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In This Issue:

From the Editors 1
Insider Trading Enforcement and Litigation 2
Pharmaceutical Pharmaceutical VP Charged with Insider Trading After Dumping SharesVP Charged with Insider Trading After Dumping Shares 2
Investment Firm Lead Pleads Guilty to Insider Trading 2
SEC Secures Final Judgement in Insider Trading Case Involving Breach of Duty 3
SEC Secures Final Judgment Against Former Lumentum Executive for Insider Trading 3
SEC Files Settled Insider Trading Charges Against Technical Consultant 4
Former Trader Sentenced to Six Years in Jail for Front-Running Scheme 4
Filing Agent Employees Face Insider Charges 5
Disclosure Enforcement and Litigation 5
Ninth Circuit Opinion Opens the Door to New Judicial Scrutiny of Comment Letter Process 5
Former Biopharmaceutical Company Executives Charged for Disclosure Failures 6
Elon Musk Charged for Violating Beneficial Ownership Reporting Requirements 7
SEC Charges Crypto Startup Unicoin and Its Three Top Executives for Fraudulent Securities Offering 8
SEC Charges Founder and Former CEO of Artificial Intelligence Startup with Misleading Investors 8
Accounting Enforcement and Litigation 9
Former SPAC Executives Plead Guilty to Accounting Fraud 9
Beverage Company Settles with SEC After Improperly Accounting for Stock-Based Compensation 10
Three Defendants Receive Final Judgement in "Cookie Jar" Revenue Manipulation Scheme 10
Notes 12

From the Editors

Welcome to the latest issue of the Insider Trading & Disclosure Update, Debevoise's periodical focusing on the intersection of legal, compliance, and enforcement developments in the areas of insider trading, managing material nonpublic information, and disclosure liability.

Since the publication of our last volume, the arrival of a new federal administration has brought a recalibration of regulatory priorities, signaling a shift in direction for both the U.S. Securities and Exchange Commission and the Department of Justice. These changes are already beginning to shape enforcement strategies and policy initiatives.

SEC Chair Atkins has articulated a vision for the SEC that includes easing regulatory burdens on issuers, promoting a clear framework for digital assets, and reassessing the roles of oversight entities such as the PCAOB and FINRA. We also expect a renewed enforcement focus on classic frauds and the protection of retail investors rather than "novel" enforcement theories, and we have already seen notable enforcement shifts. For instance, the SEC has recalibrated its crypto-related enforcement posture by retreating from several high-profile (and what some viewed as overly aggressive or novel theories) crypto enforcement actions associated with the Gensler era, while continuing to bring conventional fraud enforcement actions in digital asset enforcement matters (as was the case in the recent *Unicoin* enforcement matter).

Another area clearly evidencing a shift in philosophy at the Agency is the Consolidated Audit Trail, which was established by the SEC in 2010 to enable regulators to track all order and trading activity throughout the U.S. markets for listed equities and options. The SEC recently announced that certain categories of customer-identifying information will no longer be collected, raising questions about the program's future. SEC Chairman Paul Atkins has expressed concern over the "ballooned" costs associated with the CAT and has suggested that the CAT will be subject to review.

We hope that you find this issue useful and informative, and we look forward to bringing you further news and analysis in the future.

The Editorial Board

Insider Trading Enforcement and Litigation

Pharmaceutical VP Charged with Insider Trading After Dumping Shares

On March 7, 2025, the U.S. Securities and Exchange Commission (the "SEC") charged George Demos, former Vice President of Drug Safety and Pharmacovigilance at Acadia Pharmaceuticals Inc. ("Acadia") with securities fraud.[1] The SEC alleged that Demos traded Acadia securities based on material nonpublic information ("MNPI") he had learned that made him increasingly confident of an adverse U.S. Food and Drug Administration ("FDA") decision.[2]

According to the SEC's complaint, in June 2020 Acadia submitted a supplemental application to the FDA seeking approval to expand the use of Nuplazid, Acadia's prescription drug for the treatment of hallucinations and delusions caused by Parkinson's disease, to similar symptoms caused by dementia.[3] Given that the population suffering from dementia-related psychosis is much larger than the population suffering from Parkinson's-related psychosis, FDA approval to market Nuplazid for dementia-related psychosis would have greatly expanded the drug's potential market.[4] Demos was one of eight people responsible for planning and developing responses to the FDA's decision on the supplemental application.[5]

