

# JUDGE SWAIN

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

ADRIAN A. ALEXANDER formerly  
known as "Adrian Antoniu," SUSI BELLI,  
DAVID V. STRATMAN, PATRICK J. ROONEY,  
CONSTANTINE SPYROPOULOS, JACOBUS J. LAM,  
JOHN R. ROONEY, PATRICK G. ROONEY,  
PAVEL HILLEL, WESTCLIFF PARTNERS, INC.,  
POTENZA INVESTMENTS, INC.,  
QUINTILLION B.V., ROONEY TRADING, INC.,  
and GIANNA TOFFOLI,

Defendants,

PENELOPE AFOUXENIDE,

Relief Defendant.

00 Civ. \_\_\_\_\_ ( )

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") alleges for its Complaint that:

### NATURE OF THE ACTION

1. This insider trading case involves a series of illegal purchases by a ring of traders over a period of several months in advance of the March 3, 1995 tender offer by Luxottica S.p.A for U.S. Shoe Corporation. Susi Belli, then a senior executive at Luxottica, was intimately involved in Luxottica's planning for the tender offer. She betrayed her employer's trust by repeatedly providing information concerning the transaction to her then-boyfriend, the previously convicted insider trader Adrian Antoniu, now known as Adrian Alexander. Antoniu/Alexander is now married to Belli. When Belli tipped Antoniu/Alexander, she knew or was reckless in not knowing that he would tip his friends and business associates. Belli also tipped her mother, Gianna Toffoli, who sold Luxottica securities.

2. Alexander tipped the information he received from Belli concerning Luxottica's plans for a tender offer to several friends and business associates who bought U.S. Shoe stock and options from time to time as Luxottica's confidential tender offer progressed. Belli and Alexander also knew or were reckless in not knowing that these persons would in turn tip others concerning Luxottica's confidential tender offer. These friends and business associates in turn tipped others. Alexander's tippees included: Constantine Spyropoulos, a long time friend who was a member of Alexander's previous criminal insider trading ring; Alexander's attorney David Stratman; and Alexander's business associate Patrick J. Rooney. Stratman and Spyropoulos bought U.S. Shoe securities for themselves, and Stratman tipped his friend Pavel Hillel, who also bought U.S. Shoe securities. Rooney and Alexander tipped Jac Lam, a Dutch national who was in business with them, and all of them profited from U.S. Shoe securities bought through accounts in the names of

various offshore entities nominally controlled by Lam. Rooney and Alexander also tipped Rooney's son John Rooney. Rooney and John Rooney tipped Rooney's other son Patrick G. Rooney, who also bought U.S. Shoe securities.

3. When the tender offer was announced, U.S. Shoe stock jumped from \$18 <sup>3</sup>/<sub>4</sub> to \$24 <sup>1</sup>/<sub>8</sub>, a one-day increase of approximately 35%. Simultaneously, Luxottica's stock, traded as American Depository Receipts ("ADRs"), fell from its high of \$39 <sup>39</sup>/<sub>64</sub> to \$31 <sup>3</sup>/<sub>4</sub>, a one day decline of approximately 20%. In all, the defendants who bought U.S. Shoe securities made illegal profits of approximately \$624,787 from their trading in U.S. Shoe securities. Defendant Toffoli avoided losses of \$20,250 by selling her Luxottica ADRs in advance of the tender offer.

#### JURISDICTION AND VENUE

4. Defendants engaged in acts, practices, and courses of business that violate Sections 10(b) and 14(e) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78j(b) and 78n(e)] and Rules 10b-5 and 14e-3 thereunder [17 C.F.R. §§ 240.10b-5 and 240.14e-3], through the means or instrumentalities of interstate commerce, the mails or the facilities of a national securities exchange.

5. The Court has jurisdiction under Sections 21(e), 21A(d)(4), and 27 of the Exchange Act [15 U.S.C. §§ 78u(e), 78u-1(d)(4), and 78aa]. Certain of defendants' transactions, acts, practices, and courses of business occurred within this District, and venue is proper pursuant to Section 27 of the Exchange Act.

6. The SEC seeks a judgment permanently enjoining the defendants from future violations and directing disgorgement of their illegal profits pursuant to Sections 21(d)(1) and (e) of the Exchange Act [15 U.S.C. §§ 78u(d)(1) and (e)]. Unless enjoined, they will continue to engage in transactions, acts, practices, and courses of business similar to those described below. The SEC also brings this action for

an award of civil penalties pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78u-1].

