



IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. 1:11 CR 254
)	
DONALD JOHNSON,)	
)	
Defendant.)	

INFORMATON

COUNT ONE

(Securities Fraud)

The United States Attorney charges:

Relevant Entities and Individuals:

1. At all relevant times, DONALD JOHNSON, the defendant, was employed by the NASDAQ Stock Market (the "NASDAQ").
2. At all relevant times, the NASDAQ was an American stock exchange that facilitated trading in the stock of thousands of companies.
3. From in or about 2003 to in or about 2006, JOHNSON was a relationship manager in the NASDAQ's corporate client group. From 2006 to his retirement in September 2009, he was a managing director on the NASDAQ's market intelligence desk. Among other things, JOHNSON's responsibilities included monitoring the stock of companies traded on NASDAQ and offering NASDAQ-listed companies information and analyses concerning trading in their own stock. As part of these responsibilities, JOHNSON regularly received confidential

non-public information concerning NASDAQ-listed companies from personnel at those companies.

4. At all relevant times, the NASDAQ established and distributed to its employees policies requiring them to disclose to the NASDAQ their own personal trading accounts and those of family members. JOHNSON was aware of these policies and understood that he was to disclose such accounts. At all relevant times, JOHNSON maintained a trading account in the name of his wife that he did not disclose to the NASDAQ (the "Undisclosed Trading Account"), in violation of NASDAQ rules and his own duties as an employee.

5. At all relevant times, the NASDAQ established and distributed to its employees policies prohibiting its employees from trading based on non-public information. JOHNSON was aware of these policies and understood that he should not trade based on such non-public information.

6. At all relevant times, JOHNSON owed fiduciary duties and other duties of confidence to the NASDAQ, the companies that listed their shares on the NASDAQ, and investors in those shares. These duties required that he not trade on non-public information. JOHNSON was aware of these duties.

7. At certain times relevant to the Information, the following companies listed on the NASDAQ were in regular contact with JOHNSON and provided him with material, non-public information (the "NASDAQ-Listed Companies"): Central Garden and Pet Co.; Digene Corporation; Idexx Laboratories, Inc.; Pharmaceutical Product Development, Inc.; and United Therapeutics Corporation.

The Insider Trading Scheme

8. The material, non-public information that JOHNSON received from the NASDAQ-Listed Companies included specific information about upcoming earnings releases, news releases, and major personnel changes. From at least August 2006 through in or about July 2009, JOHNSON used this material, non-public information to make purchases and sales of securities on eight different occasions, generating gains totaling \$641,157.65. JOHNSON used or caused to be used instrumentalities of interstate commerce to effect these transactions.

Securities Fraud

9. JOHNSON unlawfully, willfully and knowingly, directly and indirectly, by the use of means and instrumentalities of interstate commerce, and of the mails, and of facilities of national securities exchanges, would and did use and employ, in connection with the purchase and sale of securities, manipulative and deceptive devices and contrivances in violation of Title 17, Code of Federal Regulations, Section 240.10b-5 by: (a) employing devices, schemes and artifices to defraud; (b) making untrue statements of material fact and omitting 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 in acts, practices and courses of business which operated and would operate as a fraud and deceit upon the purchaser and seller, all in violation of Title 15, United States Code, Sections 78j(b) and 78ff, and Title 17, Code of Federal Regulations, Sections 240.10b-5 and 240.10b5-2, to wit, JOHNSON purchased and sold securities in the NASDAQ-Listed Companies based on material, non-public information he obtained from employees at those companies in his capacity as a NASDAQ official.

FORFEITURE ALLEGATION

10. As a result of committing one or more of the foregoing securities fraud offenses, in violation of Title 15, United States Code, Sections 78j(b) and 78ff; Title 18, United States Code, Section 371; and Title 17, Code of Federal Regulations, Section 240.10b-5 and 10b5-2, as alleged in Count One of this Information, JOHNSON, 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 securities fraud offenses, including but not limited to \$641,157.65 in United States currency, in that such sum in aggregate is property which was derived from proceeds traceable to the commission of the securities fraud offenses.

11. 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 party;
- 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 divided 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 15, United States Code, Sections 78j(b), 78ff; Title 18, United States Code, Sections 371 and 981(a)(1)(C); Title 21, United States Code, Section 853; Title 28, United States Code, Section 2461(c); and Title 17, Code of Federal Regulations, Sections 240.10b-5 and 240.10b5-2.)

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