On March 3, 2021, the FDA notified Acadia that the supplemental application would not be successful.[6] The FDA's response was not shared with Demos; however, according to the SEC, the passing of key deadlines and the postponement or cancellation of meetings relating to the supplemental application meant that Demos knew, or ought to have known, of the FDA's adverse decision.[7]

On March 8, 2021, Demos exercised nearly all of his vested Acadia stock options and sold his shares in the company.[8] After market close on the same day, Acadia announced the FDA's adverse decision, and the following day, Acadia's share price closed down 45%.[9] The SEC alleged that, as a result, Demos avoided losses of approximately $1.3 million.[10]

The SEC charged Demos with violating Section 17(a) of the Securities Act of 1933, as amended (the "Securities Act") and Section 10(b) of the Exchange Act of 1934, as amended (the "Exchange Act") and Rule 10b-5 thereunder.[11] Demos reached a settlement with the SEC pursuant to which he was barred from serving as an officer or director of a public company for five years, and will pay a civil penalty, prejudgment interest, and disgorgement as determined by the court.[12] Demos also reached a plea agreement with the U.S. Attorney's Office for the Southern District of California.[13]

Investment Firm Lead Pleads Guilty to Insider Trading

On June 6, 2025, Ryan Squillante, the former head of equity trading at Irving Investors LLC ("Irving Investors"), pled guilty to insider trading in the U.S. District Court for the District of Connecticut.[14]

As a result of his position at Irving Investors, Squillante received MNPI about various publicly traded companies. According to the complaint, on 15 different occasions between August 2022 and May 2023, Squillante used MNPI in his possession to execute transactions in the securities of various companies, generating illicit profits of $220,912.[15]

Squillante's trades included shorting Praxis Precision Medicines Inc. ("Praxis") stock immediately before the company announced negative results from a drug

trial.[16] Based on the information in his possession, Squillante shorted 38,086 shares of Praxis stock at an average price of $3.04 per share between February 27 and March 2, 2023.[17] On March 3, 2023, when Praxis announced poor results from its drug trial, Squillante promptly covered his short position at an average price of $1.82 per share, realizing a profit of $46,421 on this single transaction.[18]

Squillante faces a potential maximum term of imprisonment of 20 years. Sentencing is scheduled for August 29, 2025.

SEC Secures Final Judgment in Insider Trading Case Involving Breach of Duty

On January 27, 2025, the SEC obtained a final judgment against Frank T. Poerio, Jr., whom the SEC had previously charged with insider trading.[19]

The SEC's complaint, filed in May 2024, alleged that between November 2019 and May 2021, Poerio traded in the securities of Dick's Sporting Goods, Inc., based on MNPI that he misappropriated from a Dick's Sporting Goods employee in breach of his duty of trust and confidence to that employee.[20] According to the complaint, Poerio was a long-standing associate of the employee, whose internal operations role at Dick's Sporting Goods afforded him to access multiple internal sources of MNPI relating to the company's financial results, including up-to-date sales metrics for each store and audited sales statistics.[21]

According to the SEC, Poerio would frequently ask his employee contact for updates on the company's financial performance.[22] On certain occasions, the employee responded by telling Poerio that he could not disclose MNPI.[23] On other occasions, however, the employee told Poerio that the company was "doing very well" but asked him not to trade on the basis of that information.[24]

The SEC alleged that Poerio actively traded in the securities of Dick's Sporting Goods based on MNPI provided by his associate and that Poerio understood that the information he was receiving was based on the employee's access to nonpublic financial information.[25]

The SEC charged Poerio with violating Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. Poerio consented to entry of a final judgment that ordered him to pay disgorgement of $823,367 and prejudgment interest in the amount of $32,967.50. The final judgment provides that the $823,367 disgorgement payment was satisfied by the criminal restitution ordered against Poerio in the parallel criminal action filed against him by the Department of Justice ("DOJ").[26]

The SEC relied on the misappropriation theory of insider trading—trading based on information obtained in violation of a duty of trust. The case serves as a reminder of the potential liability for friends, family members, or other close associates of corporate insiders. It also illustrates that even indirect or seemingly vague tips, such as "the company is doing very well," can give rise to insider trading liability if the information is material and nonpublic, and the trader knows (or is reckless in not knowing) that he or she owes a duty to the source of the information and trading in the securities would violate that duty.

