

IN THE SUPREME COURT OF PENNSYLVANIA

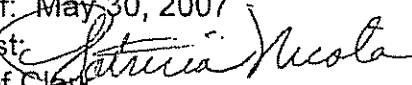
OFFICE OF DISCIPLINARY COUNSEL,	:	No. 1258 Disciplinary Docket No. 3
	:	
Petitioner	:	
	:	
	:	No. 188 DB 2006
v.	:	
	:	
THOMAS J. BUCKNUM,	:	
Respondent	:	Attorney Registration No. 20289

ORDER

PER CURIAM:

AND NOW, this 30th day of May, 2007, there having been filed with this Court by Thomas J. Bucknum his verified Statement of Resignation dated April 4, 2007, stating that he desires to resign from the Bar of the Commonwealth of Pennsylvania in accordance with the provisions of Rule 215, Pa.R.D.E., it is

ORDERED that the resignation of Thomas J. Bucknum is accepted; he is disbarred on consent from the Bar of the Commonwealth of Pennsylvania; and he shall comply with the provisions of Rule 217, Pa.R.D.E. Respondent shall pay costs, if any, to the Disciplinary Board pursuant to Rule 208(g), Pa.R.D.E.

A True Copy Patricia Nicola
As of: May 30, 2007
Attest: 
Chief Clerk
Supreme Court of Pennsylvania

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL	:	No. 188 DB 2006
Petitioner	:	
	:	
v.	:	Attorney Registration No. 20289
	:	
THOMAS J. BUCKNUM	:	
Respondent	:	(Out of State)

RESIGNATION BY RESPONDENT

Pursuant to Rule 215
of the Pennsylvania Rules of Disciplinary Enforcement

Re: Office of Disciplinary Counsel
v. THOMAS J. BUCKNUM
No. 188 DB 2006
Attorney Registration No. 20289
(Out of State)

RECORD OF PRIOR DISCIPLINE

None

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: No. 188 DB 2006
v. :
: Atty. Reg. No. 20289
THOMAS J. BUCKNUM, :
Respondent : (Out of State)

RESIGNATION
UNDER Pa.R.D.E. 215

Thomas J. Bucknum, Esquire, hereby tenders his unconditional resignation from the practice of law in the Commonwealth of Pennsylvania in conformity with Pa.R.D.E. 215 ("Enforcement Rules") and further states as follows:

1. He is an attorney admitted in the Commonwealth of Pennsylvania, having been admitted to the bar on or about November 18, 1974. His attorney registration number is 20289.

2. He desires to submit his resignation as a member of said bar.

3. His resignation is freely and voluntarily rendered; he is not being subjected to coercion or duress and he is fully aware of the implications of submitting this resignation.

4. He is aware that there are presently pending investigations into allegations that he has been guilty of misconduct, the nature of which allegations have been made known to him by service of a Petition for Discipline filed

December 20, 2006, a true and correct copy of which is attached hereto, made a part hereof and marked Exhibit "A".

5. He acknowledges that material facts upon which certain of the allegations of the complaint contained in Exhibit "A" are based are true, to wit: while he was General Counsel and an insider at Biogen Idec ("Company"), he discussed with brokers an order for the sale of shares prior to any knowledge of material, non-public, adverse information, but the order was actually executed at a point in time after he gained knowledge of material, nonpublic, adverse information, for a sale of 89,700 shares of the Company's stock, from which he gained \$1,123,569.45.

6. He submits the within resignation because he believes, based primarily on the above facts, that he could not successfully defend himself against certain of the charges that said conduct adversely reflects upon his fitness to practice law in violation of the Massachusetts Rules of Professional Conduct.

7. He is fully aware that the submission of this Resignation Statement is irrevocable and that he can only apply for reinstatement to the practice of law pursuant to the provisions of Enforcement Rule 218(b).

