UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 97820 / June 29, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21504

In the Matter of **ASHUTOSH BHARDWAJ,** **Respondent.**	**ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 ("Exchange Act") against Ashutosh Bhardwaj ("Ashutosh Bhardwaj" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds[1] that:

Summary

This matter involves insider trading by Ashutosh Bhardwaj in the securities of Coherent, Inc. ("Coherent") based on material nonpublic information misappropriated by Respondent's brother Amit Bhardwaj, then Chief Information Security Officer ("CISO") of Lumentum Holdings Inc. ("Lumentum"), ahead of the January 19, 2021 announcement of Lumentum's agreement to acquire Coherent (the "Announcement"). Amit Bhardwaj learned material nonpublic information about Lumentum's plan to acquire Coherent in late 2020, through his work at Lumentum. Based on that material nonpublic information and in breach of his duty of trust and confidence to Lumentum, during the weeks leading up to the Announcement, Amit Bhardwaj tipped his brother, Respondent, to purchase Coherent securities ahead of the Announcement. Based on this tip, Respondent purchased 218 shares of Coherent stock between January 6, 2021 and January 15, 2021. Coherent's stock price rose by approximately 30% following the Announcement, and Respondent subsequently sold his shares of Coherent stock to obtain ill-gotten gains of approximately $9,000.

Respondent

1. **Ashutosh Bhardwaj**, age 53, resides in Fulshear, Texas. Respondent is employed as an information technology specialist at a publicly-traded energy technology company based in Texas.

Other Relevant Entities

2. **Lumentum** is a provider of optical and photonic products incorporated in Delaware and headquartered in San Jose, California. Lumentum's common stock is listed on the NASDAQ Global Select Market, trading under the symbol "LITE."

3. **Coherent** was a provider of laser solutions and optics headquartered in Santa Clara, California. During the relevant time, Coherent's common stock was listed on the NASDAQ Global Select Market and traded under the symbol "COHR." In March 2021, Coherent terminated its acquisition agreement with Lumentum, and it ultimately entered into an agreement to be acquired by another company; that acquisition closed in July 2022.

[1] The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Background

4. From at least June 2019 to July 2022, Respondent's brother Amit Bhardwaj served as the CISO at Lumentum. Amit Bhardwaj's job responsibilities included, among other things, defining and developing a strategy for and execution of Lumentum's information security and programs, providing thought leadership to executive teams and Lumentum's board of directors around information security and risk management, ensuring proper information technology audit and compliance controls, and reviewing and approving information security policies, controls, privacy policies, standards and procedures. At all relevant times, as CISO, Amit Bhardwaj had access to Lumentum's information technology systems.

5. At all relevant times, Amit Bhardwaj was bound by Lumentum's policies and procedures, including policies relating to insider trading and safeguarding material nonpublic information. Those policies specifically applied to officers, employees, and consultants to Lumentum and its subsidiaries. Under those policies, Amit Bhardwaj owed a duty to Lumentum not to trade upon such information or advise anyone else to do so; was required to maintain the confidentiality of Lumentum's material nonpublic information; and was prohibited from disclosing to persons outside of Lumentum material nonpublic information without a corporate purpose. The material nonpublic information that Bhardwaj was charged with safeguarding specifically included news of "potential mergers or acquisitions."

6. Lumentum and Coherent first discussed a potential transaction in October 2019. Their conversations ceased in March 2020 and resumed in November 2020, when Lumentum submitted an indication of interest to acquire Coherent. Lumentum submitted several revised offers to Coherent in November and December 2020. On December 27, 2020, Lumentum and Coherent signed an exclusivity agreement. In the following weeks, the firms conducted due diligence and negotiated the terms of the proposed transaction. On January 10, 2021, the Lumentum board met and discussed valuation of Coherent and the terms of the acquisition agreement. On January 19, 2021, Lumentum and Coherent signed a definitive merger agreement under which Lumentum was to acquire Coherent for $100.00 and 1.1851 shares of Lumentum common stock per share of Coherent stock, for a total equity value of approximately $5.7 billion.

7. In or about the period from late December 2020 through early January 2021, Amit Bhardwaj tipped Ashutosh Bhardwaj about Lumentum's planned acquisition of Coherent. Between January 6 and January 15, Respondent purchased 218 shares of Coherent stock based on the tip from his brother. Respondent made these purchases while in possession and on the basis of material nonpublic information he obtained from his brother Amit Bhardwaj.

8. Following the Announcement on January 19, 2021, the price of Coherent shares increased by approximately 30%. On the date of the Announcement, Respondent sold 190 of the Coherent shares he had purchased earlier that month, and then sold the remaining 28 shares in February 2021. Respondent's insider trading resulted in total ill-gotten gains of approximately $9,000.

9. Respondent knew, consciously avoided knowing, or was reckless in not knowing that the information he received from his brother regarding Lumentum's potential acquisition of Coherent was material and nonpublic. Respondent also knew, consciously avoided knowing, or was reckless in not knowing that by sharing material nonpublic information regarding the planned acquisition, Respondent's brother had breached a duty of trust or confidence.

10. As a result of the conduct described above, Respondent violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

Disgorgement

11. The disgorgement and prejudgment interest ordered in paragraph IV.B. is consistent with equitable principles, does not exceed Respondent's net profits from his violations, and returning the money to Respondent would be inconsistent with equitable principles. Therefore, in these circumstances, distributing disgorged funds to the U.S. Treasury is the most equitable alternative. The disgorgement and prejudgment interest ordered in paragraph IV.B. shall be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Ashutosh Bhardwaj's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Ashutosh Bhardwaj cease and desist from committing or causing any violations and any future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

B. Ashutosh Bhardwaj shall, within 14 days of the entry of this Order, pay disgorgement of $8,990.97, prejudgment interest of $830.46, and a civil money penalty in the amount of $8,990.97 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. If timely payment of a civil money penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

Payment must be made in one of the following ways:

(1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Ashutosh Bhardwaj as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Joseph G. Sansone, Division of Enforcement, Securities and Exchange Commission, 100 Pearl Street, Suite 20-100, New York, NY 10004-2616.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).

By the Commission.

Vanessa A. Countryman
Secretary