### DEFENDANTS

7. Susi Belli, an Italian national who now resides in Boulder, Colorado, served as Luxottica's Manager of Public and Investor Relations during the relevant time period in 1994 and 1995. During this period, Belli was dating defendant Adrian Alexander, to whom she is now married. When subpoenaed to testify in the Commission's investigation, Belli at first asserted her Fifth Amendment privilege against self-incrimination, but subsequently testified.

8. Adrian A. Alexander, formerly known as Adrian Antoniu, at relevant times had residences in Florida and New York. He currently resides in Boulder, Colorado. During the relevant period in 1994 and 1995, Alexander was dating Belli and the two were in constant contact, including calls Alexander made to Belli at her offices at Luxottica. During this time, Alexander was a self-styled consultant to a business venture that operated out of New York and Bermuda under the names EC/American Securities Corp. and EC/American Ltd. (hereinafter collectively "EC/American"). On November 13, 1980, Alexander pled guilty to two counts of a criminal information charging him with securities fraud for insider trading on the basis of material non-public information stolen from Alexander's former employer, the investment banking firm of Morgan Stanley. In 1992, the SEC issued an administrative order barring Alexander from the securities industry as the result of his criminal conviction. When subpoenaed to testify in the Commission's investigation, Alexander asserted his Fifth Amendment privilege against self-incrimination.

9. Jacobus J. Lam is a Dutch national residing in Holland who has been identified as a money manager or accountant. Lam was a business associate of Alexander and Patrick J. Rooney

in the operations of EC/American. Lam served as the president or managing director of a number of entities that were investors in transactions put together by Alexander and Patrick J. Rooney. When subpoenaed to testify in the Commission's investigation, Lam failed to appear and his counsel has asserted Lam's Fifth Amendment privilege against self-incrimination.

10. Patrick J. Rooney was formerly the head of the defunct brokerage firm Rooney Pace, Inc., and at relevant times resided in Bermuda and the United States. During all relevant times, Patrick J. Rooney was a self-styled consultant to the EC/American operations, and was a business associate of Alexander and Lam. When subpoenaed to testify in the Commission's investigation, Rooney asserted his Fifth Amendment privilege against self-incrimination.

11. John R. Rooney resides in New York and is currently the Chairman of Hornblower Weeks & Co., Inc., a registered broker-dealer. During all relevant times, John Rooney was affiliated with the EC/American operations as the Vice President and then President of the EC/American Securities operation which became known as Baker Weeks & Co. (and is named today Hornblower Weeks & Co.). John Rooney was the registered representative for the accounts that defendants Belli and Alexander had at Baker Weeks.

12. Patrick G. Rooney resides in Chicago and is the sole officer and shareholder of Rooney Trading, Inc., a registered broker dealer. Patrick G. Rooney invested in several deals put together by his father, Patrick J. Rooney, and Alexander, through their EC/American operations, and had a brokerage account at EC/American.

13. Constantine Spyropoulos is a naturalized U.S. citizen who resides in Greece, and is a friend of Alexander. During the relevant period, Spyropoulos maintained a stock trading account at EC/American, and received payments for work done on EC/American deals. In 1983,

Spyropoulos pled guilty to conspiracy as part of the same insider trading ring that led to the conviction of Alexander.

14. David V. Stratman is a retired attorney and former criminal law professor residing in New Mexico. Stratman is a personal friend of Alexander and has acted as an attorney at various times for Alexander, EC/American, and Patrick J. Rooney. When subpoenaed to testify in the Commission's investigation, Stratman asserted his Fifth Amendment privilege against self-incrimination.

15. Gianna Toffoli is defendant Belli's mother. Toffoli is an Italian national who resides in Cortina D'Ampezzo, Italy.

16. Pavel Hillel resides in New York and is a friend of Stratman. When subpoenaed to testify in the Commission's investigation, Hillel asserted his Fifth Amendment privilege against self-incrimination.

17. Potenza Investments, Inc. is a Panamanian corporation based in the Netherlands. Jac Lam is an officer of Potenza, and funds were wired from Potenza's accounts to EC/American accounts. Lam and Patrick J. Rooney used funds from Potenza to purchase U.S. Shoe options in accounts held in the names of other foreign companies.

