

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

SPYRIDON ADONDAKIS, ANTHONY CHIASSON,  
SANDEEP GOYAL, JON HORVATH, DANNY KUO,  
TODD NEWMAN, JESSE TORTORA, DIAMONDBACK  
CAPITAL MANAGEMENT, LLC, and LEVEL GLOBAL  
INVESTORS, L.P.,

Defendants.

12-civ-0409 (SAS)

**DECLARATION OF THOMAS F. MUNNO**

Thomas F. Munno, hereby declares under the penalties of perjury as follows:

1. I am an attorney with the firm of Dechert LLP, attorneys for Defendant Level Global Investors, L.P. (“Defendant”). I submit this Declaration in support of the Motion by Defendant for an Order and Judgment vacating the Final Judgment as to the Defendant, dated May 31, 2013 (the “Final Judgment”), a copy of which is annexed for the Court’s convenience as Exhibit A.

2. This Declaration is based on my personal knowledge, the Second Circuit’s decision in *U.S. v. Newman and Chiasson*, 773 F.3d 438 (2d Cir. 2015), and information contained in papers filed with this Court.

3. Pursuant to the Final Judgment, Defendant paid the sum of \$21,514,275.63 to Plaintiff United States Securities and Exchange Commission (“Commission”).

4. The claims asserted against Defendant in the Complaint were based on the alleged actions of two of Defendant’s employees, Spyridon Adondakis (“Adondakis”) and Anthony Chiasson (“Chiasson”). (Both Adondakis and Chiasson are also defendants in this action.) At the time the Final Judgment was entered, Adondakis had pleaded guilty to illegal insider trading, and Chiasson had been convicted after a jury trial of illegal insider trading.

5. Subsequent to the entry of the Final Judgment in this action, the Second Circuit in the *Newman* case directed the entry of a judgment of acquittal in favor of Chiasson. As part of its holding, the *Newman* Court found that the transactions that formed the basis of the criminal charges against Chiasson and Adondakis -- which charges also formed the basis of the claims made in this action against Defendants -- did not constitute insider trading.

6. Subsequent to the Supreme Court’s denial of certiorari in the *Newman* case, the United States Attorney’s Office filed a *nolle prosequi* to dismiss its criminal case against Adondakis, and the criminal case was *nolled* on November 6, 2015. On January 15, 2016, this Court entered an Order vacating the Judgment entered in this action against Adondakis. Moreover, on December 23, 2014, this Court vacated the partial summary judgment previously entered in this action against Chiasson, and on October 22, 2015, it entered judgment dismissing this action as to Chiasson.

7. Prior to filing this Motion with the Court, I submitted the Notice of Motion, this Declaration and the proposed Order and Judgment, attached to this Declaration as Exhibit B, to the Commission. I have been informed by the Commission that it will not oppose this motion or the entry of the proposed Order and Judgment, and that it would so inform this Court in writing.

8. Based on the events occurring after the entry of the Final Judgment, Defendant respectfully submits that the Court should grant the relief sought by its motion.

Dated: January 22, 2016  
New York, New York

/s/ Thomas F. Munno  
Thomas F. Munno

# EXHIBIT A

SEC

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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

SPYRIDON ADONDAKIS,  
ANTHONY CHIASSON,  
SANDEEP GOYAL,  
JON HORVATH,  
DANNY KUO,  
TODD NEWMAN,  
JESSE TORTORA,  
DIAMONDBACK CAPITAL MANAGEMENT, LLC,  
and  
LEVEL GLOBAL INVESTORS, L.P.,

Defendants.