SEC Secures Final Judgment Against Former Lumentum Executive for Insider Trading

In January 2025, the U.S. District Court for the Southern District of New York entered a final judgment against former Lumentum Holdings Inc. ("Lumentum") employee, Andre Wong, resolving civil charges brought by the SEC in June 2024.[27]

According to the SEC's complaint, Wong learned of the acquisition of NeoPhotonics Corporation by Lumentum through a close personal friend and colleague who was directly involved in due diligence for the transaction.[28] Despite knowing that trading on the basis of MNPI was prohibited by Lumentum's policies and federal securities law, Wong purchased 10,000 shares of NeoPhotonics stock on October 28, 2021, one week before the acquisition was publicly announced.[29] Following Lumentum's announcement of its acquisition of NeoPhotonics on November 4, 2021, NeoPhotonics's stock price rose by approximately 39%, netting Wong a $62,500 profit.[30]

The SEC brought multiple insider trading cases in connection with the NeoPhotonics acquisition, two of which (including the case against Wong) originated from the SEC Enforcement Division's Market Abuse Unit Analysis and Detection Center, which uses data analysis tools to detect suspicious trading patterns.[31] In Wong's case, the SEC was able to identify potential wrongdoing by virtue of the fact that he had never traded in NeoPhotonics stock, and notwithstanding the fact that his illicit trades generated only $62,574 in profits.[32] So, while the fate of the CAT is uncertain, these cases illustrate the fact that the SEC has a range of sophisticated tools at its disposal that facilitate the Agency's identification of anomalous trading patterns and potential misconduct.

SEC Files Settled Insider Trading Charges Against Technical Consultant

On January 21, 2025, the SEC filed settled charges against Gabriel Rebeiz, a San Diego-based professor and former member of Resonant Inc.'s Technical Advisory Committee, for insider trading in advance of an announcement that a subsidiary of Murata Manufacturing Ltd. ("Murata") would acquire Resonant.[33]

According to the SEC's complaint, through his position on the committee, Rebeiz had access to proprietary information about Resonant and, impressed with the company's technology, repeatedly encouraged company executives to consider selling the company.[34]

In January 2022, Rebeiz reiterated his view that Resonant should sell to a competitor while on a phone call with a senior Resonant executive.[35] In response, the Resonant executive indicated to Rebeiz that "something is going to happen."[36] Following that conversation, Rebeiz purchased 120,000 shares of Resonant stock.[37] On February 14, 2022, when Resonant publicly announced its acquisition by Murata, the stock price surged 257%, resulting in $360,673 in illicit profits.[38]

In establishing scienter, the SEC pointed to, among other things, the offer letter that Rebeiz signed agreeing that he would not exploit the company's nonpublic information for his own benefit and noted that by virtue of signing the letter, Rebeiz understood that he was considered an insider who was not allowed to trade on inside information.[39]

The SEC charged Rebeiz with violating Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.[40] Without admitting or denying the allegations, Rebeiz consented to entry of a final judgment ordering him to pay a civil penalty and to disgorge his illicit profits, plus prejudgment interest.[41]

Day Trader Sentenced to Prison for Front-Running Scheme

In April 2025, Alan Williams, an active day-trader, was sentenced to one year in prison for conspiring with former equity trader Lawrence Billimek to perpetrate a multi-year front-running and insider trading scheme that generated at least $47 million in illegal trading profits.[42] In 2024, Billimek was sentenced to 70 months in prison after pleading guilty

to one count of securities fraud. This case was one of the first criminal prosecutions leveraging CAT data, marking a significant development in regulatory enforcement capabilities.