18. Quintillion B.V. is a Dutch corporation. Jac Lam is the Managing Director of Quintillion. John Rooney was a signatory on Quintillion's American bank account.

19. Westcliff Partners, Inc. is a Dutch corporation. Jac Lam is the President of Westcliff.

#### **RELIEF DEFENDANT**

20. Penelope Afouxenide is a Greek national and the wife of defendant Spyropoulos. Afouxenide was the recipient of proceeds of illegal trades in the securities of U.S. Shoe which were

made in an account in which she had an interest.

### **OTHER ENTITIES**

21. U.S. Shoe Corporation, based in Cincinnati, Ohio, operated retail outlets selling optical goods, footwear, and women's apparel. At all relevant times, its common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act [15 U.S.C. § 781(b)], and its shares were traded on the New York Stock Exchange. Options on U.S. Shoe stock traded on the Philadelphia Stock Exchange.

22. Luxottica Group S.p.A. is an Italian company based in Agordo, Italy, with corporate offices in Milan. It designs, manufactures, and sells traditional and designer eyeglasses, eyeglass frames, and sunglasses. Luxottica's American Depository Receipts ("ADRs") are registered pursuant to Section 12(b) of the Exchange Act [15 U.S.C. § 781(b)], and are traded on the New York Stock Exchange.

### **BACKGROUND: LUXOTTICA PLANS A TENDER OFFER FOR U.S. SHOE**

23. In 1994, Luxottica began considering acquiring a retail eyeglass operation in the United States. After consultation with its financial advisor CS/First Boston, Luxottica identified two suitable businesses, one of which was the Lenscrafters subsidiary of U.S. Shoe.

24. At all relevant times until Luxottica announced its tender offer for the shares of U.S. Shoe on March 3, 1995, Luxottica's plans to acquire a retail eyeglass operation were confidential.

25. Separately from Luxottica's interest in U.S. Shoe, Nine West, Inc., one of the nation's leading women's footwear chains, had been pursuing an acquisition of a different subsidiary of U.S. Shoe, which manufactured and sold women's footwear. Nine West first publicly announced its interest in such an acquisition on August 1, 1994.

26. On October 26, 1994, Luxottica's Board of Directors authorized the President of

Luxottica to investigate the feasibility of a transaction involving U.S. Shoe.

27. By at least the beginning of November 1994, Belli was informed of Luxottica's confidential plans regarding an acquisition of U.S. Shoe and began advising the senior officers of the company on various issues, including public and investor relations. In addition, Belli regularly served as an interpreter for Leonardo Del Vecchio, the Chairman of Luxottica's Board of Directors, and Roberto Chemello, Luxottica's Chief Financial Officer. From that point forward, Belli was continuously involved in Luxottica's confidential and secret preparations to launch a tender offer.

28. During November 1994 Luxottica retained the United States law firm of Winston & Strawn to advise it in preparing a tender offer, and a second law firm in Ohio to advise it with respect to potential Ohio takeover litigation. Luxottica's financial advisor CS/First Boston also engaged a law firm to advise it in connection with the proposed acquisition, and developed a preliminary financing structure for the potential acquisition.

29. During November, Luxottica's advisors CS/First Boston made a number of presentations to Luxottica concerning the acquisition, including a November 22 presentation that included a discussion of U.S. Shoe's defenses and presented a valuation scenario for Luxottica's tender offer for U.S. Shoe. A copy of the written presentation was sent to Luxottica's headquarters in Italy where Belli had access to it. CS/First Boston made another presentation to Luxottica on December 6, and again a copy of the written presentation was sent to Luxottica's headquarters in Italy where Belli had access to it. CS/First Boston made another presentation to Luxottica on December 14; this presentation specifically referred to investor relation issues, and a copy of the written materials were sent to Luxottica's headquarters in Italy where Belli had access to it.

30. On or about December 13, 1994, Luxottica received an engagement letter from CS/First



Boston for it to act as Luxottica's financial advisor for the acquisition of U.S. Shoe. The engagement letter contained a confidentiality provision requiring CS/First Boston to maintain the secrecy of Luxottica's plans. On December 14, representatives of CS/First Boston and Luxottica met to discuss the financing for the proposed transaction. On December 15, a copy of the CS/First Boston retention letter was faxed directly to Belli's attention by the general counsel of Luxottica's American subsidiary.

