

Press Release

SEC Charges New Jersey Man in Insider Trading Case Involving Pharmaceutical Companies

FOR IMMEDIATE RELEASE

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Washington D.C., Oct. 24, 2014— The Securities and Exchange Commission today announced insider trading charges against a New Jersey man who generated nearly \$700,000 in illicit profits trading in the securities of two pharmaceutical companies that were about to be acquired. The SEC charged his source of nonpublic information earlier this month.

The SEC alleges that David Post of Livingston, N.J., was tipped with confidential details about the impending deals by his former business school classmate who was tasked with evaluating potential acquisitions in his financial analyst job at a major pharmaceutical company. Post and his friend, Zachary Zwerko, used prepaid “burner” cell phones to exchange coded text messages in advance of Post’s trading. They also used a dummy e-mail account they could both access to draft an e-mail message in code and leave it in the draft folder for the other to read and then delete. In exchange for the illegal tips, Post paid Zwerko \$7,000 at a Halloween party following his profitable trading in 2012, and gave him \$50,000 in a shoebox when Zwerko visited his home after additional insider trading occurred earlier this year.

The U.S. Attorney’s Office for the Southern District of New York announced parallel insider trading cases against Post today and against Zwerko earlier this month.

“Post and Zwerko tried to keep law enforcement authorities in the dark by using prepaid cell phones and a dummy e-mail account to communicate inside information, and Post doled out the kickbacks inside his own home,” said Sanjay Wadhwa, Senior Associate Director of the SEC’s New York Regional Office. “But in the end, the SEC staff’s investigative expertise helped in bringing yet another audacious insider trading scheme to light.”

According to the SEC’s amended complaint filed in U.S. District Court for the Southern District of New York, Post traded on the basis of confidential details about two acquisition targets of the pharmaceutical company where Zwerko then worked. The insider trading first occurred in 2012 when Zwerko learned his employer was among several other pharmaceutical companies in a competitive bidding process for Ardea Biosciences Inc. In the several weeks leading up to Ardea’s public announcement, Post received regular updates from Zwerko about the status of confidential negotiations and purchased \$227,000 worth of Ardea securities – the most he had ever invested in a single company. Post had never before purchased Ardea securities. After Ardea publicly announced that it had accepted an acquisition bid and its stock price rose by 51 percent, Post sold all of his shares and reaped profits of approximately \$105,000.

The SEC further alleges that Zwerko tipped Post with confidential details about his employer’s nonpublic negotiations to acquire Idenix Pharmaceuticals Inc. earlier this year. Although not directly involved in the deal, Zwerko accessed confidential files in the company’s database during the negotiations and gleaned additional nonpublic information in his communications with others at the company. Post, who had never before purchased

Idenix securities, made purchases totaling \$219,000 from May 21 to June 6. After a public announcement was made on June 9, Post sold his Idenix securities for a profit of approximately \$579,000.

The SEC's amended complaint charges Zwerko and Post with violating Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5. The complaint seeks permanent injunctive relief, disgorgement with prejudgment interest on a joint and several liability basis, and financial penalties.

The SEC's investigation, which is continuing, has been conducted by Dominick D. Barbieri, Neil Hendelman, and Charles D. Riely. The SEC's litigation will be led by Mr. Barbieri. The case has been supervised by Sanjay Wadhwa. The SEC appreciates the assistance of the U.S. Attorney's Office for the Southern District of New York, Federal Bureau of Investigation, and Financial Industry Regulatory Authority.

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Related Materials

- [SEC complaint](#)