The SEC and the U.S. Attorney's Office for the Southern District of New York charged Billimek and his co-defendant, Andy Williams, in parallel in 2022, alleging that since at least September 2016, Billimek informed Williams of his firm's market-moving trades prior to their execution.[43] According to the complaint, Williams would then execute trades in the same securities—either before or while large orders were being placed.[44] Williams would then close his positions after the price of the security moved as predicted.[45] This alleged front-running scheme resulted in illicit proceeds exceeding $47 million.[46]

Filing Agent Employees Face Insider Charges

On June 27, 2025, the DOJ charged Justin Chen and Jun Zhen with insider trading in connection with MNPI they obtained through their work as Assistant Managers at EdgarAgents.com, a company that assists issuers with preparing and filing documents on the SEC's Electronic Data Gathering, Analysis and Retrieval system ("EDGAR").[47]

Clients of EdgarAgents.com send proposed filings to an email inbox maintained by EdgarAgents.com, and the proposed filings are then reviewed by assistant managers such as Chen and Zhen.[48] The draft filings often include MNPI, and EdgarAgents.com's policies prohibit employees from using MNPI received in proposed filings to trade in securities.[49]

Between March 11, 2025 and May 28, 2025, EdgarAgents.com filed Form 8-Ks on behalf of four companies, each containing a positive announcement regarding the company.[50] The day before each company made its filing, Chen and Zhen individually purchased thousands of shares in the company's stock.[51] Shortly after EdgarAgents.com filed the companies' Form 8-Ks, Chen and Zhen sold their positions, in some instances less than thirty minutes after the filings were made public.[52] In total, Chen's profits were approximately $577,000 and Zhen's were approximately $506,000.[53]

One month later, on June 28, 2025, Chen and Zhen were scheduled to fly from New York City to Hong Kong together but were arrested by federal agents at John F. Kennedy International Airport before boarding the flight, likely due to concerns that they may have been attempting to flee the country.[54]

The DOJ has charged Chen and Zhen with securities fraud under 18 USC § 1348 based on their trading in the stock of the four companies. Assistant US attorney Nicholas Axelrod stated that the investigation is ongoing and officials are currently investigating whether the defendants improperly traded in multiple other companies.[55]

Disclosure Enforcement and Litigation

Ninth Circuit Opinion Opens the Door to New Judicial Scrutiny of Comment Letter Process

The U.S. Court of Appeals for the Ninth Circuit reversed a district court's decision to grant defendant's motion to dismiss in a securities class action involving claims under Section 12(a)(2) and Section 15 of the Securities Act.

The class action was filed by Luis Pino, an unaccredited investor in funds managed by Cardone Capital, LLC, a real estate syndicator founded by entrepreneur Grant Cardone.[56] Pino alleged that Cardone and Cardone Capital made misleading statements and omissions regarding certain financial

projections—including the funds' future performance and internal rate of return—in Instagram posts, YouTube videos, and in its initial offering circular filed with the SEC.[57]

The projections were subsequently removed from the offering circular in response to an SEC comment letter stating the projections lacked support and should be removed.[58] However, Cardone continued to repeat the projections in other communications to prospective investors on social media.[59] The court noted that Cardone had removed the projections without further comment to the SEC, whereas Cardone had resisted other SEC comments.[60]

Pino argued in part that Cardone made material misstatements in his social media communications to investors, citing the removal of the financial projections from the offering circular as evidence.[61] For such claim to survive a motion to dismiss, Pino had to plausibly allege that Cardone did not hold the stated belief, that is, he did not subjectively believe the projections.[62] In its review of the facts, the Ninth Circuit called Cardone's removal of the projections without rebuttal or comment "telling" of his subjective disbelief of the projections.[63] The court further noted Cardone's lack of response to the SEC's comments on the projections could plausibly mean he lacked sufficient proof to back his claims.[64]

In addition, Pino argued that Cardone made misleading omissions by failing to disclose the SEC comment letter to investors.[65] Cardone argued in response that there was no omission to begin with, because the SEC Comment Letter was publicly available on EDGAR; however the court disagreed, noting that constructive knowledge does not bar recovery for Section 12 claims.[66]

The court's opinion has several practical implications for companies. First, companies should be aware that their response, or lack thereof, to SEC comments may be scrutinized in hindsight in connection with disclosure-related litigation. Second, the availability of SEC comment letters on EDGAR or otherwise in the public domain will not serve as a defense against a Section 12 claim. Third, companies should ensure that statements made in connection with an offering are consistent across the company's full suite of offering materials.

