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Southern District of New York*

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**MANHATTAN U.S. ATTORNEY CHARGES 14 DEFENDANTS  
WITH MORE THAN \$20 MILLION IN INSIDER TRADING**

*Charged Defendants Include Hedge Fund Managers,  
Trading Firm Executives, Lawyers, and Corporate Insiders;  
Five Already Have Pleaded Guilty To Insider Trading Charges*

PREET BHARARA, the United States Attorney for the Southern District of New York, and JOSEPH DEMAREST, JR., the Assistant Director-in-Charge of the New York Office of the Federal Bureau of Investigation ("FBI"), today announced charges against 14 additional Wall Street professionals and attorneys arising out of their ongoing investigation of insider trading at hedge funds and stock trading firms. The charged defendants include hedge fund managers and trading firm executives, lawyers, and corporate insiders. Five of the charged defendants previously pleaded guilty to insider trading charges in Manhattan federal court. The defendants collectively are charged with allegedly participating in insider trading schemes that generated more than \$20 million in illegal profits.

On October 16, 2009, six individuals were arrested for their alleged involvement in the largest hedge fund insider trading case in history. The criminal investigation, which was led by the United States Attorney's Office for the Southern District of New York and the FBI, working in close coordination with the United States Securities and Exchange Commission ("SEC"), employed various investigative techniques including the analysis of information from the SEC, business records obtained from relevant entities, court-authorized pen register and

telephone toll records, consensually-recorded conversations between cooperating sources and others, and court-authorized wire taps on various telephones.

The following eight defendants were arrested earlier today:

1. ZVI GOFFER, who formerly worked at The Schottenfeld Group LLC ("Schottenfeld"), a broker dealer in New York, New York, and currently operates a trading firm called Incremental Capital ("Incremental"), in New York, New York;

2. ARTHUR CUTILLO, an attorney at the law firm of Ropes & Gray LLP in New York, New York;

3. JASON GOLDFARB, an attorney in New York, New York;

4. CRAIG DRIMAL, who worked in the offices of the Galleon Group ("Galleon"), in New York, New York, but is not employed by Galleon;

5. EMANUEL GOFFER, who formerly worked at Spectrum Trading LLC, a trading firm in New York, New York, and currently is associated with Incremental in New York, New York;

6. MICHAEL KIMELMAN, currently associated with Incremental in New York, New York;

7. DAVID PLATE, formerly employed by Schottenfeld, and currently associated with Incremental in New York, New York; and

8. ALI HARIRI, a Vice President of Atheros Communications, Inc. ("Atheros") in California.

A ninth charged defendant, DEEP SHAH, who was formerly employed by Moody's Investors Service, Inc. ("Moody's"), in New York, New York, remains at large.

ZVI GOFFER, JASON GOLDFARB, EMANUEL GOFFER, and DAVID PLATE were arrested at their homes in New York, New York. ARTHUR CUTILLO was arrested at his home in Ridgewood, New Jersey. CRAIG DRIMAL was arrested at his home in Weston, Connecticut. MICHAEL KIMELMAN was arrested at his home in Larchmont, New York. ALI HARIRI was arrested in San Francisco, California. All of the defendants except HARIRI are expected to be presented in Manhattan federal court later today; HARIRI is expected to appear in San Francisco federal court later today.

The five defendants who were previously charged and have pleaded guilty in Manhattan federal court to insider trading crimes are:

1. STEVEN FORTUNA, formerly a Managing Director of S2 Capital LLC ("S2 Capital"), a hedge fund based in Boston, Massachusetts;

2. ALI FAR, founder of Spherix Capital LLC ("Spherix"), a hedge fund based in California;

3. RICHARD CHOO-BENG LEE, former President of Spherix;

4. ROOMY KHAN, a California trader who served at certain times as a paid consultant to a hedge fund based in New York, New York; and

5. GAUTHAM SHANKAR, a proprietary trader at Schottenfeld in New York, New York.

According to the Complaints and Informations unsealed today in Manhattan federal court:

### **The 9 Defendants Charged Today In Criminal Complaints**

#### The Goffer Insider Trading Network

ZVI GOFFER operated an insider trading network through which he obtained, passed to others, and traded on material, nonpublic information (the "Inside Information") regarding mergers and acquisitions of public companies. In exchange for the Inside Information, ZVI GOFFER and others paid sources for the Inside Information. In an unsuccessful effort to conceal their fraudulent schemes, ZVI GOFFER and his co-conspirators used prepaid telephones to share the Inside Information.