31. On or about December 16, a Luxottica official contacted U.S. Shoe directly to express interest in acquiring U.S. Shoe. Also on December 16, Luxottica retained a public relations firm to assist in a potential takeover, and CS/First Boston first circulated a list of members of the acquisition team. Susi Belli was one of three persons at Luxottica headquarters in Italy included in that list.

#### **BELLI TIPS ALEXANDER AND THE INSIDER TRADING COMMENCES**

32. In early December 1994, including many telephone calls on December 12, 13, and 14, Alexander and Belli were in constant communication in person or by telephone. In the course of those communications, Belli tipped Alexander with material nonpublic information concerning Luxottica's secret and confidential plans regarding U.S. Shoe. Alexander, in turn, tipped that information to others.

33. On December 14, 1994, there were a series of communications from the EC/American offices where Alexander worked to the home of his friend David Stratman in Santa Fe, New Mexico. During these or other communications, Alexander tipped Stratman concerning Luxottica's plan regarding U.S. Shoe. On the morning of December 15, Stratman made his first ever purchase of U.S. Shoe securities, buying 5,000 shares of common stock in his cash account at the New Mexico office of his stockbroker.

34. On December 16, Alexander placed several telephone calls from the offices of EC/American to Belli at her office at Luxottica in Italy. Immediately after the last call, a call was placed

from the offices of EC/American where Alexander worked to Stratman in New Mexico. Later that day, Stratman bought an additional 1,000 shares of U.S. Shoe in his cash account at the New Mexico office of his stockbroker.

35. On December 16 and 17, Stratman telephoned his friend Pavel Hillel and tipped him concerning Luxottica's plans regarding U.S. Shoe. On Monday, December 19, Hillel placed an order for what was both his first ever option trade and his first ever trade in U.S. Shoe. He bought 10 April 15 call options.

36. On December 22, following numerous telephone calls to Belli on the preceding day, three calls were placed from the EC/American offices where Alexander worked to Stratman, during which calls Alexander provided Stratman with additional information concerning Luxottica's plans regarding U.S. Shoe. On December 23, 1994, Stratman purchased 15 April 20 U.S. Shoe call options in his cash account at the New Mexico office of his stockbroker.

37. As of December 30, the price of U.S. Shoe stock had increased almost 13% from Stratman's purchase price on December 15 and 16. That day, Stratman sold the 6,000 shares of U.S. Shoe he had purchased, locking in profits of approximately \$15,250.

38. Alexander and Patrick J. Rooney were working together on EC/American projects throughout the period from December 1994 through March 1995. They were both in regular contact with one another and with Lam, who was also involved with EC/American. They were also both in regular contact with John Rooney, who was employed by EC/American. During this period, Patrick J. Rooney and John Rooney shared the same New York City apartment.

39. By at least December 20, 1994, Alexander tipped Patrick J. Rooney, and Alexander and Patrick J. Rooney tipped Lam, with material nonpublic information concerning Luxottica's plans

regarding U.S. Shoe. On December 20, Patrick J. Rooney contacted Barry Blank, a broker residing in Arizona who had been employed at Rooney, Pace & Co., and told Blank that he wanted to purchase 10,000 U.S. Shoe call options using an account held in the name of Quintillion B.V. Quintillion B.V. is a Dutch company nominally controlled by Lam. Patrick J. Rooney reduced the size of the order to 1,000 options when he learned the premium for the original purchase of 10,000 option contracts would exceed \$2 million.

40. Blank executed the purchase of 1,000 April 20 U.S. Shoe call options for the Quintillion account on or about December 20, 1994. Some of the funds used to purchase the options in the Quintillion account were supplied by transferring \$75,000 from an account in the name of Potenza Investments.

41. When a brokerage account is opened, a customer may authorize someone other than, or in addition to, themselves to make trades in the account, and a customer may add or remove authorized persons at any time. At the time of the purchases of U.S. Shoe options in the Quintillion account, Patrick J. Rooney did not have any authority to place orders or make trades in the account. Lam subsequently called Blank and confirmed the trade.

42. Alexander, Patrick J. Rooney, and Lam were in regular contact with John Rooney in the course of their activities at EC/American and otherwise. In or about December, 1994, they tipped him with material nonpublic information concerning Luxottica's plans regarding U.S. Shoe, and told him of their purchase of U.S. Shoe call options in the Quintillion account.