Former Biopharmaceutical Company and Company Executives Charged with Disclosure Failures

In March 2025, the SEC announced settled charges against three former executives of the biopharmaceutical company Allarity Therapeutics, Inc. ("Allarity") for failing to disclose a "harsh critique levied by the FDA" about the likelihood that dovitinib, Allarity's flagship cancer drug candidate, would be approved by the FDA.[67]

In February 2020, the FDA informed three of Allarity's executives—Stefano Carchedi (CEO), Marie Foegh Ramwell (Chief Medical Officer), and James Cullem (Chief Business Officer)—that Allarity should not submit its proposed New Drug Application ("NDA") seeking approval to market dovitinib because Allarity's data was insufficient and instead recommended that Allarity conduct a new Phase III clinical trial, which Allarity had no intention of doing.[68] Despite that information, Allarity issued a press release in March 2020 that did not disclose the fact that the FDA had advised against the submission and, according to the SEC, made false and misleading claims about dovitinib's efficacy and likelihood of approval in its efforts to raise money from investors to stay afloat.[69]

Further, according to the complaint, the executives misrepresented to the board the nature of the FDA's correspondence. During a board meeting on March 30, 2020, Carchedi characterized the FDA meeting as "positive," withholding the FDA's recommendation to conduct a new trial.[70] The SEC alleged that at no

point ahead of filing the dovitinib NDA in December 2021 did management ever alert the Board to the FDA's criticisms "despite dovitinib's undeniable importance to Allarity's business prospects."[71]

Without conducting a new clinical trial, on December 21, 2021, Allarity submitted its NDA to the FDA and simultaneously announced that it had secured $20 million in funding from a single investor and that its stock had begun trading on NASDAQ.[72] On February 18, 2022, Allarity revealed for the first time a problem with its drug application, announcing that the FDA had refused to even review the application—a drastic measure by FDA standards.[73] The next trading day, Allarity's share price closed down approximately 31%.[74]

The SEC's complaint charged Carchedi with violating Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5. Foegh and Cullem were charged with violations of Sections 17(a)(1) and (3) of the Securities Act, Section 10(b) of the Exchange Act, and Rules 10b-5(a) and (c).[75] The SEC is seeking permanent injunctions, disgorgement with prejudgment interest, civil penalties, and officer and director bars against all defendants.[76]

The SEC also settled charges against Allarity itself for the same disclosure failures that led to the settled charges against the Company's executives.[77] The SEC's order found that Allarity violated Sections 17(a)(2) and 17(a)(3) of the Securities Act of 1933, Section 13(a) of the Securities Exchange Act of 1934 and Rule 13a-11 thereunder.[78] Without admitting or denying the order's findings, Allarity consented to the entry of an order in which it agreed to cease and desist from committing or causing any violations and any future violations of these provisions of the federal securities laws and to pay a $2.5 million penalty.[79]

Elon Musk Charged for Violating Beneficial Ownership Reporting Requirements

In one of the last enforcement actions under the SEC's former chair, Gary Gensler, the SEC filed charges against Elon Musk for his alleged failure to timely file with the SEC a beneficial ownership report disclosing his acquisition of more than 5% of the outstanding shares of common stock of Twitter, Inc.[80]

According to the SEC's complaint, in early 2022, Musk purchased a significant number of Twitter shares, such that his ownership crossed the 5% reporting threshold.[81] Musk did not file a beneficial ownership report within 10 days, as required by Section 13(d)(1) of the Exchange Act and Rule 13d-1(a).[82] He then purchased over $500 million worth of additional Twitter common stock between March 25 and April 1, 2022, before filing his beneficial ownership report 11 days late on April 4, 2022.[83]

The complaint alleges that because of Musk's failure to publicly disclose his beneficial ownership of Twitter's outstanding common stock by March 24, 2022, Mr. Musk paid at least $150 million less for the shares of Twitter common stock he purchased between March 25 and April 1, 2022 than he would have had he made a timely beneficial ownership report filing.[84] The complaint also alleges that Musk's failure to make a timely filing resulted in substantial economic harm to investors selling Twitter common stock during that period because they sold their shares at artificially low prices, as Mr. Musk's ownership had not yet been priced into the market.[85]