One of GOFFER's sources of Inside Information was a Ropes & Gray attorney, ARTHUR CUTILLO. In violation of his duty of confidentiality to his law firm and its clients, CUTILLO provided Inside Information about several mergers and acquisitions of public companies for which Ropes & Gray was providing legal services prior to the public announcements of the deals. CUTILLO allegedly stole Inside Information about the following acquisitions: Avaya, Inc. ("Avaya"); 3Com Corporation ("3Com"); and Axcan Pharma, Inc. ("Axcan"). CUTILLO provided the Inside Information concerning these companies to JASON GOLDFARB, another New York attorney, who in turn passed the Inside Information to ZVI GOFFER and other co-conspirators. In exchange

for providing the Inside Information to GOFFER and his network, CUTILLO and GOLDFARB received cash payments.

ZVI GOFFER and his co-conspirators also obtained Inside Information from another co-conspirator about the acquisition of Kronos, Inc. ("Kronos"), and Hilton Hotels Corp. ("Hilton") prior to the public announcements of those deals.

According to the Complaint, on September 4, 2007, CRAIG DRIMAL provided an individual with a piece of paper listing the stock symbols of four companies and disclosed that 3Com was going to be acquired. DRIMAL told that individual to destroy the list and to be careful trading in these securities because there were no public rumors that the companies on the list were acquisition targets. The next day, DRIMAL told that individual that he did not want to talk about the four stocks on the list over the telephone but said that it was "like shooting fish in a barrel."

During the course of the Government's investigation, the Government used wiretaps to obtain critical evidence against ZVI GOFFER and his illegal insider trading network. Some of the intercepted calls show that ZVI GOFFER and his co-conspirators used prepaid telephones and that they tried to disguise their criminal conduct by collecting research reports and other publicly available data to justify their transactions in the event that they were scrutinized by regulators. For example, during a February 18, 2008, intercepted call, ZVI GOFFER instructed MICHAEL KIMELMAN:

PF Changs just had earnings and they all put out research reports the next day. There's like eight of them out there . . . . So you know you print all those out . . . get everything printed out, because if we're going to make a big trade and make a big bet and it works . . . it's always good to have that on file why you did it.

Wire interceptions also showed that ZVI GOFFER and his co-conspirators were conscious of the fact that they would go to jail if they were caught. For example, during a February 20, 2008, intercepted call with GOLDFARB, ZVI GOFFER expressed concern over someone's purchase of a large number of options on a particular stock: "[T]hey paid a nickel for them. . . . You know what that means? Someone's going to jail, going directly to jail so don't let it be you, okay?" Later, ZVI GOFFER reiterated: "That's a ticket right to the [expletive] big house." GOLDFARB confirmed to ZVI GOFFER that he had not purchased the options,

and ZVI GOFFER responded: "Good, better that way. Better that way. Perfect. All right then, you know what? All it does is give me more cover."

As a result of their trades of hundreds of thousands of shares of stock based on the Inside Information that CUTILLO, GOLDFARB, and others provided them -- including trades in 3Com, Avaya, Axcan, Kronos, and Hilton -- ZVI GOFFER, DRIMAL, EMANUEL GOFFER, KIMELMAN, and DAVID PLATE earned profits of at least approximately \$11 million for themselves and their firms.

#### The Ali Hariri Complaint

Between 2008 and March 2009, ALI HARIRI, a Vice President at Atheros, provided Inside Information to a cooperating witness who managed a hedge fund in California in exchange for advice received from that cooperating witness about the purchase and sale of other securities. The cooperating witness caused the hedge fund to execute securities transactions in Atheros stock based on the Inside Information, realizing hundreds of thousands of dollars of profits.

#### The Deep Shah Complaint

Between 2006 and July 2007, former Moody's analyst DEEP SHAH provided Inside Information concerning Hilton, a client of Moody's, to a cooperating witness in exchange for a cash payment of \$10,000, with the understanding that the cooperating witness would use the Inside Information to engage in securities transactions. Specifically, on July 2, 2007, SHAH told the cooperating witness that Hilton was going to be taken private the following day. The cooperating witness purchased Hilton securities the day SHAH provided that information and the next day, and later sold those securities for a profit of \$630,000. The cooperating witness then arranged to pay SHAH \$10,000 in cash. In 2006 and 2007, SHAH provided Inside Information concerning Adesa, Inc., and Kronos, to the cooperating witness. The cooperating witness realized profits of approximately \$37,000 from the Inside Information concerning Kronos.