43. Patrick G. Rooney and his brother John Rooney have a close relationship and in December 1994 and January 1995 were in contact with each other face to face and over the telephone. John Rooney tipped Patrick G. Rooney with material nonpublic information concerning Luxottica's

plans regarding U.S. Shoe and the purchase of 1,000 U.S. Shoe call options in the Quintillion account.

44. Patrick G. Rooney was also in contact with his father Patrick J. Rooney in December and early January concerning a proposed investment his father was putting together. Patrick J. Rooney also tipped material nonpublic information concerning Luxottica's plans regarding U.S. Shoe to Patrick G. Rooney.

45. On January 6, 1995, Patrick G. Rooney made his first ever investment in U.S. Shoe, purchasing 30 April 20 call options in an account at Rooney Trading, the broker-dealer he owned. On January 9, 1995, Patrick G. Rooney purchased an additional 6 April 20 U.S. Shoe call options, and on the following day he purchased 5,000 shares of U.S. Shoe common stock.

#### LUXOTTICA CONTINUES ITS TENDER OFFER PREPARATIONS

46. In early January 1995, after a vacation in Jamaica with Alexander, Belli stopped over in New York to attend meetings at Luxottica's U.S. subsidiary which included meetings with representatives of CS/First Boston, and Luxottica's outside public relations advisors. Belli was the sole representative from Luxottica's headquarters in Italy attending these meetings.

47. On January 9, Luxottica officials met with U.S. Shoe's Chairman and Chief Executive Officer Bannus Hudson and other U.S. Shoe officials to discuss Luxottica's interest in acquiring U.S. Shoe. Thereafter Luxottica and U.S. Shoe continued discussions concerning a possible negotiated transaction.

48. In mid-January, representatives of Luxottica's financial advisor CS/First Boston, and of the investment bank Credit Suisse, participated in three days of confidential meetings at Luxottica headquarters in Agordo, Italy, during which they examined all aspects of Luxottica's operations, including items such as its books, records, and management. These meetings, known as "due diligence"

meetings, were in preparation for a decision to provide financing for Luxottica's tender offer. At the same time, representatives of CS/First Boston also met with senior Luxottica officials to discuss the structure of the proposed transaction. Belli helped organize and participated in the due diligence meetings at Luxottica's headquarters.

49. In late January, Luxottica sought formal approval from Credit Suisse for a commitment for the debt financing to be used to launch a tender offer for U.S. Shoe.

50. On January 31, 1995, Luxottica's board authorized a tender offer for U.S. Shoe.

#### **BELLI TIPS TOFFOLI, WHO SELLS LUXOTTICA ADRS**

51. On or before January 30, 1995, Belli, directly or indirectly, tipped her mother Gianna Toffoli with material nonpublic information concerning Luxottica's plans regarding U.S. Shoe.

52. When one company announces its intent to acquire another, particularly in a debt-financed transaction, the share price of the acquiring company typically declines. On January 30, 1995, Toffoli placed a limit order to sell 6,000 Luxottica ADRs in an account she maintained in Italy. A limit order is an order to sell a stock at or above a specific price, and will only be executed by a broker at the price specified in the order, or a better price. By February 3, Toffoli's limit order had not been executed. On February 3, Toffoli changed her limit order and it was subsequently filled by the sales of Luxottica ADRs on the New York Stock Exchange on February 3, 6, and 7, 1995.

#### **AS EVENTS PROGRESSED, OLD AND NEW MEMBERS OF THE RING ENGAGED IN A NEW BURST OF INSIDER TRADING IN FEBRUARY 1995**

53. On February 13, 1995, Luxottica received a preliminary financing commitment from Credit Suisse for its planned tender offer for U.S. Shoe. At that point, Luxottica contemplated launching its tender offer later that month.

54. Belli, who was in New York City on February 13, was in continuous contact with individuals at Luxottica's headquarters in Italy concerning the tender offer.

55. On February 13 and 14, Belli was also in regular contact with Alexander by telephone and in person. Belli tipped Alexander with additional material nonpublic information concerning Luxottica's plans regarding U.S. Shoe.

