

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

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**SECURITIES AND EXCHANGE COMMISSION,**

**PLAINTIFF,**

v.

**DMITRIY BUTKO,**

**DEFENDANT.**

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**Civil Action No.**

**COMPLAINT**

Plaintiff the United States Securities and Exchange Commission (“Commission”),  
alleges:

**SUMMARY**

1. This action stems from a modern-day, technological version of the traditional “pump-and-dump” market manipulation scheme. From October 19, 2006, through November 30, 2006, Defendant Dmitriy Butko (“Butko”), a citizen and current resident of Russia, engaged in a scheme to fraudulently use the Internet to intrude into the online brokerage accounts of unsuspecting customers at U.S. broker-dealers and place unauthorized trades in the accounts for the defendant’s own pecuniary benefit. The scheme worked like this. First, the defendant purchased in his own accounts shares of stock in a thinly traded company. Shortly thereafter, the defendant, directly or indirectly, intruded into the online brokerage accounts of investors at U.S. broker-dealers, liquidating equity positions and, using the resulting proceeds, purchased and sold

thousands of shares of the same thinly traded stocks purchased by the defendant in his own accounts. The unauthorized trading activity in the third-party accounts created the appearance of trading activity and pumped the price of the stocks. Then, at the height of the price surge, the defendant sold in his own accounts his previously-purchased shares of the same stocks at the inflated prices.

2. As a result of his fraudulent scheme, the defendant realized profits totaling \$60,362 and stood to realize additional profits of \$441,232, but the NASDAQ, in coordination with American Stock Exchange and New York Stock Exchange Arca, cancelled all of the trades in one of the securities immediately after discovering the unauthorized transactions. In addition, the broker-dealers whose customers' accounts were compromised in this scheme, suffered losses in excess of \$348,614.06 in their efforts to make their customers whole.

3. On November 30, 2006, upon detection of his fraudulent scheme, Interactive Brokers LLC, the broker-dealer at which Butko maintains his accounts, suspended all trading and withdrawals in Butko's accounts and froze the remaining proceeds, which are presently valued at \$56,912.77.

4. By virtue of his conduct, the defendant has engaged and, unless enjoined, will continue to engage in violations of Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)] and Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5].

## **JURISDICTION AND VENUE**

5. The Commission brings this action, and this Court has jurisdiction over this action, pursuant to authority conferred by Sections 20(b), 20(d) and 22(a) of the Securities Act, [15 U.S.C. §§ 77t(b), 77t(a) and 77v(a)] and Sections 21(d), 21(e) and 27 of the Exchange Act, [15 U.S.C. §§ 78u(d), 77u(e) and 78aa].

6. This Court has personal jurisdiction over the defendant and venue is proper in the District of Connecticut pursuant to Section 27 of the Exchange Act [15 U.S.C. § 78aa] because some of the transactions, acts, practices, and courses of business constituting the violations alleged herein occurred within this District. Specifically, the defendant employed the brokerage services of broker-dealer Interactive Brokers, LLC, (“Interactive”), which is headquartered in Greenwich, Connecticut.

7. The defendant, directly and indirectly, singly or in concert, made use of the means and instrumentalities of interstate commerce, and the means and instruments of transportation and communication in interstate commerce, in connection with the transactions, acts, practices, and courses of business alleged in this Complaint.

### **DEFENDANT**

8. Dmitriy Butko, age 35, resides in Samara, Russia. At all relevant times, Butko had access to a computer and Internet connection and maintained Internet-accessible securities brokerage accounts at Interactive.

## FACTS

### The Defendant's Intrusion Scheme

9. On August 21, 2006, Butko opened one brokerage account at Interactive titled in his name, and then on September 4, 2006, Butko opened a brokerage sub-account at a Russian brokerage firm that maintains an omnibus brokerage account titled in the firm's name also at Interactive. Both accounts began trading in October 2006. According to account opening applications for the account at Interactive in Butko's name, he has a liquid net worth of \$400,000.

10. From October 19, 2006, through November 30, 2006, Butko traded in four companies whose securities were the subject of unauthorized purchases and price manipulation in intruded accounts at various broker-dealers, including E\*Trade, Scottrade, Inc. ("Scottrade"), TD Ameritrade, Inc. ("TD Ameritrade") Charles Schwab & Co., Inc. ("Schwab") and National Financial Services Corp. ("Fidelity"). The accounts were intruded into without the permission or knowledge of the account holders.

11. Butko's trading pattern was the same for each intrusion. Specifically, Butko would purchase shares in a thinly-traded stock on the same day, just prior to or simultaneously with, one or more intrusions into an online brokerage account; a series of unauthorized purchases of the same thinly-traded issuer would be effected in the intruded accounts resulting in an increase in the price of the stock; and then, immediately or shortly thereafter, Butko would sell all of his shares in that stock at the inflated prices. In one instance, an online account intrusion was effected by the same Internet protocol

address Butko used to access his own brokerage accounts at Interactive. Butko profited from his fraudulent trading in all but three of the four issuers involved in the intrusions.

