law Firm was an international law firm, with offices in Manhattan. In connection with its business, the Law Firm was in possession of material, nonpublic information regarding its clients, including materials relating to pending mergers and acquisitions. In addition, the Law Firm required its employees to abide by a Confidentiality Policy, which, among other things, prohibited disclosure of "any information of a confidential nature relating to a client or [the Law Firm], which you acquire in the course of your work." The Confidentiality Policy defines "confidential information" as "includ[ing] almost all information received from and about . . . clients . . . [and] other parties involved in transactions

with clients."

c. Spouse-1 was an associate at the Law Firm and the spouse of FEI YAN, the defendant. As an associate at the Law Firm, Spouse-1 was bound by the Confidentiality Policy and had access to material, non-public information concerning, among other things, potential mergers and acquisitions in which the Law Firm had been retained. In addition, at all relevant times, FEI YAN, the defendant, and Spouse-1 had a history, pattern, or practice of sharing confidences, and YAN owed fiduciary and other duties of trust and confidence to Spouse-1. While YAN resided in or around Cambridge, Massachusetts, Spouse-1 resided in or around New York, New York and worked in the Manhattan offices of the Law Firm. Spouse-1 and YAN have been married since at least the summer of 2016.

d. Stillwater Mining Company ("Stillwater Mining") was a Colorado-based mining company, whose shares were traded on the New York Stock Exchange (the "NYSE"), under the symbol SWC.

Summary of the Insider-Trading Scheme

7. As set forth in more detail below, there is probable cause to believe that FEI YAN, the defendant, used material, non-public information that had been misappropriated to make profitable securities trades in the stock of Stillwater Mining. Specifically, YAN obtained from Spouse-1 information regarding the acquisition of Stillwater Mining by another mining company (the "Mining Company"), a client of the Law Firm. YAN used that information to purchase Stillwater Mining options, which he then sold at a significant profit after the public announcement of the Mining Company's acquisition of Stillwater Mining.

The Defendant Establishes a Brokerage Account in his Mother's Name

8. Based on documents and records obtained from a retail brokerage firm (the "Brokerage Firm"), I have learned the following, in substance and relevant part:

a. On or about June 4, 2016, an account ("the Brokerage Account") was opened at the Brokerage Firm in the name of an individual in China, who, as set forth below, was later identified as the mother of FEI YAN, the defendant (the "Mother"). In addition, I believe, based on the below, that YAN actually opened the Brokerage Account and traded in it, including in the stock of Stillwater Mining.

b. The Brokerage Account application lists an email address as the e-mail address for the owner of the Brokerage Account. Based on my review of records received from the Internet Service Provider (the "ISP") for that email account (the "Email Account"), including a review of emails sent to the account, which showed numerous emails addressed to YAN, I believe the email account is used by FEI YAN, the defendant.

c. On or about September 12, 2016, someone purporting to be the owner of the Brokerage Account (i.e., the Mother) filed an application to engage in options trading via the Brokerage Account.

d. On or about October 22, 2016, a male caller called the Brokerage Firm regarding the Brokerage Account using a phone number with a (617) area code, ending in 6982 (the "6982 Phone"). This call was in Chinese and was recorded. Based on a preliminary, draft translation obtained from the Brokerage Firm, I understand that the caller asked about transferring money out of the Brokerage Account into his bank account. A Brokerage Firm representative told the caller that the Brokerage Account actually belonged to a woman. The male caller stated "she is my mother." The Brokerage Firm representative suggested that the caller's mother, i.e., the Mother, "fill out an authorization letter," allowing the caller to execute trades in the account.

e. On or about October 25, 2016, a male caller again called the Brokerage Firm using the 6982 Phone. This call was in Chinese and was also recorded. Based on a preliminary, draft translation obtained from the Brokerage Firm, I understand that, in substance and relevant part, the caller asked the Brokerage Firm to mail an authorization form to the Email Account, so that he could operate the Brokerage Account. Further, when asked for his last name, the male caller stated "YAN."[1]

9. Based on my review of records from the service provider for the 6982 Phone, I have learned that, although the subscriber for the 6982 Phone is listed as a female in Maryland, billing information for the phone from 2015 reflects that the 6982 Phone is associated with YAN. Toll records for the phone also reflect numerous calls between YAN and a phone number

[1] Based on my involvement in this investigation, I do not believe YAN ever actually completed an authorization form to trade in the Brokerage Account. Nonetheless, as set forth below, I believe YAN was the person who used the Brokerage Account to execute the trades in Stillwater Mining Company.

ending in 1728, which is subscribed to Spouse-1 (the "1728 Phone").

