

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

-against-

GALLEON MANAGEMENT, LP,  
RAJ RAJARATNAM, RAJIV GOEL,  
ANIL KUMAR, DANIELLE CHIESI,  
MARK KURLAND, ROBERT MOFFAT,  
NEW CASTLE FUNDS LLC, ROOMY  
KHAN, DEEP SHAH, ALI HARIRI, ZVI  
GOFFER, DAVID PLATE, GAUTHAM  
SHANKAR, SCHOTTENFELD GROUP  
LLC, STEVEN FORTUNA, and S2  
CAPITAL MANAGEMENT, LP

Defendants.

09 CV 8811 (JSR)

**DEFENDANT DANIELLE CHIESI'S MEMORANDUM OF LAW IN OPPOSITION TO  
PLAINTIFF'S RENEWED MOTION TO COMPEL PRODUCTION OF  
WIRETAP COMMUNICATIONS**

Defendant Danielle Chiesi ("Ms. Chiesi"), by her attorneys, Kelley Drye & Warren LLP, submits this memorandum of law opposing the SEC's renewed motion to compel production of wiretap communications.

Ms. Chiesi joins in, and incorporates, the arguments set forth in Mr. Rajaratnam's Memorandum of Law In Opposition to the SEC's renewed motion, to the extent applicable to Ms. Chiesi.

The SEC's discovery requests are overbroad. While the SEC asserts that it seeks "only" seven categories of relevant materials, these categories capture information that is not the subject of this action. In particular, the SEC seeks communications concerning "any public

company or its stock.” This scope is significantly broader than the SEC’s allegations against Ms. Chiesi. In its Second Amended Complaint, the SEC has alleged that Ms. Chiesi improperly traded in only four securities: IBM, AMD, Sun Microsystems, and Akamai Technologies. During the relevant time period, Ms. Chiesi was a hedge fund manager and it was her business to discuss public company activities, securities markets, and different stocks each day. The intercepted communications concern discussions of dozens of other securities where no improper trading has been alleged in either this case or in the parallel criminal case. As discussed in Mr. Rajaratnam’s Memorandum, the SEC has not demonstrated that it is entitled to such materials or that it needs them to effectively prepare for trial.

The SEC’s discovery requests improperly seek materials concerning conduct and securities at issue in the criminal case, but not in this action. For example, there are three additional securities at issue in Ms. Chiesi’s criminal case that are not alleged in the SEC’s Second Amended Complaint. As discussed in Mr. Rajaratnam’s Memorandum, the SEC’s sweeping discovery demands are an improper attempt to gain discovery about potential claims and are not limited to the SEC’s allegations against Ms. Chiesi.

Any production of intercepted communications from Ms. Chiesi’s phone lines should be based on her criminal trial date, currently scheduled for April 25, 2011 and not Mr. Rajaratnam’s trial date. The SEC would not be prejudiced by this production schedule. If this Court orders production of the Rajaratnam intercepted communications to begin during Mr. Rajaratnam’s criminal trial as conversations come into evidence, and to conclude when that trial ends some time in April, the SEC will have much to review and analyze. Production of Chiesi intercepted communications can then commence after April 25, 2011, following the same

protocol. The SEC has not identified any reason that it requires one lump sum production of all intercepted communications in order to prepare for trial.

**CONCLUSION**

For all of the reasons set forth above, and the reasons set forth in Mr. Rajaratnam Memorandum of Law, Ms. Chiesi respectfully requests that the Court deny the SEC's renewed motion, and grant any other further relief the Court deems just and proper.

Dated: New York, New York  
January 5, 2011

KELLEY DRYE & WARREN LLP

By: s/ Alan R. Kaufman  
Alan R. Kaufman  
Thomas B. Kinzler  
David Zalman  
Nicole M. Hudak  
101 Park Avenue  
New York, New York 10178  
Telephone: (212) 808-7800  
akaufman@kelleydrye.com  
tkinzler@kelleydrye.com  
dzalman@kelleydrye.com  
nhudak@kelleydrye.com

*Attorneys for Defendant Danielle Chiesi*