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Approved:

JOSHUA KLEIN
JONATHAN STREETER
Assistant United States Attorneys

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Special Assistant United States Attorney

Before: THE HONORABLE THEODORE H. KATZ
United States Magistrate Judge
Southern District of New York

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UNITED STATES OF AMERICA

-v.-

DEEP SHAH,

Defendant.

COMPLAINT

Violations of
18 U.S.C. § 371,
15 U.S.C. §§ 78j(b),
78ff; 17 C.F.R. §§
240.10b-5 and
240.10b5-2

COUNTY OF OFFENSE:
NEW YORK

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SOUTHERN DISTRICT OF NEW YORK, ss.:

B. J. KANG, 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

(Conspiracy)

1. From at least in or about 2006 up to and including in or about July 2007, in the Southern District of New York and elsewhere, DEEP SHAH, the defendant, and others known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate and agree together and with each other to commit offenses against the United States, to wit, securities fraud, in violation of Title 15, United States Code, Sections 78j(b) & 78ff, and Title 17, Code of Federal Regulations, Sections 240.10b-5 and 240.10b5-2.

2. It was a part and object of the conspiracy that DEEP SHAH, the defendant, and others known and unknown,

unlawfully, willfully and knowingly, directly and indirectly, by the use of the 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 persons, 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.

Overt Acts

3. In furtherance of the conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. On or about July 2, 2007, DEEP SHAH, the defendant, called an individual who subsequently became a cooperating witness ("CW") from New York, New York.

b. On or about July 2, 2007, the CW purchased 550 August \$35.00 call options in Hilton Hotels Corp. ("Hilton").

(Title 18, United States Code, Section 371.)

COUNT TWO

(Securities Fraud)

4. On or about July 2, 2007, in the Southern District of New York and elsewhere, DEEP SHAH, the defendant, unlawfully, willfully and knowingly, directly and indirectly, by the use of the means and instrumentalities of interstate commerce, and of the mails and of the facilities of national securities exchanges, in connection with the purchase and sale of securities, did 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 devices, schemes and artifices to defraud; (b) making untrue statements of material facts 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 persons, to wit, SHAH caused the CW to purchase securities of Hilton on the basis of material, nonpublic information.

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

The basis for my knowledge and the foregoing charge is, in part, as follows:

5. I have been a Special Agent with the FBI for approximately five years. I am currently assigned to a squad responsible for investigating violations of the federal securities laws and related offenses. I have participated in numerous investigations of such offenses and I have made and participated in making arrests of individuals for participating in such offenses.

6. The information contained in this affidavit 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: (a) information provided to me by the United States Securities and Exchange Commission (the "SEC"), which includes information and documents obtained from Hilton; (b) publicly available documents; and (c) information obtained from the CW. Because this affidavit is prepared for limited purposes, I have not set forth each and every fact I have learned in connection with this investigation. Where conversations and events are referred to herein, they are related in substance and in part unless indicated otherwise. Where figures and calculations are set forth herein, they are approximate.

Relevant Entities and Individuals

7. Based on information obtained from the SEC, documents publicly filed with the SEC, public announcements made by certain of the entities identified below, and information available to the public over the Internet, I am aware of the following:

a. At all times relevant to this Complaint, Moody's Investors Service, Inc. ("Moody's") operated as a credit ratings agency headquartered in New York, New York.

b. At certain times relevant to this Complaint, DEEP SHAH, the defendant, worked for Moody's in New York, New York, as an Associate Analyst. In 2007, SHAH was involved with Moody's rating of Hilton.

Insider Trading Scheme

General Overview

8. Based on all of the sources of information referenced herein, including all of the facts and circumstances described in detail below, I have probable cause to believe the following:

a. From at least in or about 2006 up to and including in or about July 2007, DEEP SHAH, the defendant, the CW, and others known and unknown, conspired to engage in a scheme to defraud by disclosing material, nonpublic information and/or executing securities transactions based on material, nonpublic information pertaining to certain clients of Moody's and other publicly traded companies.

b. The means by which SHAH and the CW effectuated the fraudulent scheme were as follows: SHAH disclosed to the CW material, nonpublic information ("Inside Information") regarding certain of Moody's clients in violation of duties of trust and confidence owed by SHAH to Moody's and its clients. SHAH provided this and other Inside Information to the CW with the understanding that the CW would use the Inside Information for purposes of engaging in securities transactions. The CW executed securities transactions on the basis of the Inside Information obtained from SHAH. On at least one occasion, the CW arranged to provide SHAH with a cash payment in exchange for certain Inside Information.