10. Additionally, the area code for the 6982 Phone — 617 — is an area code affiliated with the Cambridge, Massachusetts area, the location of the Research University where YAN is a post-doctoral associate.

11. As such, I believe YAN was the person who placed the calls on October 22 and 25, 2016.

YAN Uses the Brokerage Account to Trade in the Stock of Stillwater Mining, Based on Misappropriated Material, Non-Public Information

12. Based on documents and records obtained from the Law Firm, the Brokerage Firm, telephone service providers, and the Internet Service Provider, among other sources, I have learned the following:

a. In or about the spring and early summer of 2016, the Mining Company began discussions with Stillwater Mining about a transaction in which the Mining Company would acquire Stillwater Mining.

b. In July 2016, the Mining Company retained the Law Firm to represent it during these negotiations. Also in July 2016, the Mining Company submitted a preliminary, non-binding expression of interest to acquire Stillwater Mining at a price of $15.75 per share in cash.

c. On or about August 25, 2016, Spouse-1, through Spouse-1's employment at the Law Firm, learned about the negotiations between the Mining Company and Stillwater Mining. As set forth in more detail below, Spouse-1 continued to work on the transaction between the Mining Company and Stillwater Mining through December 2016, when FEI YAN, the defendant, made multiple profitable trades in the stock of Stillwater Mining.

d. Between November 1 and November 7, 2016, Spouse-1 billed approximately 31.9 hours in connection with Spouse-1's work at the Law Firm on matters related to the potential acquisition of Stillwater Mining by the Mining Company. During this same period, there were approximately 14 calls between the 6982 Phone, used by YAN, and the 1728 Phone, used by Spouse-1.

e. Based on records obtained from the ISP, I have learned that, or about November 7, 2016, YAN conducted an

internet search for "yahoo swc." "SWC" is the symbol assigned to Stillwater Mining by the New York Stock Exchange. Based on my own review of searches conducted in a commercial database, I am not aware of any public reporting regarding the Mining Company's potential acquisition of Stillwater Mining until the transaction was publicly announced on December 9, 2016.

f. Between on or about November 8, 2016 and on or about November 13, 2016, Spouse-1 billed approximately 26.7 hours in connection with Spouse-1's work at the Law Firm on matters related to the potential acquisition of Stillwater Mining by the Mining Company. During this same period, there were approximately 19 calls and one text message sent between the 6982 Phone, used by YAN, and the 1728 Phone, used by Spouse-1. Based on records provided by the ISP, I have learned that, on or about November 13, 2016, YAN conducted an internet search for "stillwater merger."

g. On or about November 14, 2016, the Law Firm, on behalf of the Mining Company, sent a draft merger agreement, to counsel for Stillwater Mining.

h. On or about November 22, 2016, Stillwater Mining informed the Mining Company that the Mining Company would need to substantially increase its offer price from the $15.75 per share price it had indicated in July 2016. Later on November 22, representatives of the Mining Company contacted Stillwater Mining and confirmed that the Mining Company understood that it would need to increase its offer price.

i. That same day, November 22, 2016, in connection with Spouse-1's work at the Law Firm, Spouse-1 participated in an "internal update call" regarding the Mining Company's potential acquisition of Stillwater Mining. Based on my review of materials provided by the Law Firm, I believe this call occurred on the morning of November 22nd, Eastern time.

j. On the afternoon of November 22, 2016, between approximately 3:45 and 3:59 p.m. Eastern time, the Brokerage Account purchased 21 December 16, 2016 $15 Stillwater Mining call options and 50 December 16, 2016 $16 call options. Based on my training and experience, I understand that the purchase of a call option indicates that the purchaser believes the price of the stock in question will increase.

k. The following day, November 23, 2016, there were two calls between the 1728 Phone and the 6982 Phone, between approximately 4:19 and 4:29 a.m. Eastern time. Thereafter,

between approximately 11:45 a.m. and 12:13 p.m., Eastern time, the Brokerage Account bought 200 December 16, 2016 $15 Stillwater Mining call options.

