

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

Department of Market Regulation,

Complainant,

v.

Jack Lawrence Howard (CRD 1273894),

Respondent.

Disciplinary Proceeding
No. 20110263957-01

COMPLAINT

The Department of Market Regulation alleges:

SUMMARY

1. Respondent Jack Lawrence Howard purchased shares of publicly-traded, non-SEC registrant shell company Gateway Industries, Inc. (PK:GWAY) (“Gateway”), for which he served as Chief Executive Officer and Chairman of the Board, after he recommended Gateway to an investment banker who approached Howard looking for a shell company into which her client could conduct a reverse merger. When a transaction with the banker’s client was announced, Gateway’s share price rose from 1 cent to \$1.89. As a result of his purchase of GWAY stock while in possession of material nonpublic information about the potential Gateway merger, Howard willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder and violated FINRA Rules 2020 and 2010.

RESPONDENT AND JURISDICTION

2. Howard first became registered with a FINRA member firm in 1984, and remains registered with a FINRA firm as a General Securities Representative, General Securities Principal, and Equity Trader.

STATEMENT OF FACTS

A. Howard's Background And Training

3. Howard maintained numerous outside business activities. As relevant here, in addition to being the supervisor at the New York branch office of his FINRA member firm, Howard was the Chief Executive Officer, Chairman of the Board, and largest shareholder of Gateway and a director and shareholder of CoSine Communications, another non-operating shell company. The genesis of these outside business activities was Howard's employment with SPLLC, a private investment firm with which he had been associated since 1993. Howard had been on the board of several companies owned by SPLLC, including multiple shell companies, and Howard purchased his stake in Gateway (approximately 46 percent) from SPLLC in or around 2004. Gateway had no operations but held approximately \$4 to \$5 million in cash. Howard held the Gateway shares in EMH Howard LLC, a personal trading vehicle he owned and over which he had exclusive trading authority.

4. As part of his training and as a condition to his continued employment, Howard was required to read, understand, and comply with his firm's Insider Trading Policy. That policy stated that employees were prohibited from "effecting securities transactions while in the possession of material, non-public information." The policy provided guidance on those topics, stating that:

Information is considered material if there is a substantial likelihood that a reasonable investor would consider it important in deciding to buy or sell a

security. In addition, information that, when disclosed, is likely to have a direct effect on a security's price should be treated as material....Information is non-public when it has not been disseminated in a manner making it available to investors generally.

Howard signed annual certifications that he had read and understood this policy.

B. Howard Is Approached Regarding An Acquisition Of Gateway

5. In mid-2010, an oil and gas exploration company approached Howard inquiring about a potential acquisition of Gateway. The parties exchanged a few phone calls and met once in person, but the company lost interest because Gateway did not have a sufficient number of shareholders for the type of transaction the company wanted to consummate.

6. Subsequently, in early October 2010, Howard told one of his two traders, AF, to calculate how many additional shares of Gateway he would need to acquire to own more than 50 percent. AF responded that Howard would need to acquire approximately 360,000 shares.

7. Thereafter, Howard instructed AF to be on the lookout for opportunities to purchase the additional 360,000 shares. Although Gateway was trading in the 1 to 2 cent range, Howard did not want AF to attempt to purchase the shares all at once if that required paying more than 1 or 2 cents because he believed Gateway was essentially worthless. Howard did not provide AF with a means to determine when, at what price, or in what amount to purchase Gateway shares. Instead, Howard retained ultimate decision-making concerning each of these factors (along with the ability to stop purchasing Gateway shares entirely).

8. Based on Howard's instructions, AF spoke with market makers about the availability of Gateway shares. AF purchased 25,000 Gateway shares for EMH Howard on October 5, 2010, and purchased 50,000 Gateway shares for EMH Howard on October 13, 2010, all at 1 cent per share. Howard was aware of and approved each Gateway purchase before AF placed the order. In fact, AF did not have authority to execute a trade for Howard or EMH

Howard without first getting Howard's approval. In addition to this prior authorization, Howard would see each trade at the end of the day or soon thereafter on the daily trade blotter.

C. Howard Is Approached Regarding An Acquisition Of CoSine But Proffers Gateway As A Better Acquisition Target

9. Two weeks after his second purchase of additional Gateway shares, Howard was approached by an investment banker regarding a potential acquisition, though the banker was looking at CoSine and not Gateway. Specifically, on October 27, 2010, Howard received a phone call from LB, an investment banker at boutique firm BRNC. Although Howard had not previously spoken to LB, he knew that BRNC was a well-known, reputable firm that closed numerous transactions. LB's office had previously compiled a list of five potential merger candidates, and LB pursued three of those five companies, including CoSine.

10. During this initial phone call, LB told Howard that she had a client who was looking for a shell company into which he could reverse merge his latest venture, an entity that was developing a new smartphone app, and that CoSine had been identified as a potential merger candidate. LB also told Howard that her client was very sophisticated, had consummated reverse mergers before, and was very successful.

11. In response, Howard informed LB that CoSine was not a good candidate for the type of transaction her client was interested in, but that he may have another shell company available that met her criteria. LB emailed Howard that evening to provide contact information, and stated that she looked forward to Howard getting back to her with an appropriate shell company."

12. Howard responded prior to market opening the next day, October 28, 2010, emailing that he and LB should talk that morning, and that he had a clean non-SEC registered shell available that could quickly consummate a transaction. Howard was referring to Gateway.

13. Later that same day, AF purchased 100,000 shares of Gateway for EMH Howard at 2 cents per share. As before, Howard approved the trade before it was executed by AF, and Howard knew later that day or soon thereafter that the trade had been executed based on his review of the daily trade blotter.