12-cv-0409 (HB)

ECF CASE

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**FINAL JUDGMENT AS TO DEFENDANT LEVEL GLOBAL INVESTORS, L.P.**

The Securities and Exchange Commission having filed a Complaint and Defendant Level Global Investors, L.P. ("Defendant") having entered a general appearance; consented to the Court's jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment without admitting or denying the allegations of the Complaint (except as to jurisdiction); waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating, directly or indirectly, Section

SEC

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10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 promulgated thereunder [17 C.F.R. § 240.10b-5], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit 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) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

## II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant and Defendant's agents, servants, employees, attorneys, and all persons in active concert or participation with them who receive actual notice of this Final Judgment by personal service or otherwise are permanently restrained and enjoined from violating Section 17(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. § 77q(a)] in the offer or sale of any security 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) to employ any device, scheme, or artifice to defraud;
- (b) to obtain money or property by means of any untrue statement of a material fact or any omission of a material fact necessary in order to make the statements

SEC

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made, in light of the circumstances under which they were made, not misleading;

or

- (c) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

### III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is liable for disgorgement of \$10,082,725.78, representing profits gained and losses avoided as a result of the conduct alleged in the Complaint, together with prejudgment interest thereon in the amount of \$1,348,824.07, and a civil penalty in the amount of \$10,082,725.78 under Section 21A of the Exchange Act [15 U.S.C. . § 78u-1]. Defendant shall satisfy this obligation by paying \$21,514,275.63 to the Securities and Exchange Commission within 14 days after entry of this Final Judgment.

Defendant may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request. Payment may also be made directly from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>. Defendant may also pay by certified check, bank cashier's check, or United States postal money order payable to the Securities and Exchange Commission, which shall be delivered or mailed to

Enterprise Services Center  
Accounts Receivable Branch  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

and shall be accompanied by a letter identifying the case title, civil action number, and name of

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this Court; Level Global Investors, L.P. as a defendant in this action; and specifying that payment is made pursuant to this Final Judgment.

Defendant shall simultaneously transmit photocopies of evidence of payment and case identifying information to the Commission's counsel in this action. By making this payment, Defendant relinquishes all legal and equitable right, title, and interest in such funds and no part of the funds shall be returned to Defendant. The Commission shall send the funds paid pursuant to this Final Judgment to the United States Treasury.

The Commission may enforce the Court's judgment for disgorgement and prejudgment interest by moving for civil contempt (and/or through other collection procedures authorized by law) at any time after 14 days following entry of this Final Judgment]. Defendant shall pay post judgment interest on any delinquent amounts pursuant to 28 U.S.C. § 1961.

IV.


IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

V.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: \_\_\_\_\_

May 30 2013



UNITED STATES DISTRICT JUDGE

## EXHIBIT B

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

SPYRIDON ADONDAKIS, ANTHONY CHIASSON,  
SANDEEP GOYAL, JON HORVATH, DANNY KUO,  
TODD NEWMAN, JESSE TORTORA, DIAMONDBACK  
CAPITAL MANAGEMENT, LLC, and LEVEL GLOBAL  
INVESTORS, L.P.,

Defendants.

12-civ-0409 (SAS)

ECF CASE

**PROPOSED ORDER AND JUDGMENT**

This Court having entered a Final Judgment as to the Defendant Level Global Investors, L.P. on May 31, 2013 (the “Final Judgment”); and Defendant Level Global Investors, L.P. (the “Defendant”) having paid \$21,514,275.63 (the “Sum”) to the Securities and Exchange Commission pursuant to the Final Judgment; and Defendant having moved (i) for an Order pursuant to Rule 60(b) of the Federal Rules of Civil Procedure vacating the Final Judgment and directing the return of the Sum, and (ii) for an Order pursuant to Rule 54(b) of the Federal Rules of Civil Procedure and dismissing this action as to Defendant; and the Securities and Exchange Commission having informed this Court that it does not oppose the grant of the motion or the entry of this Order and Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Final Judgment entered on May 31, 2013 is vacated.

II.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Securities and Exchange Commission shall transmit the sum of \$21,514,275.63 to the Defendant, pursuant to banking information provided by the Defendant, within thirty days after the entry of this Order and Judgment or promptly thereafter if additional time is required by the Securities and Exchange Commission.

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this action be dismissed as to Defendant Level Global Investors, L.P.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purpose of enforcing the terms of this Order and Judgment.

V.

Pursuant to Rule 54(b) and Rule 60 of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Order and Judgment forthwith and without further notice.

Dated: \_\_\_\_\_, 2016

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE