

UNITED STATES DISTRICT COURT
for the
DISTRICT OF COLUMBIA

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)
 SECURITIES AND EXCHANGE COMMISSION)
 100 F Street NE)
 Washington, DC 20549)
)
 Plaintiff,)
 v.)
) **COMPLAINT**
)
 MELISSA A. MAHLER)
 756 Rock Beach Road)
 Rochester, New York 14617)
 Defendant.)
)
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Plaintiff Securities and Exchange Commission (the "SEC") alleges as follows:

NATURE OF THE ACTION

1. This is an insider trading case against Melissa A. Mahler ("Mahler"), a corporate attorney at Nixon Peabody LLP. Mahler traded on material, nonpublic information in breach of her duty of confidentiality, thereby violating Section 10(b) of the Securities Act of 1934 [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5]. The SEC brings this action seeking a permanent injunction, disgorgement of ill-gotten gains, prejudgment interest, and a civil insider trading penalty.

JURISDICTION

2. This Court has jurisdiction over this action pursuant to Sections 21(d), 21(e) and 27 of the Securities

Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d), 78u(e) and 78aa]. Defendant has, directly or indirectly, made use of the means or instrumentalities of interstate commerce and/or of the mails in connection with the transactions described in this Complaint.

DEFENDANT

3. **Melissa A. Mahler** ("Mahler") was a corporate attorney with the law firm of Nixon Peabody LLP ("Nixon Peabody") at all relevant times until January 2005, when she resigned. Mahler is admitted to practice law in the State of New York.

CLIENT

4. **Roger Tichenor** ("Tichenor") is the sole officer and director of Teleplus Consumer Services, Inc. ("Teleplus"), a publicly-traded company located in Sarasota, Florida. At all relevant times, Teleplus's common stock traded in the pink sheets at around \$0.20 to \$0.30 per share.

SUBSTANTIVE ALLEGATIONS

Merger Negotiations (Pre-July 28)

5. Before July 28, 2004, Tichenor discussed with Mahler a potential merger between Teleplus and Rooms.com Inc., a private online travel company. Tichenor asked Mahler to draft a letter of intent ("LOI") and related

press release concerning the potential Teleplus/Rooms.com merger.

6. Tichenor had a telephone conversation with Mahler about the LOI the morning of July 28, 2004, at approximately 9:15 a.m.

7. Tichenor considered information concerning the potential Teleplus/Rooms.com merger to have been confidential.

8. Tichenor conveyed material, nonpublic information concerning the potential Teleplus/Rooms.com merger to Mahler in trust and confidence.

9. Mahler owed Tichenor a duty of confidentiality obligating her not to use material, nonpublic information for personal gain.

Mahler's Buy Order (July 28)

10. On the morning of July 28, 2004, at approximately 9:30 a.m., Mahler spoke with her broker and instructed him to buy 10,000 shares of Teleplus common stock for her account.

11. Mahler's buy order was executed the morning of July 28, 2004, at approximately 9:58 a.m., for \$0.12 per share or a total of \$1,200.

12. Mahler was in possession of material, nonpublic information concerning the potential Teleplus/Rooms.com merger when she placed her buy order.

13. Mahler breached her duties of loyalty and confidentiality by using material, nonpublic information for personal gain.

LOI and Press Release (July 29-30)

14. Mahler and Tichenor worked on the LOI and related press release the afternoon and evening of July 29 and morning of July 30, 2004.

15. All drafts of the LOI provided that, "[n]either party will make any public disclosure concerning the matters set forth in this letter of intent or the negotiations of the proposed Transaction without the prior written consent of the other party."

16. The potential Teleplus/Rooms.com merger was publicly announced the afternoon of July 30, 2004, at approximately 1:08 p.m.

17. The market price of Teleplus's common stock rose the afternoon of July 30, 2004, from approximately \$0.10 to \$0.90 per share.

Mahler's Sell Order (July 30)

18. Mahler spoke with her broker the afternoon of July 30, 2004 and instructed him to sell 10,000 shares of Teleplus common stock for her account.

19. Mahler's sell order was executed at approximately 2:29 p.m. the afternoon of July 30, 2004, for \$0.70 per share or a total of \$7,000.

20. Mahler's insider trading profits were \$5,800.

CLAIM FOR RELIEF

**(Violations of Section 10(b) and
Rule 10b-5 of the Exchange Act)**

21. Plaintiff SEC hereby incorporates ¶¶ 1 through 20 with the same force and effect as if set out here.

22. In the manner described in ¶¶ 1 through 21, defendant Mahler, in connection with the purchase or sale of securities, by the use of means or instrumentalities of interstate commerce or of the mails, directly or indirectly (a) employed devices, schemes or artifices to defraud; (b) made untrue statements of material facts or omissions of material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or (c) engaged in transactions, practices or courses of business which operated or would operate as a fraud or deceit upon persons.

23. By reason of the foregoing, defendant Mahler violated, and unless restrained will continue to violate, Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder.

PRAYER FOR RELIEF

WHEREFORE, the SEC respectfully requests that this Court enter a judgment:

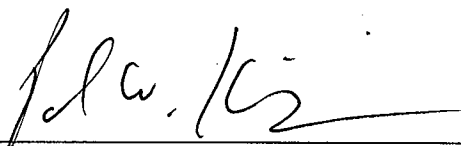
(a) permanently enjoining defendant Mahler and her agents, servants, employees, attorneys-in-fact, and those in active concert or participation with them, who receive actual notice by personal service or otherwise, from violating Section 10(b) of the Exchange Act [15 U.S.C § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] promulgated thereunder;

(b) ordering defendant Mahler to disgorge her ill-gotten gains, plus prejudgment interest thereon;

(c) ordering defendant Mahler to pay a civil insider trading penalty pursuant to Section 21A of the Exchange Act [15 U.S.C. § 78uA]; and

(d) granting such other relief as this Court may deem just and appropriate.

Dated: September 17, 2009



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