



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
JAMES MERCER,

Plaintiff,

-v-

RAJAT GUPTA,

Defendant.
----- X

11 Civ. 3828 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

Pending before the Court is the motion of defendant Rajat Gupta to dismiss the claim of plaintiff James Mercer for disgorgement of short-swing trading profits under Section 16(b) of the Securities Exchange Act of 1934. 15 U.S.C. § 78p(b). After careful consideration of the parties' briefs and oral arguments, the Court, for reasons that will be explained in a forthcoming written opinion, hereby grants the motion in its entirety. Accordingly, the Complaint will be dismissed, with prejudice. Final judgment, however, will not be filed until the Court renders its written opinion referenced explaining the reasons for this ruling.

SO ORDERED.

A handwritten signature in black ink, appearing to read "Jed S. Rakoff". The signature is written over a horizontal line.

JED S. RAKOFF, U.S.D.J.

Dated: New York, New York
December 23, 2011