The SEC's complaint, filed in the U.S. District Court for the District of Columbia, charged Musk with violating Section 13(d) of the Securities Exchange Act of 1934 and Rule 13d-1. Section 13(d) imposes strict liability for failing to file timely disclosures. The SEC is seeking permanent injunctions, disgorgement of ill-

gotten gains with prejudgment interest, and civil penalties.[86]

SEC Charges Crypto Startup Unicoin and Its Three Top Executives for Fraudulent Securities Offering

In May 2025, the SEC charged Unicoin, Inc., three of its top executives—CEO and Board Chairman, Alex Konanykhin; former President, former Board Chairwoman, and current Board Member, Silvina Moschini; former Chief Investment Officer, Alex Dominguez—and its General Counsel, Richard Devlin, with securities offering fraud involving over $100 million raised from over 5,000 investors between February 2022 and May 2025.[87] The SEC alleges that the Defendants made false and misleading statements and omitted material facts to induce investors to purchase certificates conveying future rights to crypto assets called "Unicoins."[88]

According to the complaint, the defendants falsely portrayed the certificates as an investment in a secure and profitable "next generation" crypto asset.[89] The SEC describes four categories of false statements in its complaint. Firstly, the defendants made false claims about the "fundamental attributes" of the certificates and Unicoins, claiming they were "SEC compliant," "SEC registered" and "U.S. registered" and backed by high-value assets.[90] In reality, the assets were not registered with the SEC, were worth only a small fraction of the claimed amount, and Unicoin had no intention to back the Unicoins and certificates with said assets.[91] Secondly, the complaint alleges that the defendants repeatedly and falsely claimed the company acquired billions of dollars in real estate to back the Unicoins when they had either never taken title to these claimed properties or, if they had, severely overrepresented their value.[92] Thirdly, the SEC claimed the defendants overstated certificate sales and lied about fundraising milestones to create a false image of robust investor interest.[93] Finally, the defendants allegedly misled investors about the financial health of Unicoin, including claiming that the company had a financial runway large enough to last decades or centuries.[94] In reality, in the period of the alleged fraud, the company's assets only covered up to one year of operations, absent additional funding.[95]

The complaint also addresses the widespread distribution of this alleged fraud, including at speaking engagements, investor meetings, public appearances, private placement memoranda, in ads in airports, New York City taxis, TV, social media, and at crypto conferences.[96]

The SEC is seeking relief through permanent injunctions, disgorgement of ill-gotten gains plus prejudgment interest, and civil penalties against Unicoin and the defendants, as well as officer-and-director bars against Konanykhin, Moschini, and Dominguez.[97] While the SEC has recently pulled back from several high-profile crypto enforcement actions tied to Gensler-era priorities,[98] the Unicoin case stands out as a more traditional fraud prosecution—one that happens to involve crypto rather than being driven by it. The SEC's posture suggests a distinction between crypto-specific regulatory battles and plainly deceptive schemes with a digital wrapper.

SEC Charges Founder and Former CEO of Artificial Intelligence Startup with Misleading Investors

On April 9, 2025, the SEC charged Albert Saniger, the founder and former CEO of Nate, Inc., a privately held technology startup, with fraudulently raising over $42 million from investors by misrepresenting the company's use of AI.[99]

Between spring 2019 and December 2022, the SEC alleges that Saniger marketed Nate as a mobile

shopping application that uses AI, including machine learning and neural networks, to automate online purchases for users.[100] Saniger told investors during both Nate's "Seed" and Series A fundraising rounds that the app's technology could process purchases automatically through AI, without human intervention. These representations were reinforced during product demonstrations that made it falsely appear that the app was automatically completing purchases while Nate engineers and others worked behind the scenes to manually process the orders.[101]

The SEC alleges, however, that Saniger knew, from regular updates with Nate's engineering teams, that the app did not use AI to process transactions. Instead, the SEC alleges that virtually all orders placed through the app were routed to human contractors—primarily in the Philippines—who manually processed these transactions.[102] The actual automation rate was "essentially zero" during the Seed and Series A rounds, and the company had not developed a working AI model for the app.[103] After the Series A round, Nate began using automated "bots" to process some orders, but these bots were a far less advanced form of automation than the AI Saniger described to investors.[104]

After a news report cast doubts on Nate's claimed use of AI in June 2022, Saniger failed to complete a Series B round, and the company ceased operations.[105] Nate formally dissolved in January 2023, leaving investors with losses of substantially all of their investments, totaling tens of millions of dollars.[106]

The SEC charged Saniger with violating Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. The SEC seeks permanent injunctions, conduct-based injunctions, an officer-and-director bar, disgorgement with prejudgment interest, and civil penalties.

