

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - X  
UNITED STATES OF AMERICA : SEALED INFORMATION  
:   
- v. - : 16 Cr. \_\_\_  
:   
GARY PUSEY, :   
:   
Defendant. :   
:   
- - - - - X

COUNT ONE  
(Conspiracy to Commit Securities and Wire Fraud)

The United States Attorney charges:

Relevant Entities and Individuals

1. At all times relevant to this Information, Investment Bank-A was the investment banking advisory arm of a global bank headquartered in London, England.

2. From at least in or about December 2008 through in or about December 2015, a co-conspirator not named as a defendant herein ("CC-1"), was a Director in the Manhattan offices of Investment Bank-A.

3. At all times relevant to this Information, GARY PUSEY, the defendant, was a plumber in Long Island, New York and was friends with CC-1.

4. At all times relevant to this Information, Forest Oil Corporation ("Forest Oil") was a publicly-traded oil and gas producer headquartered in Colorado. Forest Oil's securities

traded under the symbol "FST" on the New York Stock Exchange ("NYSE").

5. At all times relevant to this Information, Sabine Oil & Gas LLC ("Sabine") was an oil and gas producer headquartered in Texas. Sabine's securities were not publicly traded until it merged with Forest Oil as described in further detail below.

6. At all times relevant to this Information, Questcor Pharmaceuticals, Inc. ("Questcor") was a publicly-traded pharmaceutical company headquartered in California. Questcor's securities traded under the symbol "QCOR" on the National Association of Securities Dealers Automated Quotations ("NASDAQ").

7. At all times relevant to this Information, Mallinckrodt PLC ("Mallinckrodt") was a publicly-traded pharmaceutical company headquartered in the United Kingdom. Mallinckrodt's securities traded under the symbol "MNK" on the NYSE.

8. At all times relevant to this Information, Zygo Corporation ("Zygo") was a publicly-traded provider of optical metrology solutions, high precision optics, and optical assemblies and was headquartered in Connecticut. Zygo's securities traded under the symbol "ZIGO" on the NASDAQ.

9. At all times relevant to this Information, AMETEK, Inc. ("AMETEK") was a publicly-traded manufacturer of electronic

instruments and electro-mechanical devices headquartered in Pennsylvania. AMETEK'S securities traded under the symbol "AME" on the NYSE.

10. At all times relevant to this Information, Pepco Holdings, Inc. ("Pepco") was a publicly-traded energy provider to the Mid-Atlantic region headquartered in Washington, D.C. Pepco's securities traded under the symbol "POM" on the NYSE.

11. At all times relevant to this Information, Exelon Corporation ("Exelon") was a publicly-traded national energy provider headquartered in Illinois. Exelon's securities traded under the symbol "EXC" on the NYSE.

12. At all times relevant to this Information, Measurement Specialties, Inc. ("Measurement") was a publicly-traded provider of sensors and sensor based systems and was headquartered in Virginia. Measurement's securities traded under the symbol "MEAS" on the NASDAQ.

13. At all times relevant to this Information, TE Connectivity Ltd. ("TE Connectivity") was a publicly-traded provider of connectivity solutions for a variety of industries and was headquartered in Switzerland. TE Connectivity's securities traded under the symbol "TEL" on the NYSE.

14. At all times relevant to this Information, Entropic Communications, Inc. ("Entropic") was a publicly-traded provider of semiconductor solutions and was headquartered in California.

Entropic's securities traded under the symbol "ENTR" on the NASDAQ.

15. At all times relevant to this Information, MaxLinear, Inc. ("MaxLinear") was a publicly-traded provider of analog and semi-conductor solutions for broadband communications and was headquartered in California. MaxLinear's securities traded under the symbol "MXL" on the NYSE.

16. At all times relevant to this Information, PetSmart, Inc. ("PetSmart") was a publicly-traded specialty pet retailer headquartered in Arizona. PetSmart's securities traded under the symbol "PETM" on the NASDAQ.

17. At all times relevant to this Information, BC Partners was a private equity firm headquartered in London, England.

18. At all times relevant to this Information, Emulex Corporation ("Emulex") was a publicly-traded network connectivity specialist headquartered in California. Emulex's securities traded under the symbol "ELX" on the NYSE.

19. At all times relevant to this Information, Avago Technologies ("Avago") was a publicly-traded supplier of semiconductor devices headquartered in Singapore. Avago's securities traded under the symbol "AVGP" on the NASDAQ.

20. At all times relevant to this Information, Omnicare, Inc. ("Omnicare") was a publicly-traded provider of pharmacy-related services to long-term care facilities and was

headquartered in Ohio. Omnicare's securities traded under the symbol "OCR" on the NYSE.

21. At all times relevant to this Information, CVS Health Corporation ("CVS") was a publicly-traded pharmacy retailer headquartered in Rhode Island. CVS's securities traded under the symbol "CVS" on the NYSE.

22. At all times relevant to this Information, TECO Energy, Inc. ("TECO") was a publicly-traded energy company headquartered in Florida. TECO's securities traded under the symbol "TE" on the NYSE.

23. At all times relevant to this Information, Emera, Inc. ("Emera") was a publicly-traded energy company headquartered in Nova Scotia. Emera's securities traded under the symbol "EMA" on the Toronto Stock Exchange ("TSX").

24. At all times relevant to this Information, Duke Energy Corporation was a publicly-traded electric power holding company headquartered in North Carolina. Duke's securities traded under the symbol "DUK" on the NYSE.