### **The CSN Intrusions**

12. City Network, Inc. is and was, at all relevant times, a Taiwan-based designer, manufacturer and marketer of broadband and wireless Internet access products quoted on the American Stock Exchange (AMEX) under the symbol CSN.

13. On November 27, 2006, between 3:10 p.m. and 3:18 p.m., Butko accumulated in his accounts 173,700 CSN shares at prices ranging from \$.01 to \$.09 per share.<sup>1</sup>

14. On November 28, 2006, between 11:15 a.m. and 12:11 p.m., Butko accumulated an additional 231,090 CSN shares at prices ranging from \$.01 to \$.15 per share.

15. On November 30, 2006, from 9:35 a.m. and 9:52 a.m., one or more unknown traders intruded into a TD Ameritrade account, and placed orders to buy 560,000 CSN shares at prices ranging from \$.11 to \$1.24 per share. Similarly, from 9:30 a.m. and 10:00 a.m., one or more unknown traders intruded into a Fidelity account and placed orders to buy 44,000 CSN shares. Also, from 9:58 a.m. to 10:06 a.m., one or more unknown traders intruded into an E\*Trade account and placed orders to buy 394,700 CSN shares at prices ranging from \$1.20 to \$1.24 per share. Finally, at 11:13 a.m., one or more unknown traders intruded into a Schwab account and placed orders to buy 20,000 CSN shares.

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<sup>1</sup> All times set forth herein are in the Eastern Time Zone.

16. On November 30, 2006, CSN opened at \$.09 per share and rose to \$1.30 per share within thirty minutes on volume of 505,200 shares, compared to the 15-day average daily trading volume of 107,000 shares.

17. Concurrently with the intrusions, on November 30, 2006, from 10:01 a.m. and 10:05 a.m., Butko placed orders to sell 404,800 CSN shares out of his own account at \$1.09 per share for a potential profit of \$441,232.

18. Within moments of these sell orders, NASDAQ cancelled all the trades.

#### **The ENY Intrusions**

#### **The First ENY Scheme**

19. EnerNorth Industries, Inc. is and was, at all relevant times, a Toronto, Ontario-based producer, developer and explorer of oil and gas quoted on the AMEX under the symbol ENY.

20. On October 18, 2006, from 1:39 p.m. to 2:18 p.m., in his own account, Butko purchased 22,000 shares of ENY at prices ranging from \$.73 to \$.75 per share.

21. On October 19, 2006, from 12:34 p.m. to 1:01 p.m., one or more unknown traders intruded into an E\*Trade account and placed orders to buy 66,100 ENY shares at prices ranging from \$.85 to \$1.69 per share. Likewise, on that same day between 12:39 p.m. and 12:54 p.m., one or more unknown traders intruded into TD Ameritrade accounts and placed orders to buy 111,762 ENY shares at prices ranging from \$.97 and \$2.00 per share. One of the intruded TD Ameritrade accounts was compromised using the identical Internet protocol address that Butko used to access one of his Interactive Brokers' accounts.

22. On October 19, 2006, ENY opened at \$.75 per share and increased to an intra-day high of \$2.10 per share on volume of 715,800 shares, compared to the 15-day average daily trading volume of 12,006 shares.

23. On October 19, 2006, from 12:51 p.m. to 12:56 p.m., Butko sold 22,000 ENY shares out of his own account at prices ranging from \$1.60 and \$1.67 per share.

24. As a result of his fraudulent scheme, Butko realized profits of \$19,892.

### **The Second ENY Scheme**

25. On November 14, 2006, from 10:51 a.m. to 1:29 p.m., in his own account, Butko purchased 25,000 ENY shares at prices ranging from \$ 0.70 to 0.75 per share.

26. On November 17, 2006, from 12:08 p.m. to 1:30 p.m., one or more unknown traders intruded into a Scottrade account and placed orders to buy 2,700 ENY shares at an average price of \$1.021 per share. Also, from 12:02 p.m. to 12:31 p.m. one or more traders intruded into Schwab accounts and placed orders to buy 10,000 ENY shares at prices ranging from \$.74 to \$.80 per share. Again, on the same day from 12:51 p.m. to 1:44 p.m., one or more traders intruded into a TD Ameritrade account and placed orders to buy 305,000 ENY shares at prices ranging from \$.77 to \$1.73 per share. For a fourth time on that same day, from 12:30 p.m. and 2:00 p.m., one or more unknown traders intruded into a Fidelity account and placed orders to buy 9,500 ENY shares at prices ranging from \$.75 to \$1.10 per share.

27. On November 17, 2006, ENY opened at \$.73 per share and increased to an intra-day high of \$1.73 per share on volume of 887,000 shares, compared to the 15-day average daily trading volume of 15,866 shares.

28. On November 17, 2006, from 12:29 p.m. to 1:41 p.m., Butko sold his entire position of ENY out of his own account at prices ranging from \$1.32 to \$1.70 per share.