### **The Five Defendants Who Have Pleaded Guilty**

#### The Steven Fortuna Information

On October 20, 2009, FORTUNA pleaded guilty to a criminal Information charging him with three counts of conspiracy to commit securities fraud and one count of securities fraud. Between July 2008 and March 2009, STEVEN FORTUNA, formerly the

Managing Director of hedge fund S2 Capital, in three separate conspiracies, conspired with four individuals: (1) the Managing Director of a hedge fund based in New York, New York; (2) a Managing Director of S2 Capital; (3) an analyst for a hedge fund based in Chicago, Illinois; and (4) the manager of a hedge fund based in Boston, Massachusetts. Among other things, FORTUNA obtained Inside Information concerning the quarterly earnings of a technology company and the plans of a semiconductor company to spin off its manufacturing operations into a separate entity. Based on that Inside Information, FORTUNA executed trades which netted profits of approximately \$2.4 million for S2 Capital. FORTUNA obtained the Inside Information from a co-conspirator who provided the information because s/he was his friend and because FORTUNA provided him/her with trading advice about other technology companies.

#### The Ali Far and Richard Choo-Beng Lee Informations

On October 13 and 19, respectively, RICHARD CHOO-BENG LEE, former President of California-based hedge fund Spherix, and ALI FAR, founder of Spherix, pleaded guilty to criminal Informations each charging one count of conspiracy to commit securities fraud and wire fraud and a substantive count of securities fraud. FAR and LEE both admitted to conspiring with each other as well as employees of several publicly traded technology companies and individuals employed by hedge funds in New York, New York and elsewhere. LEE also admitted to conspiring to commit insider trading with an employee of a California investor relations firm and individuals associated with three other hedge funds. FAR and LEE compensated certain of their sources of Inside Information with cash payments each fiscal quarter and with Inside Information about other companies. FAR and LEE used the Inside Information that they received to earn profits and/or avoid losses in excess of approximately \$5 million in one or more brokerage accounts affiliated with Spherix.

#### The Roomy Khan Information

On October 19, 2009, ROOMY KHAN pleaded guilty to a criminal Information charging one count each of conspiracy to commit securities fraud, securities fraud, and obstruction of justice. KHAN lived in California, where she traded securities on her own behalf, and also served as a paid consultant to a hedge fund located in New York, New York. From 2004 through November 2007, KHAN conspired with, among others: (1) an executive at a technology company headquartered in California; (2) an analyst at a credit ratings agency located in New York,

New York; (3) an individual who worked at an investor relations firm located in California; (4) the manager of a hedge fund located in New York, New York; (5) the manager of another hedge fund located in New York, New York; (6) a portfolio manager for a hedge fund; (7) the President and principal portfolio manager of a hedge fund located in California; and (8) the Managing Director at a hedge fund located in New York, New York. KHAN compensated certain of her sources of Inside Information by giving them other Inside Information, cash, and/or by executing trades in their personal brokerage accounts. KHAN also admitted to deleting an incriminating e-mail that she had received from a co-conspirator and attempted to deter other co-conspirators from sending incriminating e-mails or instant messages in light of the then-pending SEC investigation. KHAN profited approximately \$1.6 million as a result of her insider trading.

#### The Gautham Shankar Information

GAUTHAM SHANKAR pleaded guilty on October 20, 2009, to conspiracy to commit securities fraud and securities fraud. SHANKAR received Inside Information from a friend in advance of the publicly announced acquisitions of Kronos and Hilton. SHANKAR also received Inside Information from a proprietary trader at Schottenfeld in advance of the publicly announced acquisitions of Avaya, 3Com, and Axcan. SHANKAR shared the Inside Information, collected cash payments for certain of the Inside Information, and, along with his co-conspirators, used the Inside Information to execute profitable securities transactions. SHANKAR made hundreds of thousands of dollars in profits from his insider trading.

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Mr. BHARARA praised the work of the FBI and thanked the United States Securities and Exchange Commission for its assistance in the investigation. Mr. BHARARA also noted that the investigation is continuing.

United States Attorney PREET BHARARA said: "When we announced our first arrests three weeks ago, I said this case should be a wake-up call for Wall Street. Today the alarm bells have only grown louder. Over the last three weeks, we have charged 20 defendants with more than \$40 million worth of alleged insider trading, and our investigation is ongoing. When criminal activity is your business model, business as usual has to stop."

FBI Assistant Director JOSEPH M. DEMAREST JR. stated: "Insider trading is like betting on a game when you already know

the outcome. But if you traffic in inside information, there's always a chance the person you conspire with is working for us. If you talk on the phone, we may be listening. Insider trading provides an illegal competitive edge over honest players in the hedge fund business. Our job is to ensure a level playing field through enforcement and deterrence."

These cases are being supervised by the Office's Securities and Commodities Fraud Task Force. Assistant United States Attorneys ANDREW L. FISH, REED M. BRODSKY, MARC LITT, JOSHUA KLEIN, and JONATHAN R. STREETER, and Special Assistant United States Attorney ANDREW MICHAELSON are in charge of the prosecutions.