56. Beginning early in the morning on February 15, Alexander placed several calls to Spyropoulos in Greece, and tipped him with material nonpublic information concerning Luxottica's plans regarding U.S. Shoe. In the afternoon of February 15, Spyropoulos made his first ever purchase of U.S. Shoe securities, buying 150 March 20 call option contracts in an account held in the name of his wife, Penelope Afouxenide. On February 17, Spyropoulos purchased 9,000 shares of U.S. Shoe common stock in his wife's account, 75 March 20 U.S. Shoe call options, and 25 April 20 call options. On February 24, Spyropoulos sold 800 shares of U.S. Shoe stock he had purchased on February 17 in response to a margin call, but on the same day purchased an additional 20 April 20 U.S. Shoe call options.

57. In the morning of February 15, 1995, Stratman sold the 15 April 20 U.S. Shoe call options that he had purchased the previous December. On that day, and again on February 16, Alexander called Stratman and tipped him with additional material nonpublic information concerning Luxottica's plans concerning U.S. Shoe.

58. On February 17, 1995, Stratman placed orders to purchase U.S. Shoe stock and options in three different brokerage accounts, including his cash account in New Mexico, his Individual Retirement Account ("IRA"), and an account in Switzerland. In his cash account in New Mexico, Stratman purchased 100 April 25 U.S. Shoe call options, and 20,000 shares of U.S. Shoe common stock

on margin, substantially exhausting the margin credit available to him. In his IRA, Stratman used the entire value of the account to purchase 960 shares of U.S. Shoe common stock.

59. For the transaction in his account in Switzerland, on that same day Stratman faxed a letter to his broker in Lugano confirming his instructions to buy U.S. Shoe:

purchase today for my account the maximum amount possible of United States Shoe Corp. (USR Symbol on New York Stock Exchange) at market price immediately. I understand that my current positions will be liquidated to pay for this transaction.

In that letter Stratman also asked that his broker call to advise him of his credit position to purchase U.S. Shoe on margin. Stratman purchased 7,300 shares of U.S. Shoe on February 17 in his Swiss account.

60. Beginning on Wednesday, February 15 and continuing through Monday, February 20, 1995, there was a series of communications between Alexander, Patrick J. Rooney, and John Rooney. Alexander tipped them with additional material nonpublic information concerning Luxottica's plans regarding U.S. Shoe which he had received from Belli. Alexander and Patrick J. Rooney also tipped Lam with additional material nonpublic information concerning Luxottica's plans regarding U.S. Shoe.

61. On February 17, Nine West and U.S. Shoe jointly announced that their previously disclosed discussions concerning the sale of U.S. Shoe's women's footwear business to Nine West had terminated. After the Nine West/U.S. Shoe discussions terminated, the price of U.S. Shoe stock dropped approximately 15%.

62. On February 21, 1995, 300 U.S. Shoe April 22½ call options were purchased in the account of Westcliff Partners at a New York broker-dealer. Westcliff Partners was an entity nominally controlled by Lam.

63. On February 17 and 18, 1995, in the midst of the series of communications among John Rooney, Alexander, and Patrick J. Rooney, John Rooney placed several calls to his brother Patrick G. Rooney and tipped him with additional material nonpublic information concerning Luxottica's plans regarding U.S. Shoe.

64. On Wednesday, February 22, 1995, Patrick G. Rooney purchased an additional 200 April 20 U.S. Shoe call options.

65. By February 22, 1995, the 20,000 shares of U.S. Shoe stock Stratman had bought on margin in his New Mexico account had declined in value by more than \$35,000 because of the drop following the termination of the talks with Nine West. That day Stratman liquidated that position, which provided funds to settle the purchase transaction.

66. Also on March 1, 1995, after receiving a margin call, Spyropoulos sold 600 shares of the U.S. Shoe stock that had been purchased on February 17.

#### **COMMENCEMENT OF THE TENDER OFFER**

67. On March 3, 1995, Luxottica announced a tender offer for all the stock of U.S. Shoe at \$24 per share. As described in Luxottica's tender offer filings, the \$1.12 billion tender offer was to be financed entirely through borrowings. After the tender offer announcement, the price of U.S. Shoe stock rose from \$18 3/4 to \$24 1/8, a one-day increase of approximately 35%. The price of Luxottica stock declined after the announcement from \$39 5/8 to \$31 3/4, a one day decline of approximately 20%.