For further detail, *see* "*The SEC and DOJ Signal Continued Focus on AI Washing Under Trump Administration*" published on the Debevoise & Plimpton Data Blog.

Accounting Enforcement and Litigation

Former SPAC Executives Plead Guilty to Accounting Fraud

In May 2025, two former executives of Lottery.com Inc. pled guilty to securities fraud charges and to submitting false filings with the SEC for their roles in a scheme to inflate the company's reported revenues.[107] One of the executives, the former CFO of the company, also pled guilty to improperly influencing the conduct of audits.[108]

Lottery.com (formerly AutoLotto) became publicly listed in November 2021 *via* a merger with Trident Acquisition Corp. ("Trident"), a special purpose acquisition company, or SPAC.[109] In connection with the merger, the SEC alleged that the executives, together with Trident CEO Vladim Komissarov, reported a series of sham transactions to inflate the revenues of the company.

The transactions created the false appearance of revenue-generating business activity for AutoLotto and later for Lottery.com through a series of sham transactions, including a fraudulent $9 million roundtrip transaction.[110] The inflated figures were reported to shareholders through public filings with the SEC. The former CFO is also alleged to have influenced the company's independent auditors by making affirmative misrepresentations and intentionally withholding information regarding Lottery.com's reported revenue, financial condition, and the circumstances of its acquisition.[111]

Sentencing is scheduled for November 2025.[112] The pleas highlight the serious consequences of fraudulent financial reporting and corporate misconduct.

Beverage Company Settles with SEC After Improperly Accounting for Stock-Based Compensation

On January 17, 2025, the SEC announced it had settled charges against Celsius Holdings, Inc. ("Celsius"), a fitness energy drink company, for violating the reporting, books and records, internal accounting controls and disclosure controls and procedures provisions of the Exchange Act in connection with the Company's failure to properly account for and disclose stock-based compensation expenses after the company modified the vesting terms of stock awards for six employees.[113] As a result of these failures, the SEC alleged, that Celsius' financial statements included in reports filed with the SEC were materially inaccurate and misleading.[114]

According to the SEC order, Celsius's normal stock award vesting provisions provided that when an employee or board member departed from the company, any unvested stock awards were forfeited at that time.[115] However, in the second and third quarters of 2021, Celsius made an exception to this provision to allow for the accelerated or continued vesting of stock awards for six departing employees and board members.[116]

The SEC found that these changes constituted modifications under ASC Topic No. 718 *Compensation – Stock Compensation* of U.S. Generally Accepted Accounting Principles ("GAAP"), which requires the re-valuation of stock awards and recording of any additional expense when a modification occurs.[117] The modifications at issue increased the value of the stock awards for the six individuals, resulting in an increase in Celsius's compensation expenses.[118] However, Celsius did not record the incremental compensation expense in its quarterly reports for the second and third quarters of 2021 or the associated earnings releases.[119] Consequently, Celsius overstated its second quarter 2021 net income by approximately 400% and understated its third quarter 2021 net loss by approximately 130%.[120]

Additionally, the SEC found that no one at Celsius had taken appropriate steps to ensure that the company properly accounted for stock award modifications and that the company lacked internal accounting controls to provide reasonable assurance that such modifications would be properly accounted for in accordance with GAAP.[121]

As a result, the SEC found that Celsius violated Sections 13(a), 13(b)(2)(A), and 13(b)(2)(B) of the Exchange Act and Rules 12b-20, 13a-11, 13a-13, and 13a-15 thereunder.[122] Celsius undertook remediation efforts, including retaining legal counsel for reporting and disclosure issues, improving accounting controls, creating an internal audit function and a disclosure committee, hiring a new CFO, and hiring a Chief Legal Officer and a communications executive.[123] Celsius also agreed to pay a civil money penalty of $3,000,000 to settle the matter with the SEC.[124]