8. He acknowledges that he is fully aware of his right to consult and employ counsel to represent him in the instant

proceeding. He has retained, consulted with and acted upon the advice of counsel in connection with his decision to execute the within resignation. Counsel for Respondent is John W. Morris, Esquire, Bell Atlantic Tower, Suite 3710, 1717 Arch Street, Philadelphia, PA 10103.

It is understood that the statements made herein are subject to the penalties of 18 Pa.C.S., Section 4904 (relating to unsworn falsification to authorities).

Signed this 4th day of April, 2007.

Thomas J. Bucknum

Thomas J. Bucknum

WITNESS: _____

[Handwritten signature]

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: No. 188 DB 2006
v. :
: Atty. Reg. No. 20289
THOMAS J. BUCKNUM, :
Respondent : (Out of State)

PETITION FOR DISCIPLINE

NOTICE TO PLEAD

To: THOMAS J. BUCKNUM

Rule 208(b)(3) of the Pennsylvania Rules of Disciplinary Enforcement provides: Within twenty (20) days of the service of a petition for discipline, the respondent-attorney shall serve an answer upon Disciplinary Counsel and file the original thereof with the Disciplinary Board. Any factual allegation that is not timely answered shall be deemed admitted.

Rule 208(b)(4) provides: Following the service of the answer, if there are any issues raised by the pleadings or if the respondent-attorney requests the opportunity to be heard in mitigation, the matter shall be assigned to a hearing committee or a special master. No evidence with respect to factual allegations of the complaint that have been deemed or expressly admitted may be presented at any hearing on the matter, absent good cause shown.

* * * * *

A copy of your answer should be served upon Disciplinary Counsel at the District I Office of Disciplinary Counsel, Seven Penn Center, 16th Floor, 1635 Market Street, Philadelphia, PA 19103, and the original and three (3) conformed copies filed with the Office of the Secretary, the Disciplinary Board of the Supreme Court of Pennsylvania, Two Lemoyne Drive, First Floor, Lemoyne, PA 17043-1226. [Disciplinary Board Rule §89.3(a)(1)]

Further, pursuant to Disciplinary Board Rule §85.13, your answer, if it contains an averment of fact not appearing of record or a denial of fact, shall contain or be accompanied by a verified-statement signed by you that the averment or denial is true based upon your personal knowledge or information and belief.

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
: No. 138 DB 2006
v. :
: Atty. Reg. No. 20289
THOMAS J. BUCKNUM, :
Respondent : (Out of State)

PETITION FOR DISCIPLINE

Petitioner, Office of Disciplinary Counsel, by Paul J. Killion, Esquire, Chief Disciplinary Counsel, and by Amelia C. Kittredge, Esquire, Disciplinary Counsel, files the within Petition for Discipline and charges Respondent, Thomas J. Bucknum, with professional misconduct in violation of the Massachusetts Rules of Professional Conduct and/or the Pennsylvania Rules of Professional Conduct, via Pennsylvania Rule of Professional Conduct 8.5(b) (Choice of Law), as follows:

1. Petitioner, whose principal office is located at Suite 1400, 200 North Third Street, Harrisburg, Pennsylvania, is invested, pursuant to Rule 207 of the Pennsylvania Rules of Disciplinary Enforcement (hereinafter "Pa.R.D.E."), with the power and duty to investigate all matters involving alleged misconduct of an attorney admitted to practice law in the

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DEC 20 2006

Office of the Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

1995-2000
to be a true and correct copy.

Amelia C. Kittredge

Commonwealth of Pennsylvania and to prosecute all disciplinary proceedings brought in accordance with the various provisions of said Rules of Disciplinary Enforcement.

2. Respondent, Thomas J. Bucknum, was born on November 27, 1946, and was admitted to practice law in the Commonwealth on November 18, 1974. Respondent's current attorney registration mailing address is 60 Selborne Drive, Centreville, DE 19807.

3. Respondent is subject to the disciplinary jurisdiction of the Disciplinary Board of the Supreme Court under Pa.R.D.E. 201(a)(1).