The CW's Interactions with SHAH

9. Beginning in or about November 2007, I and other FBI agents have had numerous discussions with the CW, an individual who subsequently began cooperating with law enforcement.¹ Based on conversations with the CW, information

¹ The CW is an individual who executed securities transactions based on material, nonpublic information. The CW has pleaded guilty to charges of conspiracy, securities fraud and obstruction of justice in connection with this conduct and has agreed to cooperate with the Government in the hope of receiving a reduced sentence. The information the CW has provided has been

that is publicly available over the Internet, and trading records obtained by the SEC from the CW's broker, I have learned the following:

a. In or about 2006, the CW was introduced to DEEP SHAH, the defendant, by a relative of the CW who was a friend and roommate of SHAH.

b. In or about the fall of 2006, SHAH provided the CW with Inside Information regarding Adesa, Inc. ("Adesa"), a company in the business of providing wholesale used vehicle auctions. Specifically, SHAH informed the CW that Adesa was going to be taken private. SHAH told the CW that the Inside Information regarding Adesa had come from a friend who worked at an investment bank (the "Investment Banker"). On or about December 22, 2006, Adesa announced that it had agreed to be acquired by a private equity consortium at a premium of approximately 10% over Adesa's previous closing price.

c. In or about the spring of 2007, SHAH provided the CW with Inside Information regarding Kronos, Inc. ("Kronos"), a company in the business of workforce management. SHAH informed the CW that Kronos was going to be taken private, and that the source of this Inside Information was the Investment Banker. On or about March 16, 2007, the CW purchased 35 April \$40 call options in Kronos.² On or about March 23, 2007, Kronos announced that it had agreed to be acquired by Hellman & Friedman LLC at a price of approximately \$55 per share. On or about March 29, 2007, the CW sold his/her call options in Kronos, yielding a profit of approximately \$37,000.

d. Around the time of the Kronos transaction, SHAH and the CW discussed payments to SHAH in exchange for Inside Information. The CW indicated to SHAH that s/he would pay SHAH the next time that SHAH provided the CW with Inside Information.

corroborated by, among other things, trading records, pen register data, and telephone records.

² A "call option" gives the purchaser the right to buy a certain number of shares (typically 100 shares) of an underlying security at a specified price, until the specified expiration date of the call option (typically the third Friday of a specified month). Thus, an "April \$40 call option" in Kronos gives the purchaser of the option the right to buy 100 shares of Kronos stock from the seller of the option at a price of \$40.00 per share, until the third Friday of April.

Insider Trading In The Securities Of Hilton

10. Based on my review of documents provided by Moody's, I have learned that in 2007, Moody's employed DEEP SHAH, the defendant, as an Associate Analyst, and that SHAH worked on Moody's rating of Hilton.

11. Based on documents provided by Hilton and Moody's, I have learned that on or about July 2, 2007, at approximately 2:20 p.m., certain executives of Hilton placed a phone call to a Vice President and Senior Analyst at Moody's who served as Moody's Lead Analyst for its rating of Hilton. During the call, which lasted approximately seven minutes, the Hilton executives informed Moody's that, among other things, Hilton would be acquired by the Blackstone Group LP ("Blackstone"), and that Hilton would likely announce the acquisition sometime before July 4, 2007 (the "Hilton Inside Information").

12. Based on conversations with the CW, I learned that on or about July 2, 2007, DEEP SHAH, the defendant, told the CW that Hilton was going to be taken private (meaning it would be acquired and thereby become a private company) the following day at a price substantially above its publicly traded stock price. SHAH had previously related to the CW that he was covering hotel companies for Moody's.

13. I have reviewed phone records obtained from a telecommunications company for a cell phone used by DEEP SHAH, the defendant, at all times relevant to this Complaint (the "SHAH Cell Phone"). Consistent with what the CW told me, these phone records show that on or about July 2, 2007, at approximately 3:06 p.m., a telephone call was made from the SHAH Cell Phone to the CW's home phone, lasting approximately one minute. A second such call was made at approximately 3:10 p.m., lasting approximately two minutes. A third such call was made at approximately 3:14 p.m., lasting approximately one minute.

14. Based on my review of records provided by a brokerage firm used by the CW (the "CW's Broker"), I learned that on July 2, 2007, beginning at approximately 3:14 p.m., the CW purchased approximately 550 August \$35 call options in Hilton. On July 3, 2007, the CW purchased approximately 100 July \$35 call options in Hilton. Based on conversations with the CW, I learned that these securities transactions were made on the basis of Hilton Inside Information that the CW had obtained from DEEP SHAH, the defendant.

15. Based on my review of public records and news reports, I have learned that on July 3, 2007, following the close of the market, Hilton announced that it had agreed to be acquired by Blackstone for \$20.1 billion in cash, and that Blackstone had agreed to buy all outstanding shares of Hilton for \$47.50 per share, representing a premium of approximately \$10 per share.

16. Based on my review of records provided by the CW's Broker, I learned that on July 5, 2007, the CW sold the Hilton call options described above, earning a profit of approximately \$630,000.

17. Based on conversations with the CW, I learned that following the announcement that Blackstone would acquire Hilton, the CW arranged to pay DEEP SHAH, the defendant, \$10,000 for the Hilton Inside Information. This information is corroborated by a bank record that I have seen evidencing a transfer on July 10, 2007, of \$10,000 from the CW's bank account.

WHEREFORE, deponent prays that arrest warrants be issued for the above-named defendants and that they be imprisoned or bailed as the case may be.



B. J. KANG
SPECIAL AGENT
FEDERAL BUREAU OF INVESTIGATION

NOV 04 2009

Sworn to before me this
____ day of November, 2009



THEODORE H. V. R.
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK