

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
August 11, 2006

ADMINISTRATIVE PROCEEDING
File No. 3-12392

In the Matter of

PAUL E. JOHNSON,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
PROCEEDINGS PURSUANT TO SECTION
15(b) OF THE SECURITIES EXCHANGE
ACT OF 1934 AND NOTICE OF HEARING**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Paul E. Johnson (“Respondent” or “Johnson”).

II.

After an investigation, the Division of Enforcement alleges that:

A. RESPONDENT

1. Respondent, age 45, resides in New York, New York. From 1994 until June 2002, Respondent was a managing director and senior equity analyst at Robertson Stephens, Inc. (“RSI”), a broker-dealer registered with the Commission pursuant to Section 15(b) of the Exchange Act. During the relevant period, Respondent provided research coverage on companies in the networking and telecommunications industries from RSI’s New York City office.

B. ENTRY OF THE INJUNCTION

2. On January 9, 2003, the Commission filed a civil enforcement action entitled Securities and Exchange Commission v. Paul E. Johnson, Civil Action Number 03 Civ. 0177 (JFK), in the United States District Court for the Southern District of New York. The

Complaint¹ alleged that Johnson had violated Section 17(a) of the Securities Act of 1933 (“Securities Act”), Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

3. The Complaint alleged that, in 1999 and 2000, Johnson provided research coverage on two public companies – Redback Networks, Inc. (“Redback”) and Sycamore Networks, Inc. (“Sycamore”) – that each announced proposed mergers with private companies. Johnson praised the proposed mergers in research reports, press releases and media appearances, but failed to disclose his personal conflicts of interest. Specifically, Johnson owned stock in each of the private companies that, upon the consummation of the respective merger, would be exchanged for shares in Redback or Sycamore worth millions of dollars. In each instance, the merger that Johnson advocated took place and resulted in huge returns on Johnson’s initial private investments. Johnson’s failure to disclose his interests constituted omissions of material facts.

4. The Complaint also alleged that in January 2001, Johnson spoke privately about Corvis Corporation (“Corvis”), on which he wrote research, to a committee comprised of RSI senior executives who were responsible for making investment decisions for a group of partnerships owned and controlled by RSI and its employees. Johnson’s statements to the committee directly contradicted his existing “buy” recommendation on Corvis stock. Consequently, that “buy” recommendation was false and misleading to investors. After Johnson spoke, the committee unanimously voted to sell all of the Corvis stock held by two partnerships. In addition, the day after he made his private recommendation to the committee, Johnson sold nearly all of the Corvis stock that he personally owned. Two days after his sale of the stock, Johnson issued another research report on Corvis that reiterated his “buy” recommendation, but did not disclose his contrary private advice to the committee or that he had sold nearly all of his own stock two days earlier. These omissions rendered the second report false and misleading.

5. On November 11, 2005, after a trial based upon the Commission's allegations set forth above, a jury sitting in the U.S. District Court for the Southern District of New York returned a verdict finding that Johnson had violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. The jury found Johnson liable on each of the four securities fraud counts presented to it for decision: one count each concerning Redback and Sycamore, and two counts concerning Corvis.

6. On July 24, 2006, the District Court issued an Opinion and Order, and a final judgment based upon the jury's verdict. The District Court enjoined Johnson for a five-year term from violating Section 17(a)(1) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, ordered Johnson to disgorge \$1,868,796 plus prejudgment interest, and ordered Johnson to pay \$125,000 in civil penalties. The Commission’s claims under Section 17(a) of the Securities Act had not been presented to the jury because the Court found that the relief requested under Section 17(a) was entirely equitable in nature. In its Opinion and Order, however, the Court found Johnson liable for violating Section 17(a)(1) based on the jury's findings of fact on the fraud charges under Exchange Act Section 10(b) and Rule 10b-5 thereunder.

¹ As amended.

7. The District Court discussed the recurrent nature of Johnson's fraudulent conduct, in that the instances of fraud "took place over a span of several years with regard to three different companies" and that "the jury found Johnson liable for four violations of securities fraud." The Court also agreed with the Commission's contention that "Johnson's occupation as a hedge fund manager makes it likely that future violations may occur."

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative proceedings be instituted to determine:

A. Whether the allegations set forth in Section II are true and, in connection therewith, to afford Respondent an opportunity to establish any defenses to such allegations;

B. What, if any, remedial action is appropriate in the public interest against Respondent pursuant to Section 15(b) of the Exchange Act.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondent shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondent fails to file the directed answer, or fails to appear at a hearing after being duly notified, the Respondent may be deemed in default and the proceedings may be determined against him upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondent personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 210 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related

proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not “rule making” within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

For the Commission, by its Secretary, pursuant to delegated authority.

Nancy M. Morris
Secretary