CHARGE I: INSIDER TRADING

4. Biogen Idec Inc., formerly known as Biogen Inc., is a publicly-traded biotechnology company headquartered in Cambridge, Massachusetts.

5. Biogen Idec's common stock is and was during the relevant period, traded on the NASDAQ National Market System.

6. From April, 1996, until March 8, 2005, Respondent was employed as a lawyer for Biogen and Biogen Idec.

7. In February, 2005, Respondent's position was General Counsel and Executive Vice President of Biogen Idec, and his business address was 14 Cambridge Center, Cambridge, MA 02142.

8. In or about February, 2005, an important product of Biogen Idec was TYSABRI, a treatment for multiple sclerosis.

9. In or about February, 2005, TYSABRI was being administered to multiple sclerosis patients in clinical trials and was being marketed by Biogen Idec.

10. On February 18, 2005, while working at his Cambridge, MA office, Respondent came into possession of material, non-public information concerning adverse health effects connected with TYSABRI, after which Respondent, acting intentionally, knowingly or recklessly, instructed his stock broker at Smith Barney to sell 89,700 of his shares of Biogen Idec stock at the market price, thereby committing a violation of United States securities laws, including laws governing insider trading.

11. In February, 2005, Respondent was an insider at Biogen Idec who had a fiduciary duty to the company and its shareholders not to trade in the company's securities while in possession of material, nonpublic information about the company in violation of securities and insider trading laws and regulations.

12. Respondent was subject to Biogen Idec's insider trading policy, which prohibited trading on the basis of material, nonpublic information.

13. In February, 2005, it was the policy of Biogen Idec to establish "trading windows," which were timed to follow quarterly earnings releases.

14. The "trading window" restricted insiders, i.e., directors and officers, including Respondent, from selling stock of the Company outside of this window.

15. In February, 2005, Biogen Idec established a trading window of February 10 to February 28, 2005.

16. In February, 2005, Respondent had 201,388 shares of Biogen Idec stock options available for trading.

17. As required by Biogen Idec policy, prior to the opening of the "trading window," on or about February 7, 2005, Respondent executed a document entitled, "Planned Trading Window Activity," which:

- a. requested approval to sell Biogen Idec Common Stock during the next "trading window," to wit, the period from February 10, 2005 to February 28, 2005;
- b. stated Respondent's intention to sell during this trading window, "if [the Stock] hits target price I've set"; and
- c. specified that the sale was to be an exercise of options in the amounts and with grant dates as follows: 9200 December, 1998 options; and 57,500 June, 1999 options.

18. By press release dated February 17, 2005, Biogen Idec announced, *inter alia*, that:

- a. a two-year trial of TYSABRI demonstrated significant impact on disability progression and relapse rate in multiple sclerosis; and
- b. the adverse event profile at two years was consistent with previously reported results.

19. On February 18, 2005, between 8:30 and 9:00 a.m., Respondent, who was in corporate headquarters in Cambridge, MA, had a telephone conversation with James Fucigna, a Smith Barney broker in charge of assisting Biogen Idec executives in the sale of Biogen Idec stock and stock options, during which:

- a. Respondent placed a firm order to exercise and sell approximately half of his options, or 89,700 shares of Biogen Idec stock, at \$68 per share; and
- b. Mr. Fucigna told Respondent that Smith Barney would have to obtain the required clearance for the trade from personnel in Biogen Idec's Legal Department.

20. Shortly after the call, Mr. Fucigna told his assistant, Robert Joseph Peretti, whose title was Business Development Associate, that Respondent wanted to exercise and sell options at the limit price of \$68 per share [i.e., \$68 or better], and that Mr. Peretti needed to obtain approval for the trade from Biogen Idec.

21. Following the call with Mr. Fucigna, Respondent spoke with Benjamin Harshbarger, an in-house lawyer at Biogen Idec, to tell Harshbarger, *inter alia*, that "later" Smith Barney would be calling him to clear the trade with the Company.