29. As result of his fraudulent scheme, Butko realized profits of \$25,626.

### **The GBR Intrusions**

30. CableTel International Corp. is and was, at all relevant times, a Dallas Texas-based investment company quoted on the AMEX under the symbol GBR.

31. On November 3, 2006, and November 7, 2006, in his own account, Butko purchased 7,500 GBR shares at prices ranging from \$2.73 to \$ 3.00 per share.

32. On November 10, 2006, from 12:30 p.m. to 12:59 p.m., one or more unknown traders intruded into TD Ameritrade accounts and placed orders to buy 33,000 GBR shares at prices ranging from \$3.12 to \$4.20 per share. Likewise, from 12:29 p.m. to 12:42 p.m., one or more unknown traders intruded into a Charles Schwab account and placed orders to buy 1,500 GBR shares at prices ranging from \$3.01 to \$4.00 per share. Finally, from 1:15 p.m. to 1:45 p.m., one or more traders intruded into two Fidelity accounts and placed orders to buy 46,500 GBR shares at prices ranging from \$3.68 to \$4.89 per share.

33. On November 10, 2006, GBR opened at \$2.91 per share and increased to an intra-day high of \$5.00 per share on volume of 212,900 shares, compared to the 15-day average daily trading volume of 3,500 shares.

34. Concurrently with the intrusions, on November 10, 2006, from 12:56 p.m. to 12:59 p.m., Butko sold 7,500 GBR shares out of his own account at \$4.20 per share.



35. As a result of his fraudulent scheme, Butko realized a profit of \$9,985.

### The RTC Intrusions

36. Riviera Tool Co. is and was, at all relevant times, a Grand Rapids, Michigan-based designer and manufacturer of parts used in the production of automobiles quoted on the AMEX under the symbol RTC.

37. On October 31, 2006, from 12:37 p.m. to 12:38 p.m., in his own account, Butko purchased 13,000 RTC shares at \$.43 per share.

38. On November 1, 2006, from 9:56 a.m. to 11:51 a.m., in his own account, Butko purchased 9,981 RTC shares at prices ranging from \$.52 to \$.63 per share.

39. On November 1, 2006, at 10:36 a.m., one or more unknown traders intruded into an E\*Trade account and placed orders to buy 5,388 RTC shares at prices ranging from \$.69 to \$.70 per share. Also, on that same day from 9:35 a.m. to 11:35 a.m., one or more traders intruded into Schwab accounts and placed orders to buy 308,700 RTC shares at prices ranging from \$.55 and \$.66 per share.

40. On November 1, 2006, RTC opened at \$.40 per share and increased to an intra-day high of \$.70 per share on volume of 312,700 shares, compared to its 15-day average daily trading volume of 13,980 shares.

41. On November 1, 2006, from 12:17 p.m. to 12:26 p.m., Butko sold 23,081 RTC shares out of his own account at prices ranging from \$.65 to \$.70 per share.

42. As a result of his scheme, Butko realized profits of \$4,859.

**CLAIMS FOR RELIEF**

**COUNT I**

**Violations of Section 17(a) of the Securities Act**  
**[15 U.S.C. § 77q(a)]**

47. The Commission re-alleges and incorporates by reference Paragraphs 1 through 46 above.

48. As set forth more fully above, Butko, directly or indirectly, in the offer or sale of securities, by the use of the means or instruments of transportation or communication in interstate commerce or by the use of the mails: with scienter, employed devices, schemes, or artifices to defraud, obtained money or property by means of untrue statements of material facts or omissions to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, or engaged in acts, practices, or courses of business which operate or would operate as a fraud or deceit upon the purchasers of such securities.

49. By reason of the foregoing, Butko has violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)].

**COUNT II**

**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]**

50. The Commission re-alleges and incorporates by reference paragraphs 1 through 49 above.

51. As set forth more fully above, Butko, directly or indirectly, acting with scienter, by use of the means or instrumentalities of interstate commerce, or by the use of

the mails or of the facilities of a national securities exchange, in connection with the purchase or sale of securities: has employed devices, schemes, or artifices to defraud, has made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or has engaged in acts, practices, or courses of business which operate or would operate as a fraud or deceit upon any person.

52. By reason of the foregoing, Butko has violated 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 requests that this Court enter a judgment that:

**I.**

Permanently restrains and enjoins Butko, and his agents, servants, employees, attorneys, and all persons in active concert or participation with him who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5 thereunder;

**II.**

Orders Butko to disgorge his ill-gotten gains from the conduct alleged in this complaint, and to pay prejudgment interest thereon;

**III.**

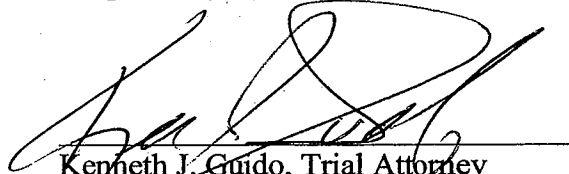
Orders Butko to pay civil monetary penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. §77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. §78u(d)(3)]; and

**IV.**

Grants such other relief as this Court deems just and proper.

August 5, 2008

Respectfully Submitted,



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