#### **THE DEFENDANTS REAP THEIR FRAUDULENT PROFITS**

**Toffoli**



68. By selling Luxottica stock before the tender offer announcement, Toffoli avoided losses of approximately \$20,250.

**Patrick G. Rooney**

69. Patrick G. Rooney sold his entire position in U.S. Shoe the day of the tender offer announcement, realizing illegal profits of approximately \$102,950.

**Spryopoulos**

70. Spryopoulos liquidated his positions in U.S. Shoe on the day of the tender offer announcement, selling 7,600 shares of U.S. Shoe common stock and 270 call options, and realizing illegal profits of approximately \$117,175.

**Lam Realizes the Westcliff and  
Quintillion Profits and Shares Them  
With Alexander and Patrick J. Rooney**

71. On March 3, 6, and 7, 1995, after the announcement of Luxottica's tender offer, the 300 call options in the Westcliff account were sold for illegal profits of approximately \$63,187.50. On March 27, 1995, a check was drawn on the Westcliff account in the amount of \$83,998.29, which included the proceeds of the illegal option trade. This check was subsequently deposited by Lam into an account in the name of Westcliff Partners at Discount Bank & Trust in Switzerland.

72. Beginning on March 3 after the announcement of Luxottica's tender offer, and continuing on March 6, the 1,000 calls in the Quintillion account were sold for illegal profits of approximately \$239,152.68. On March 24, 1995, a check in the amount of \$470,218.45, representing the gross proceeds from the sale of the U.S. Shoe call options, plus some additional monies, was drawn on the Quintillion account. This check was endorsed by Lam and deposited into an account in the name of Westcliff Partners at Discount Bank & Trust in Switzerland.

73. Four months later, in July 1995, \$479,500 was wired from the Westcliff Partners account at Discount Bank & Trust in Switzerland into the account of Potenza Investments, Inc., at ABN Amro Bank in the Netherlands. Money from this Potenza account was subsequently wired to both Alexander and Patrick J. Rooney. In September 1995, \$400,100 was wired from the Potenza account at ABN Amro to Alexander's company, Aliko Financial. On August 21, 1995, \$149,990 was wired from the Potenza account at ABN Amro to an account in the name of EC/American controlled by Rooney and Alexander. Subsequently, this same EC/American account received from the Potenza ABN Amro account four additional wire transfers, each in the amount of \$99,900, on October 2, 1995; October 31, 1995; December 6, 1995; and January 16, 1996.

#### Stratman

74. On April 5, 1995, Stratman sold the 100 options purchased in his cash account in New Mexico. Stratman tendered the U.S. Shoe shares held in his IRA account and the shares held in his Swiss account. Stratman realized illegal profits of approximately \$80,697.50 on the sales of U.S. Shoe securities he held at the time of Luxottica's tender offer. Together with the profits on his December sales, he reaped illegal gains totaling \$95,947.50.

#### Hillel

75. Hillel sold his U.S. Shoe call options on April 12, 1995, realizing illegal profits of approximately \$6,375.

### FIRST CLAIM

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

76. Susi Belli breached her fiduciary duty and misappropriated material nonpublic information about Luxottica's planned tender offer for U.S. Shoe and used that information to tip defendants Alexander and Toffoli in breach of the duty of trust and confidence that she owed to Luxottica. Belli knew or was reckless in not knowing that defendant Alexander would and did tip others concerning Luxottica's confidential plans.

77. Defendants Alexander and Toffoli knew or were reckless in not knowing that the information they received from Belli was material nonpublic information provided in breach of Belli's duty of trust and confidence to her employer.

78. Defendant Alexander tipped defendants Patrick J. Rooney, Jacobus J. Lam, Constantine Spyropoulos, John R. Rooney, and David V. Stratman, who all knew or were reckless in not knowing that the information received through Alexander was obtained from Belli and was provided in breach of Belli's duty of trust and confidence to her employer. Alexander knew or was reckless in not knowing that his tippees would buy U.S. Shoe and that they would tip others with the information.

79. Defendant Patrick J. Rooney tipped defendants John R. Rooney, Patrick G. Rooney, and Lam, and defendant John R. Rooney tipped defendant Patrick G. Rooney, who all knew or were reckless in not knowing that the information received from Alexander was obtained from Belli and was provided in breach of Belli's duty of trust and confidence to her employer.

