

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

Hao He a/k/a Jimmy He,

Defendant.

Civil Action No.

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

The plaintiff Securities and Exchange Commission (“Commission”) files this Complaint and alleges as follows:

1. This matter involves insider trading in the securities of Sina Corporation (“Sina”), a foreign private issuer headquartered in Shanghai, China. On November 13, 2012 and November 14, 2012 — the two days prior to Sina’s third quarter 2012 earnings announcement — Defendant Hao He a/k/a Jimmy He (“He”) purchased approximately \$162,000 in short-term, put option contracts, expiring on November 17, 2012, based on material nonpublic information obtained by He. Given the cost of the purchase, the stock price of Sina had to decline within the term of the options for the purchase to be profitable.

2. On November 15, 2012, after the market closed, Sina issued an announcement noting that it had beaten analyst forecasts for third quarter earnings, but also announced unexpected negative guidance for the fourth quarter. As a result of this negative guidance, the stock substantially declined the next trading day, opening November 16, 2012 at \$48.60, down approximately 8.5% from its prior day's close of \$53.10.

3. Later that day, on November 16, 2012, He sold all of his put option contracts for a substantial profit, more than doubling his put option "investment" in Sina.

4. Defendant He has engaged in, and unless restrained and enjoined by this Court, will continue to engage in acts and practices which constitute or will constitute violations of Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5].

5. The Commission brings this action pursuant to Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§ 78u(d) and 78u(e)] to enjoin Defendant He from engaging in transactions, acts, practices and courses of business alleged in this Complaint, and transactions, acts, practices, and courses of business of similar purport and object, for disgorgement of illegally obtained funds and prejudgment

interest thereon, for civil monetary penalties against Defendant He, and other equitable relief.

JURISDICTION AND VENUE

6. This Court has jurisdiction of this action pursuant to Sections 21(d), 21(e) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d), 78u(e) and 78aa].

7. Defendant He, directly and indirectly, has made use of the mails and the means and instrumentalities of interstate commerce in connection with the transactions, practices and courses of business alleged in this Complaint.

8. Venue lies in this Court pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa].

DEFENDANT AND OTHER PERSONS OR ENTITIES

9. Defendant Hao He was and is a resident of Lakeland, Tennessee with an MBA degree from the University of Chicago. He is also the sole owner and officer of Torin Drive International LLC (“Torin Drive”), a closely-held corporation, based in Memphis, Tennessee with suppliers in China.

10. Sina Corporation is a foreign private issuer headquartered in Shanghai, China and incorporated in the Cayman Islands. Sina is an online media company targeted towards Chinese communities around the world. Sina’s common stock is registered with the Commission pursuant to Section 12(b) of the Exchange Act and is traded on NASDAQ. Sina files periodic reports, including Forms 20-F and 6-K,

with the Commission pursuant to Section 13(a) and 15(d) of the Exchange Act and related rules thereunder.

DEFENDANT HE ENGAGES IN INSIDER TRADING IN SINA

11. Prior to November 13, 2012, He had engaged in minimal securities or options trading.

12. Between on or about October 10, 2012 and November 5, 2012, He traveled to Shanghai, China, the headquarters of Sina. On or about November 5, 2012, He returned to the United States, shortly after which he had several telephone conversations with an unknown person or persons in China.

13. During his visit to China and/or during those subsequent phone calls, He obtained material, nonpublic information concerning Sina's upcoming future guidance, directly or indirectly, from a Sina officer, director, corporate insider or other person with a duty of trust and confidentiality to Sina's shareholders. Such information was provided by the tipper to He with an expectation of personal benefit from the disclosure.

14. Alternatively, during his visit to China and/or during those subsequent phone calls, He misappropriated material, nonpublic information concerning Sina's upcoming future guidance from a person with knowledge of such information and to whom He owed a duty of trust and confidence.

15. Based upon that material, nonpublic information, on November 13, 2012, He purchased 50 Sina November put option contracts, expiring on November 17, 2012, for a total cost of \$17,548.13.

16. If exercised, the put options would entitle He to sell Sina shares at a specified price. Given the cost of the purchase, the stock price of Sina had to decline within the term of the options for the purchase to be profitable.

17. On November 14, 2012, He had his company, Torin Drive, transfer \$300,000 to his account. Later that same day, based upon the material, nonpublic information, He purchased 200 Sina additional November put option contracts, expiring on November 17, for a total cost of \$144,163.19. Given the cost of the purchase, the stock price of Sina had to decline within the term of the options for the purchase to be profitable.

18. He knew or recklessly failed to know that the information he had obtained and upon which he had traded was material and nonpublic.

19. He knew or was reckless in not knowing that the information upon which he had traded was provided to him in breach of a duty of trust and confidence. Alternatively, He knew or was reckless in not knowing that such information was expected to be maintained as confidential and not be misused, but, in breach of his duty of trust and confidence to the disclosing person, He

misappropriated the information for his own use by trading in Sina securities based on that information.

20. On November 15, 2012, after the market closed, Sina released earnings that beat analyst forecasts for the third quarter of 2012, but unexpectedly gave weak fourth quarter guidance, well short of analyst expectations. This resulted in a downgrade in Sina's stock.

21. When the markets opened on November 16, 2012, Sina's stock price declined approximately 8.5%, opening at \$48.60 compared to the previous day's close of \$53.10. Sina's stock price continued to decline during the day, ultimately closing at \$45.06.

22. Following the decline in the stock price, He sold all of his 250 put option contracts on November 16, 2010 for \$331,530.83, generating illicit profits of \$169,819.10.

COUNT I
FRAUD

Violations of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5]

23. Paragraphs 1 through 22 are hereby realleged and are incorporated herein by reference.

24. In connection with the purchase and sale of securities described herein, Defendant He, by the use of the means and instrumentalities of interstate commerce and by use of the mails, directly and indirectly:

- a) employed devices, schemes, and artifices to defraud;
- b) made untrue statements of material facts and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and
- c) engaged in acts, practices, and courses of business which would and did operate as a fraud and deceit upon the purchasers of such securities, all as more particularly described above.

25. Defendant He knowingly, intentionally, and/or recklessly engaged in the aforementioned devices, schemes and artifices to defraud, and engaged in fraudulent acts, practices and courses of business.

26. By reason of the foregoing, Defendant He, directly and indirectly, has violated and, unless enjoined, will continue to violate Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5].

PRAYER FOR RELIEF

WHEREFORE, the Commission respectfully prays that the Court:

I.

Make findings of fact and conclusions of law in accordance with Rule 52 of the Federal Rules of Civil Procedure.

II.

Issue a permanent injunction enjoining Defendant He and his agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise, and each of them from violating Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. 240.10b-5].

III.

Issue an Order requiring Defendant He to disgorge all ill-gotten gains arising from Defendant He's trading in the securities of Sina, as alleged in the Commission's Complaint, plus pay prejudgment interest thereon.

IV.

Issue an Order requiring Defendant He, pursuant to Sections 21(d)(3) and 21A of the Exchange Act [15 U.S.C. §§ 78u(d)(3) and 78u-1], to pay a civil monetary penalty.

V.

Grant such other and further relief as may be necessary and appropriate.

Dated: February 6, 2014

Respectfully submitted,

/s/ Paul Kim
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Lists various legal categories and codes.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.