l. Records obtained from the Brokerage Firm indicate that the trades that took place on November 22 and 23 were placed from IP addresses in Europe. Based on my review of travel records, I know that YAN left the United States for Germany on or about November 12, 2016 and was still overseas as of November 22 and 23. In addition, based on my review of travel records and phone records, I believe Spouse-1 left the United States on the evening of November 22, 2016.

m. YAN and Spouse-1 both returned to the United States on or about November 28, 2016, with YAN arriving in Boston on a flight from Zurich, Switzerland and Spouse-1 arriving in New York on a flight from Paris, France. The next day, Spouse-1 resumed working on the potential merger between Stillwater Mining and the Mining Company. On the night of November 30, 2016, there was an approximately 78-minute phone call between the 6982 Phone used by YAN and the 1728 Phone used by Spouse-1

n. The next day, December 1, 2016, the Mining Company informed Stillwater Mining that the Mining Company was willing to increase its offer to between $17.50 and $17.75 per share in cash. Also, at approximately 3:49 p.m. Eastern time, the Brokerage Account purchased 100 December 16, 2016 $16 Stillwater Mining call options. IP address information for these trades indicates that they were made from the Research University.

o. On December 2, 2016, Stillwater Mining notified the Mining Company that it had rejected the Mining Company's proposed $17.50-$17.75 per share price. That same day, between approximately 10:33 and 10:41 a.m. Eastern time, YAN conducted multiple Internet searches and research related to mergers and acquisitions, including searches for "process of acquisition" and "company acquisition process." Several minutes later, at 10:49 a.m., the 6982 Phone used by YAN called the 1728 Phone used by Spouse-1. That call lasted approximately seven minutes.

p. On December 3, 2016, the Mining Company indicated its willingness to increase its proposed price to $18.00 per share in cash, and the Mining Company, Stillwater Mining, and their respective advisors, including the Law Firm, continued negotiations. Over the next several days, Spouse-1 continued to work on the transaction, billing two hours on December 5, 2016

and 12 hours on December 6, 2016.

q. On the night of December 5 and continuing into the early morning of December 6, there were multiple calls between the 1728 Phone used by Spouse-1 and the 6982 Phone used by YAN, including calls lasting approximately 27 minutes, 14 minutes, and eight minutes. Then, also on the morning of December 6 and subsequent to those calls, the Brokerage Account purchased 164 December 16, 2016 $15 Stillwater Mining call options, and 177 December 16, 2016 $16 Stillwater Mining call options.[2] IP address information for these trades indicates they were made from the Research University. Later on the evening of December 6, YAN conducted internet research related to insider trading. YAN searched for "how sec detect unusual trade" and accessed at least three articles on financial websites related to insider trading. YAN also searched for the name of an individual who was charged in this District in May 2016 with insider trading.

r. On December 7 and 8, 2016, Spouse-1 billed approximately 30.5 hours, working at the Law Firm on tasks related to the Mining Company's acquisition of Stillwater Mining, including reviewing portions of the merger agreement and conducting "signing logistics."

s. On December 7, 2016, at approximately 10:35 p.m. Eastern time, the 6982 Phone used by YAN received a call from the Law Firm's New York office, where Spouse-1 worked. This call lasted approximately 31 minutes, and thus ended at approximately 11:06 p.m. Eastern time. At approximately 11:11 p.m. Eastern time, YAN conducted an Internet search for "insider trading with international account" and, shortly thereafter, viewed articles entitled "U.S. Insider Trading Enforcement Goes Global" and "Want to Commit Insider Trading? Here's How Not to Do It."

t. The following day, December 8, 2016, the Brokerage Account, bought 54 $15 Stillwater mining call options with an expiration date of January 20, 2017.

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[2] On or about December 5, 2016, the Brokerage Account also sold 71 Stillwater Mining December 16, 2016 $15 call options.

u. Early on the morning of December 9, 2016, the parties executed the Merger Agreement and publicly announced that the Mining Company would acquire Stillwater Mining for $18 per share. Beginning at approximately 9:33 a.m. Eastern time, minutes after the open of regular market trading, the Brokerage Account sold all of the call options listed above, resulting in a profit of approximately $109,420. Also that day, YAN conducted Internet searches for "insider trading cases," and "insider trading options."

WHEREFORE, I respectfully request that an arrest warrant be issued for FEI YAN, the defendant, and that he be arrested and imprisoned or bailed, as the case may be.

NICHOLAS J. SWANSON
Special Agent
Federal Bureau of Investigation

Sworn to before me this
11th day of July, 2017

UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK