Press Release

SEC Charges Three Sales Managers With Insider Trading Ahead of Major Acquisition

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Washington D.C., May 12, 2014— The Securities and Exchange Commission today charged three former sales managers at San Diego-based Qualcomm Inc. with insider trading ahead of a major acquisition announcement.

The SEC alleges that Derek Cohen, Robert Herman, and Michael Fleischli learned through work e-mails that Qualcomm was planning a big announcement. A sales meeting later revealed that Qualcomm was negotiating an acquisition of Atheros Communications. Armed with the nonpublic information, all three sales managers purchased Atheros securities while exchanging a series of suspiciously-timed phone calls. As news leaked about the impending acquisition and the two companies subsequently announced it in a joint news release, Atheros' stock price jumped 20 percent. Cohen, Herman, and Fleischli sold their securities to realize quick profits.

In a parallel action, the U.S. Attorney's Office for the Southern District of California today announced criminal charges against Cohen and Herman.

"As alleged in our complaint, Qualcomm placed trust in these sales managers who proceeded to exploit the confidential information shared with them and conduct insider trading for their personal gain," said Michele Wein Layne, director of SEC's Los Angeles Regional Office.

According to the SEC's complaint filed in U.S. District Court for the Southern District of California, Cohen and Herman live in San Diego and Fleischli lives in Newport Beach, Calif. Qualcomm had an insider trading policy that clearly explained that it was illegal for employees to trade securities while possessing material nonpublic information. Cohen, Herman, and Fleischli each acknowledged receipt of the Qualcomm insider trading policy included in the company's code of business conduct.

However, the SEC alleges that after learning confidentially that Atheros was the target of a Qualcomm acquisition, all three sales managers proceeded to purchase Atheros securities on Jan. 4, 2011. None of them had ever previously traded in Atheros securities. News of the acquisition began leaking out through media reports that same afternoon, and the two companies formally announced the merger agreement on January 5. After selling all of the securities they had purchased, Cohen's illegal trading profits mounted to more than $200,000, and Herman and Fleischli made profits of $30,000 and $3,000 respectively.

The SEC's complaint charges Cohen, Herman, and Fleischli with violating Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5. The complaint seeks disgorgement of ill-gotten gains plus prejudgment interest, financial penalties, and permanent injunctions.

The SEC's investigation was conducted by Janet Weissman and Alka N. Patel of the Los Angeles Regional Office. The SEC's litigation will be led by John Berry. The SEC appreciates the assistance of the U.S. Attorney's Office for the Southern District of California, Federal Bureau of Investigation, and Financial Industry Regulatory Authority.

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Related Materials

- SEC complaint