22. At or about 12:15 p.m. on February 18, 2005, Respondent attended a meeting at corporate headquarters in Cambridge, MA (hereinafter "meeting"), at which Respondent was told by Biogen Idec's Drs. Sandrock, Panzara and Adelman, who were very knowledgeable about the TYSABRI clinical trials, that a patient participating in a clinical trial of TYSABRI had been diagnosed with a rare and fatal brain disease known as PML, and that another patient may have also contracted the disease.

23. On February 18, 2005, the above-described information concerning the two adverse events had not been made public.

24. Respondent was aware upon hearing this information at the February 18, 2005 meeting, that the information regarding the PML diagnoses was material, nonpublic information that was likely to have a negative impact on Biogen Idec's stock price.

25. Right after the meeting, those present at the meeting designated a Biogen Idec employee to telephone the Food and Drug Administration (FDA) to set up a conference call

between "key people" at FDA and Biogen Idec's "key medical people" to inform them of the information in paragraph 22, *supra*.

26. Following the meeting, at around 1:00 p.m., Respondent met with the Chief Executive Officer of Biogen Idec, and, along with other employees, decided that the Board of Directors should be updated in a telephone conference right away to let them know of the new development.

27. Between 12:00 and 1:00 p.m., Mr. Fucigna, who was out of the office, called Mr. Peretti and:

- a. learned that Biogen Idec stock was trading at 67 or higher; and
- b. instructed him to call Respondent and tell him that he should not get "hung up" on 68 as a price since the stock was trading just below that amount per share.

28. At about 1:30 p.m., Respondent returned to his office, at which time his secretary told him that he had had a phone call from Robert Peretti of Smith Barney, and that Respondent needed to call him.

29. At or about 1:34 p.m. on February 18, 2005, Respondent had a telephone conversation with Mr. Peretti, at which time:

- a. Mr. Peretti told Respondent that he had gotten approval from Biogen Idec to place the order to sell the Biogen Idec shares;
- b. Mr. Peretti told Respondent that although he understood from Mr. Fucigna that Respondent wanted to sell the stock pursuant to a "limit order" at no less than \$68 per share, the current price was close to \$68; and
- c. Respondent directed him to sell the shares at the current market price.

30. At 1:37 p.m. on February 18, 2005, Mr. Peretti placed the order to sell the 89,700 shares, which were sold at \$67.1241.

31. Respondent's net profit on the sale was \$1,123,569.45, which was deposited in a Smith Barney money market account bearing Respondent's name.

32. Prior to the opening of the market on February 28, Biogen Idec announced that the Company was suspending the marketing of, and all clinical trials involving, TYSABRI, because of the PML diagnoses.

33. On the trading day preceding the announcement, the closing price of Biogen's stock was \$67.28 per share.

34. The closing price of Biogen's stock on the day of the announcement was \$38.65 per share.

35. As a result of his insider trading, Respondent intentionally, knowingly or recklessly violated Section 17(a) of the Securities Act of 1933, 15 U.S.C. §77q(a), in that Respondent, in the offer or sale of securities, by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- a. employed a device, scheme or artifice to defraud; or
- b. obtained money or property by means of an omission to state a material fact 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 a transaction, practice or course of business which operated as a fraud or deceit upon purchasers of Biogen Idec stock.

36. As a result of his insider trading, Respondent, acting intentionally, knowingly or recklessly, violated Section 10(b) of the Exchange Act, 15 U.S.C. §78j(b), in that Respondent, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or any facility of any national securities exchange, used or employed a manipulative or deceptive device or contrivance in connection with the sale of securities in contravention of a

Rule of the Securities and Exchange Commission, to wit, 17 C.F.R. §240.10b-5(Rule 10b-5) by:

- a. employing a device, scheme, or artifice to defraud,
- b. omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, or
- c. engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person,

in connection with the sale of securities.