80. As a result, between approximately December 15, 1994 and March 3, 1995, each defendant except for relief defendant Afouxenide, directly or indirectly, in connection with a trade in U.S. Shoe common stock or options, or Luxottica ADRs, by use of the means and instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange: (1) employed devices, schemes, or artifices to defraud; (2) made untrue statements of material facts, or omitted to state

material facts necessary in order to make the statements made in light of the circumstances in which they were made, not misleading; or (3) engaged in acts, practices, or transactions which operated as a fraud or deceit upon purchasers or sellers of securities or upon other persons, in connection with the purchase or sale of securities.

81. As part of that illegal conduct, each defendant except for relief defendant Afouxenide, while in possession of material nonpublic information about Luxottica's plans to make a tender offer for U.S. Shoe, and under circumstances in which he or she knew or was reckless in not knowing that the information was confidential and had been obtained through misappropriation or a breach of fiduciary duty or other relationship of trust and confidence or other wrongful acts, purchased or caused the purchase of U.S. Shoe securities, or the sale of Luxottica securities.

82. By reason of the foregoing acts, practices and transactions, each defendant except for relief defendant Afouxenide violated Section 10(b) of the Exchange Act [15 U.S.C. § 78i(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

## **SECOND CLAIM**

### **Violations of Section 14(e) of the Exchange Act [15 U.S.C. § 78n(e)] and Rule 14e-3 [17 C.F.R. § 240.14e-3] promulgated thereunder**

83. By at least December 15, 1994, Luxottica had taken substantial steps toward commencing a tender offer for the securities of U.S. Shoe, including, among other things, retaining an investment banking firm, retaining a law firm to assist in making the tender offer, obtaining Board approval to investigate the tender offer, and developing a financial structure for the transaction. By February 15, 1995, Luxottica had taken additional substantial steps toward commencing a tender offer

for the securities of U.S. Shoe, including completing due diligence with its investment banker and prospective financier for the transaction.

84. Each of the defendants except Toffoli and Afouxenide engaged in fraudulent, deceptive, or manipulative acts or practices in connection with a tender offer by Luxottica for the common stock of U.S. Shoe. by: (1) communicating to others material, nonpublic information relating to Luxottica's tender offer, under circumstances in which it was reasonably foreseeable that such communications were likely to result in the purchase or sale of the securities of U.S. Shoe; and/or (2) purchasing or causing to be purchased the securities of U.S. Shoe while in possession of material information relating to the tender offer, which information they knew or had reason to know was obtained directly or indirectly, from the offering persons, Luxottica, or a person acting on behalf of Luxottica.

85. By reason of the foregoing acts, practices, and courses of business, each defendant except Toffoli and Afouxenide violated Section 14(e) of the Exchange Act and Rule 14e-3 promulgated thereunder.

### THIRD CLAIM

86. Relief defendant Afouxenide was the recipient of proceeds of the sale of U.S. Shoe securities which were purchased and sold in an account in her name. Afouxenide profited from the receipt of proceeds from the purchase and sale of U.S. Shoe shares by obtaining illegal profits under circumstances in which it is not just, equitable, or conscionable for her to retain the illegal profits. As a consequence of the foregoing, Afouxenide has been named a relief defendant for the amounts of the profits by which she was unjustly enriched as a result of illegal insider trading. Afouxenide should be ordered to disgorge the profits received as a consequence of the above-described illegal insider trading.

**PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully requests that this Court:

**I.**

Grant a Final Judgment of Permanent Injunction restraining and enjoining each defendant and their agents, servants, employees, attorneys-in-fact, and assigns and those persons in active concert or participation with them, and each of them, from violating Sections 10(b) and 14(e) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78n(e)] and Rules 10b-5 and 14e-3 [17 C.F.R. §§ 240.10b-5 and 240.14e-3] promulgated thereunder.

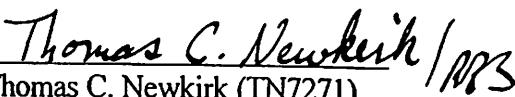
**II.**

Order the defendants to disgorge illegal trading profits plus prejudgment interest thereon, and to pay civil penalties under the Insider Trading and Securities Fraud Enforcement Act of 1988 [15 U.S.C. § 78u-1].

III.


Grant such other relief as this Court may deem just and appropriate.

Respectfully submitted,

  
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