D. LB Sends A Non-Disclosure Agreement To Howard

14. During the following two weeks, Howard and LB had further discussions concerning a potential reverse merger involving Gateway. During those discussions, LB identified that her client was RS, a very well-known media and entertainment mogul who had made hundreds of millions of dollars by building up and then selling various media and entertainment businesses. Howard and LB also discussed execution of a non-disclosure agreement (“NDA”) so that LB could share more about her client’s new venture and to arrange an in-person meeting between Howard and RS.

15. Accordingly, LB emailed Howard a draft NDA on November 5, 2010. The NDA explicitly identified RS as LB’s client, and RS was the counter-signatory to the NDA.

16. Five days later, on November 10, 2010, AF purchased 75,000 shares of Gateway for EMH Howard at 1.9 cents per share. The next day, AF purchased 25,000 shares of Gateway for EMH Howard at 2 cents per share. As before, Howard approved each trade before they were executed, and he knew that the trades had been executed the same day or soon thereafter based on his review of the daily trade blotter.

17. Howard signed the NDA on November 11, 2010, after he had approved that day’s purchase of 25,000 shares of Gateway. He sent an executed copy of the NDA to LB the next day (on November 12, 2010) without having made any comments or edits apart from writing in “November 11, 2010,” *i.e.*, the date he signed the document.

E. Negotiations Continue And A Gateway Transaction Is Consummated

18. Howard met with LB, RS, and others shortly thereafter, on November 17, 2010. Thereafter, the parties conducted due diligence, JB sent a term sheet to Howard, and then RS's lawyers sent Howard a draft merger agreement.

19. In late December 2010, Howard contacted a business acquaintance, WC, who owned a market making firm and who also owned a small percentage of Gateway's outstanding shares. Howard's and WC's shares combined would constitute greater than 50 percent of Gateway's outstanding shares, meaning that any transaction could be consummated by written consent rather than requiring a shareholder vote. Howard told WC that the information he was conveying was to be kept confidential. WC acknowledged that he was bound by this confidentiality, and agreed with Howard that the transaction with RS should move forward.

20. At some point in the coming weeks, RS insisted that the transaction be a recapitalization rather than a reverse merger. Howard agreed. Deal terms were finalized on or about February 6, 2011, Gateway's shareholders approved the transaction via the aforementioned written consent, and the recapitalization was announced publicly on February 8, 2011, prominently proclaiming that this transaction involved RS's latest venture.

21. Following the announcement, on February 8, 2011, Gateway's share price increased from its prior day close of 1 cent per share to close at \$1.89 per share (an 18,800 percent increase) on volume of 2,911,555 shares (compared with historical average daily volume of 5,539 shares). The recapitalization was completed effective February 11, 2011. Gateway's name was changed and the new company began trading under a new stock symbol. Since then, the new company has undergone two reverse stock splits (1 for 10 and 1 for 2) and is currently operational.

22. Howard's Gateway shares were "locked up" pursuant to the parties' recapitalization agreement so he could not immediately profit on his holdings. Nevertheless, he began selling his shares immediately after his lawyer advised that he was allowed to do so, and he eventually sold all of his Gateway shares for approximately \$1 million with profits from the sale of his shares acquired after contact from LB of approximately \$100,000.

23. Howard's sales included the 100,000 shares he purchased after he had been contacted by LB regarding CoSine but had proffered Gateway as a more suitable acquisition candidate and the 100,000 shares he purchased after LB had identified RS as the acquirer and after LB had sent Howard the NDA.

24. Howard never told LB that he purchased Gateway shares after he had proffered Gateway as a more suitable acquisition target, or that he had again purchased Gateway shares after LB had disclosed that RS was her client and she had sent him the NDA. Likewise, Howard did not tell his trader, AF, that he had been contacted about a possible acquisition of Gateway when he approved AF's purchases of Gateway for EMH Howard. In addition, although Howard told his FINRA-member firm's compliance department that he had been contacted and was negotiating a transaction for the acquisition of Gateway, he never told the compliance department that he had purchased additional Gateway shares after he had been contacted by LB and after he had received the NDA.

CAUSE OF ACTION
Insider Trading
(Section 10(b) of the Securities Exchange Act,
Rule 10b-5, and FINRA Rules 2020 and 2010)

25. Market Regulation realleges and incorporates by reference all preceding paragraphs.

26. Howard, while the Chief Executive Officer and Chairman of the Board of Gateway, traded in the securities of Gateway on the basis of material nonpublic information.

27. By engaging in the foregoing conduct, Howard, in connection with the purchase or sale of a security, directly or indirectly, by use of means or instrumentalities of interstate commerce, or the mails, or the facilities of a national securities exchange, knowingly or recklessly, employed a device, scheme or artifice to defraud; 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; and engaged in an act, practice, or course of business which operated or would operate as a fraud or deceit upon other persons, in willful violation of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, and in violation of FINRA Rules 2020 and 2010.

RELIEF REQUESTED

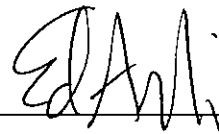
WHEREFORE, the Department of Market Regulation respectfully requests that the

Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that Respondent be required to disgorge fully any and all ill-gotten gains, together with interest;
- C. order that Respondent bear such costs of any proceeding as are deemed fair and appropriate under the circumstances, in accordance with FINRA Rule 8330;
- D. make specific findings that Respondent Jack Lawrence Howard willfully violated Section 10(b) of the Exchange Act of 1934 and Rule 10b-5 promulgated thereunder; and
- E. grant all further relief, legal or equitable, that is warranted under the circumstances.

FINRA DEPARTMENT OF MARKET REGULATION

Date: June 20, 2014



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