37. By his conduct as alleged in Paragraphs 4 through 36 above, Respondent violated the following Rules of Professional Conduct:

- a. Massachusetts RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud¹, deceit, or misrepresentation; and/or

¹ Massachusetts RPC 9.1(e) provides: "'Fraud' or 'fraudulent' denotes conduct having a purpose to deceive and not merely negligent misrepresentation or failure to apprise another of relevant information."

- b. Pennsylvania RPC 8.4(c), which states that it is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud², deceit, or misrepresentation.

**CHARGE II: CONDUCT INVOLVING DISHONESTY,
FRAUD, DECEIT OR MISREPRESENTATION**

38. The allegations of Paragraphs 4 - 9 and 11 - 34 of this Petition for Discipline are hereby incorporated by reference as if fully set forth herein.

39. Respondent engaged in conduct involving:

- a. dishonesty;
- b. fraud, which had a purpose to deceive;
- c. deceit; or
- d. misrepresentation by omission.

40. By his conduct as alleged in Paragraphs 38 and 39 above, Respondent violated the following Rules of Professional Conduct: Massachusetts RPC 8.4(c) and/or Pennsylvania RPC 8.4(c).

CHARGE III: FALSE DEPOSITION TESTIMONY

41. On May 19, 2005, Respondent gave a sworn deposition in Boston, MA in *In the Matter of BIOGEN IDEC, INC.* (Securities & Exchange Commission File No. B-02126-A), in which Respondent, *inter alia*:

² Pennsylvania RPC 1.0(d) provides: "'Fraud' or 'fraudulent' denotes conduct that is fraudulent under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive."

- a. denied telling Mr. Fucigna to sell his shares of Biogen Idec stock only if the price reached \$68;
- b. stated that Mr. Peretti never mentioned that he understood that Respondent wanted to sell the shares at \$68;
- c. testified that when Mr. Peretti called Respondent on the afternoon of February 18, 2005, Mr. Peretti told Respondent that the sale had already occurred and the sale price was "67 point something"; and
- d. testified that he had never placed a limit order in the past in connection with the sale of Biogen Idec stock.

42. The above testimony was false.

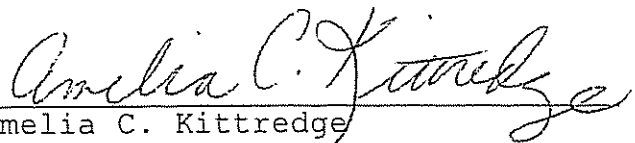
43. By his conduct as alleged in Paragraphs 41 and 42 above, Respondent violated the following Rules of Professional Conduct: Massachusetts RPC 8.4(c) and/or Pennsylvania RPC 8.4(c).

WHEREFORE, Petitioner prays that your Honorable Board appoint, pursuant to Rule 205, Pa.R.D.E., a Hearing Committee to hear testimony and receive evidence in support of the foregoing charges and upon completion of said hearing to make such findings of fact, conclusions of law, and recommendations for disciplinary action as it may deem appropriate.

Respectfully submitted,

OFFICE OF DISCIPLINARY COUNSEL

Paul J. Killion
Chief Disciplinary Counsel

By 
Amelia C. Kittredge
Disciplinary Counsel
Attorney Registration No. 28760

Seven Penn Center, 16th Floor
1635 Market Street
Philadelphia, PA 19103
(215) 560-6296

BEFORE THE DISCIPLINARY BOARD OF THE
SUPREME COURT OF PENNSYLVANIA

OFFICE OF DISCIPLINARY COUNSEL, :
Petitioner :
v. : No. DB 2006
THOMAS J. BUCKNUM, :
Respondent : (Out of State) : Atty. Reg. No. 20289

VERIFICATION

I, Amelia C. Kittredge, Disciplinary Counsel, verify that the statements made in the foregoing Petition for Discipline are true and correct to the best of my knowledge, information and belief and are made subject to the penalties of 18 Pa.C.S. §4904, relating to unsworn falsification to authorities.

Dec. 15, 2006
Date

Amelia C. Kittredge
Amelia C. Kittredge
Disciplinary Counsel