The charges contained in the Complaints are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

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**SUMMARY OF THE DEFENDANTS AND THE FILED CHARGES**

ZVI GOFFER, 32, resides in New York, New York.

ARTHUR CUTILLO, 33, resides in Ridgewood, New Jersey.

JASON GOLDFARB, 31, resides in New York, New York.

CRAIG DRIMAL, 53, resides in Weston, Connecticut.

EMANUEL GOFFER, , resides in New York, New York.

MICHAEL KIMELMAN, 38, resides in Larchmont, New York.

DAVID PLATE, 34, resides in New York, New York.

ALI HARIRI, 38, resides in San Francisco, California.

DEEP SHAH, 27, resides in India.

STEVEN FORTUNA, 47, resides in Westwood, Massachusetts.

ALI FAR, 48, resides in Saratoga, California.

RICHARD CHOO-BENG LEE, 53, resides in San Jose, California.

ROOMY KHAN, 51, resides in Fort Lauderdale, Florida.

GAUTHAM SHANKAR, 35, resides in New Canaan, Connecticut.

United States v. Zvi Goffer, et al.

<b>COUNT</b>	<b>CHARGE</b>	<b>CHARGED DEFENDANT</b>	<b>MAXIMUM PENALTIES</b>
One	Conspiracy to Commit Securities Fraud	ZVI GOFFER, ARTHUR CUTILLO, JASON GOLDFARB, CRAIG DRIMAL, EMANUEL GOFFER, MICHAEL KIMMELMAN, DAVID PLATE,	5 years; \$250,000 or twice the gross gain or loss
Two	Securities Fraud	ZVI GOFFER, ARTHUR CUTILLO, JASON GOLDFARB	20 years; \$5 million or twice the gross gain or loss
Three	Securities Fraud	CRAIG DRIMAL	20 years; \$5 million or twice the gross gain or loss
Four	Securities Fraud	EMANUEL GOFFER	20 years; \$5 million or twice the gross gain or loss
Five	Securities Fraud	MICHAEL KIMMELMAN	20 years; \$5 million or twice the gross gain or loss
Six	Securities Fraud	DAVID PLATE	20 years; \$5 million or twice the gross gain or loss

United States v. Ali Hariri

<b>COUNT</b>	<b>CHARGE</b>	<b>MAXIMUM PENALTIES</b>
One	Conspiracy to Commit Securities Fraud	5 years; \$250,000 or twice the gross gain or loss
Two	Securities Fraud	20 years; \$5 million or twice the gross gain or loss

United States v. Deep Shah

<b>COUNT</b>	<b>CHARGE</b>	<b>MAXIMUM PENALTIES</b>
One	Conspiracy to Commit Securities Fraud	5 years; \$250,000 or twice the gross gain or loss
Two	Securities Fraud	20 years; \$5 million or twice the gross gain or loss

United States v. Roomy Khan

<b>COUNT</b>	<b>CHARGE</b>	<b>MAXIMUM PENALTIES</b>
One	Conspiracy to Commit Securities Fraud	5 years; \$250,000 or twice the gross gain or loss
Two	Securities Fraud	20 years; \$5 million or twice the gross gain or loss
Three	Obstruction of Justice	5 years; \$250,000 or twice the gross gain or loss

United States v. Richard Choo-Beng Lee

<b>COUNT</b>	<b>CHARGE</b>	<b>MAXIMUM PENALTIES</b>
One	Conspiracy to Commit Securities Fraud and Wire Fraud	5 years; \$250,000 or twice the gross gain or loss
Two	Securities Fraud	20 years; \$5 million or twice the gross gain or loss

United States v. Ali Far

<b>COUNT</b>	<b>CHARGE</b>	<b>MAXIMUM PENALTIES</b>
One	Conspiracy to Commit Securities Fraud and Wire Fraud	5 years; \$250,000 or twice the gross gain or loss
Two	Securities Fraud	20 years; \$5 million or twice the gross gain or loss

United States v. Steven Fortuna

<b>COUNT</b>	<b>CHARGE</b>	<b>MAXIMUM PENALTIES</b>
One	Conspiracy to Commit Securities Fraud	5 years; \$250,000 or twice the gross gain or loss
Two	Conspiracy to Commit Securities Fraud	5 years; \$250,000 or twice the gross gain or loss
Three	Conspiracy to Commit Securities Fraud	5 years; \$250,000 or twice the gross gain or loss
Four	Securities Fraud	20 years; \$5 million or twice the gross gain or loss

United States v. Gautham Shankar

<b>COUNT</b>	<b>CHARGE</b>	<b>MAXIMUM PENALTIES</b>
One	Conspiracy to Commit Securities Fraud	5 years; \$250,000 or twice the gross gain or loss
Two	Securities Fraud	20 years; \$5 million or twice the gross gain or loss