#### The Insider Trading and Wire Fraud Scheme

25. CC-1 acquired material non-public information, which pertained to mergers and acquisitions, through CC-1's employment with Investment Bank-A. In obtaining this confidential information, CC-1 used various means of interstate wire communications, including email and telephone. CC-1 then

divulged the information to GARY PUSEY, the defendant, in breach of fiduciary duties and other duties of trust and confidence owed to Investment Bank-A and to its clients.

26. GARY PUSEY, the defendant, obtained the material non-public information from CC-1, knowing that CC-1's disclosure of such information was in violation of CC-1's fiduciary and other duties of trust and confidence owed to Investment Bank-A and to its clients. PUSEY used this material non-public information to execute securities transactions via the internet in his own brokerage accounts.

27. GARY PUSEY, the defendant, used the material non-public information to his pecuniary advantage and to confer a pecuniary advantage upon CC-1. Among the pecuniary benefits that CC-1 received as part of the insider trading scheme were (i) cash payments from PUSEY and (ii) the provision of free professional services by PUSEY.

### Statutory Allegations

#### The Conspiracy

28. From at least in or about February 2014 through at least in or about September 2015, in the Southern District of New York and elsewhere, GARY PUSEY, the defendant, and others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit (a) securities fraud, in violation of Title 18, United

States Code, Section 1348; and (b) wire fraud, in violation of Title 18, United States Code, Section 1343.

Objects of the Conspiracy

29. It was a part and object of the conspiracy that GARY PUSEY, the defendant, and others known and unknown, knowingly and intentionally would and did execute a scheme and artifice to (a) defraud persons in connection with securities of an issuer with a class of securities registered under Section 12 of the Securities Exchange Act of 1934 and that was required to file reports under section 15(d) of the Securities Exchange Act of 1934, and (b) obtain, by means of false and fraudulent pretenses, representations, and promises, money and property in connection with the purchase and sale of securities of an issuer with a class of securities registered under Section 12 of the Securities Exchange Act of 1934 and that was required to file reports under section 15(d) of the Securities Exchange Act of 1934, in violation of Title 18, United States Code, Section 1348.

30. It was further a part and an object of the conspiracy that GARY PUSEY, the defendant, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause

to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

(Title 18, United States Code, Section 1349.)

COUNT TWO  
(Wire Fraud)

The United States Attorney further charges:

31. The allegations contained in Paragraphs 1 through 27 are repeated, realleged, and incorporated by reference as though fully set forth herein.

32. From in or about February 2014 through in or about September 2015, in the Southern District of New York and elsewhere, GARY PUSEY, the defendant, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, CC-1 defrauded Investment Bank-A and its clients of valuable confidential information by deceptively converting that information to his own use in breach of fiduciary and other duties owed to



Investment Bank-A and its clients, using wire communications and national securities exchanges, and then provided that information to PUSEY who used the information to purchase and sell securities of Forest Oil Corporation, Questcor Pharmaceuticals, Inc., Zygo Corporation, Pepco Holdings, Inc., Measurement Specialties, Inc., Entropic Communications, Inc., PetSmart, Inc., Emulex Corporation, Omnicare, Inc., and TECO Energy, Inc., among other companies.

(Title 18, United States Code, Sections 1343 and 2.)

**COUNTS THREE TO THIRTEEN**  
**(Securities Fraud)**

The United States Attorney further charges:

33. The allegations contained in Paragraphs 1 through 27 are repeated, realleged, and incorporated by reference as though fully set forth herein.

34. On or about the dates set forth below, in the Southern District of New York and elsewhere, GARY PUSEY, the defendant, knowingly and intentionally executed a scheme and artifice to (a) defraud persons in connection with securities of an issuer with a class of securities registered under Section 12 of the Securities Exchange Act of 1934 and that was required to file reports under section 15(d) of the Securities Exchange Act of 1934, and (b) obtain, by means of false and fraudulent pretenses, representations, and promises, money and property in

connection with the purchase and sale of securities of an issuer with a class of securities registered under Section 12 of the Securities Exchange Act of 1934 and that was required to file reports under section 15(d) of the Securities Exchange Act of 1934, to wit, PUSEY obtained material non-public information from CC-1 that CC-1 obtained as part of his employment, and PUSEY used that information to execute the securities transactions listed below:

Count	Order Date(s)	Shares	Security
Three	March 31, 2014	12,000	Forest Oil Corporation
Four	April 4, 2014	425	Questcor Pharmaceuticals, Inc.
Five	April 10, 2014	700	Zygo Corporation
Six	April 28, 2014	1,900	Pepco Holdings, Inc.
Seven	May 30, 2014	200	Measurement Specialties, Inc.
Eight	September 4 and 5, 2014	20,000	Entropic Communications, Inc.
Nine	January 26, 2015	10,000	Entropic Communications, Inc.
Ten	November 18, 2014	800	PetSmart, Inc.
Eleven	February 23 and 24, 2015	13,000	Emulex Corporation
Twelve	May 18, 2015	470	Omnicare, Inc.
Thirteen	August 25, 2015	2,000	TECO Energy, Inc.

(Title 18, United States Code, Sections 1348 and 2.)

**FORFEITURE ALLEGATION**

35. As a result of committing one or more of the offenses alleged in Counts One through Thirteen of this Information, GARY PUSEY, 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 offenses charged in Counts One through Thirteen.

**Substitute Assets Provision**

36. 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 18, United States Code, Section 981; Title 28, United  
States Code, Section 2461 and Title 21, United States Code,  
Section 853(p).)

  
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PREET BHARARA  
United States Attorney