Three Defendants Receive Final Judgment in "Cookie Jar" Revenue Manipulation Scheme

On February 19, 2025, three defendants consented, on a no-admit/no-deny basis, to entry of final judgment in connection with their involvement in an alleged revenue manipulation scheme.[125] The SEC alleged that the defendants were involved in a fraudulent revenue adjustment scheme designed to portray their employer as having beat, met, or come close to achieving key financial metrics.[126]

According to the SEC, the defendants, who served as the Chief Accounting Officer, CFO, and Controller of American Renal Holdings Associates, Inc. ("ARA"),

manipulated "topside" adjustments in order to meet financial performance targets and manipulated patient payment history with the purpose of overstating ARA's revenue.[127] Topside adjustments are used to reflect actual cash received from insurance companies for patient services and to update estimates of expected payments. As alleged in the complaint, ARA improperly recognized topside adjustments to hit targets on two key financial metrics.[128]

The SEC further alleged that the defendants used a revenue "cookie jar" containing topside adjustments that should have been, but were not, recorded. Defendants waited until these revenue adjustments were needed to meet key financial targets before recording them.[129] The defendants created false and misleading documents to conceal their scheme to external auditors and misstated or omitted key adjustment information to ARA's CEO and audit committee.[130] After the SEC inquiry, ARA's internal investigation revealed that its financial reporting overstated the company's net income by over $17 million in 2017 and by over $22 million in the first three quarters of 2018. These misstatements reflected overstatements of more than 30% and 200%, respectively.[131] The SEC claimed that the defendants personally benefitted from the scheme in the form of bonuses, stock sales at inflated prices, and job promotions.[132]

The final judgment against each defendant permanently enjoins them from violating antifraud provisions of the Securities Act and the Securities Exchange Act.[133] The defendants are each required to pay some combination of reimbursements to the company, disgorgement with interest, and/or a civil penalty.[134] Two of the three defendants are temporarily prohibited from serving as a director or officer of a public company.[135]

Notes

1 *See* SEC Litigation Release No. 26262, *SEC Charges Former Biopharmaceutical Company Vice President with Insider Trading* (Mar. 10, 2025), https://www.sec.gov/enforcement-litigation/litigation-releases/lr-26262 [hereinafter "SEC Release No 26262"].
2 *Id.*
3 SEC Complaint, *SEC v. George M. Demos*, No. 25-cv-0539, ¶ 2 (S.D. Cal. Mar. 7, 2025) https://www.sec.gov/files/litigation/complaints/2025/comp26262.pdf.
4 *Id.* at ¶ 21.
5 *Id.* at ¶¶ 27-29.
6 *Id.* at ¶ 34.
7 *Id.* at ¶¶ 43, 45, 48, 50.
8 *Id.* at ¶ 59.
9 *Id.* at ¶¶ 60-61.
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29 *Id.* at ¶¶ 3, 34.
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34 *See* SEC Complaint, *SEC v. Gabriel Rebeiz*, No. 3:25-cv-00124, ¶ 19 (S.D. Cal. Jan. 21, 2025), https://www.sec.gov/files/litigation/complaints/2025/comp26231.pdf.
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[42] *See* SEC Complaint, *SEC v. Lawrence Billimek and Alan Williams*, *No.* 22-cv-10542, (S.D.N.Y. Dec. 14, 2022).
[43] *Id.*at ¶ 2.
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[47] Complaint and Affidavit in Support of Application for Arrest Warrant, *United States v. Chen*, 25-MJ-00223, ¶¶ 12-13 (E.D.N.Y. June 27, 2025) (hereinafter "Chen Complaint"); Patricia Hurtado, Friends Accused of Trading on Data for Edgar Face Widening Probe, BLOOMBERG (July 5, 2025), https://www.bloomberg.com/news/articles/2025-07-05/friends-accused-of-trading-on-data-for-edgar-face-widening-probe.
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[106] *Id.*
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[128] *Id.* at ¶ 13.
[129] *Id.*
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[132] *Id.* at ¶ 14.
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