

*Filed 5/24/77*

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,	:	
	:	Civil Action No. 77-2534
Plaintiff,	:	
	:	COMPLAINT
v.	:	
	:	<i>J. Gattal</i>
VINCENT F. CHIARELLA,	:	
	:	
Defendant.	:	
-----	:	

The Plaintiff Securities and Exchange Commission ("Commission") for its complaint alleges that:

1. The defendant Vincent F. Chiarella ("Chiarella") has engaged, is engaged, and is about to engage in acts and practices which constitute and will constitute violations of Sections 10(b) and 14(e) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. 78j(b) and 78n(e)] and Rule 10b-5 [17 CFR 240.10b-5] promulgated thereunder.

2. This court has jurisdiction pursuant to Section 27 of the Exchange Act [15 U.S.C. 78aa]. Certain acts, practices and courses of business constituting violations alleged herein have occurred within the Southern District of New York.

3. Plaintiff Commission brings this action pursuant to Sections 21(d) and (e) of the Exchange Act [15 U.S.C. 78u(d) and (e)] to restrain and enjoin said defendant from engaging in such acts and practices.

4. The defendant will, unless restrained and enjoined, engage in acts and practices of similar purport and object to those alleged in this Complaint.

commerce and of the mails in connection with certain of the acts and practices alleged herein.

6. Plaintiff Commission pursuant to authority granted by Section 10(b) of the Exchange Act has promulgated Rule 10b-5 which was in effect at all times material herein and is still in effect.

THE DEFENDANT

7. Defendant Chiarella, who resides at [b)(6);(b)(7)(C)], [b)(6);(b)(7)(C)], was at all times relevant hereto employed as a type-setter by Pandick Press, Inc. ("Pandick"), located in New York, New York, a printer of, among other things, corporate and financial materials.

deceit upon the purchasers and sellers of such securities, all of which is more fully set forth in paragraphs 10 through 32.

SPPAGUE

10. In or about November 1976, General Cable Corporation ("GCC") retained Pandick to print certain materials in connection with a proposed cash tender offer by GCC for the common stock of Sprague. GCC first delivered to Pandick its tender offer materials in connection with the proposed Sprague cash tender offer on the evening of November 9, 1976. The next morning, November 10, 1976, Pandick delivered to GCC's corporate offices in New York City the proofs printed from the materials received the previous night.

11. The aforesaid copy and proofs printed by Pandick in connection with the Sprague tender offer indicated that Sprague was the target of GCC's proposed tender offer in that, among other things, these documents referred to the target company's 40 percent interest in a company referred to as "M Corporation" (Mostek Corporation) and contained a portion of the text of the target company's press release issued one week previously which related to its third quarter earnings.

12. Defendant Chiarella on the evening of November 9 worked in the composing room at Pandick in connection with the Sprague tender offer job and thereby obtained material non-public information concerning GCC's proposed tender offer for Sprague stock.

13. On November 10, 1976, Chiarella purchased in his margin account at Hoppin Watson, Inc. 2,200 shares of Sprague common stock at prices ranging from \$11-3/4 to \$12 without disclosing the material non-public information he had obtained in connection with his employ-

per share and that Sprague's management had acquiesced in GCC's effort to acquire a controlling interest in Sprague.

15. On November 15, 1976, following the public announcement of GCC's tender offer, Chiarella sold the aforementioned 2,200 shares of Sprague at the tender offer price of \$19-1/2, realizing a profit of approximately \$16,000.

#### BOOTH

16. In the fall of 1976 the Times Mirror Company ("TMC") retained Pandick to print certain materials in connection with a proposed cash tender offer by TMC for the common stock of Booth. In the afternoon of October 20, 1976, Pandick received from TMC materials to be printed in connection with the Booth tender offer. The next morning, October 21, 1976, the proofs printed from TMC's materials received the previous day were delivered to the offices of TMC's attorneys in New York City.

17. The aforesaid copy and proofs printed by Pandick in connection with the Booth tender offer indicated that Booth was the target of TMC's proposed tender offer in that, among other things, the proofs specifically named Booth's major shareholder, president and chief executive officer, and described the business of Booth as the publication of Parade magazine and eight daily and Sunday newspapers located in Michigan.

18. Defendant Chiarella worked in the composing room at Pandick on October 20, 1976 in connection with the Booth tender offer job and thereby obtained material non-public information concerning TMC's proposed tender offer for Booth stock.

19. On October 21, 1976, Chiarella purchased in his margin

20. On October 22, 1976, TMC publicly announced that it was making a cash tender offer at \$40 per share for the common stock of Booth.

21. October 22, 1976, Chiarella sold the aforementioned 100 Booth shares at \$39-3/4, after announcement of TMC's tender offer, realizing a profit of approximately \$1,000.

FOOD TOWN

22. In the fall of 1976, Establishment Delhaize Freres & Cie ("Le Lion") retained Pandick to print certain materials in connection with a proposed tender offer by Le Lion for the common stock of Food Town. On October 6, 1976 Le Lion or its representatives first delivered to Pandick materials to be printed in connection with the Food Town tender offer. On October 7, 8, 13 and 14, 1976, Le Lion or its representatives delivered to Pandick additional materials to be printed in connection with the Food Town tender offer.

23. The proofs printed by Pandick from the aforementioned materials indicated that Le Lion was planning to make a cash tender offer for the common stock of Food Town in that, among other things, the proofs contained a Result of Operations financial statement for 1974 and 1975, described the August 1976 merger of Lowe's Food Stores into Food Town, the 200 percent stock dividend that was distributed to the shareholders of Food Town in August 1976, and named certain individuals who were directors of both Le Lion and Food Town.

24. Defendant Chiarella, as an employee of Pandick, had access to the aforementioned materials and obtained material non-public

25. On October 11, 1976, Chiarella purchased 1,100 shares of Food Town at prices ranging from \$20-1/4 to \$20-1/2 without disclosing the material non-public information he had obtained in connection with his employment.

26. On October 18, 1976 Food Town and Le Lion jointly announced a cash tender offer by Le Lion for the common stock of Food Town at \$25.

27. On November 1, 1976, Chiarella tendered 581 Food Town shares at \$25 per share, realizing a profit of approximately \$2,600. Of the remaining shares, Chiarella sold 100 on October 21, 1976, at \$21-1/2 and 419 on December 1, 1976 at \$22, realizing a profit of approximately \$700.

#### RIVIANA

28. In or about February, 1976, Colgate-Palmolive ("Colgate") retained Pandick to print certain materials in connection with the proposed merger between Colgate and Riviana. On February 4, 1976 Colgate delivered to Pandick copies of the merger agreement. Proofs printed from these copies were delivered to Colgate's offices in New York the next day, February 5, 1976.

29. On February 4, 1976 Chiarella worked in the composing room at Pandick on the Colgate-Riviana merger materials and obtained material non-public information concerning the proposed merger.

30. On February 6, 10, 11 and 12, Chiarella purchased in his margin account at Hoppin Watson, Inc. a total of 2,300 shares of Riviana at prices ranging from \$22-1/4 to \$23 without disclosing the material non-public information obtained in connection with his employment at Pandick.

31. On February 12, 1976, Colgate publicly announced that

an exchange ratio which gave each Riviana share a value of \$28 to \$29 per share.

32. On February 22, and March 5, 15 and 16, after the merger agreement was announced, Chiarella sold the aforementioned 2,300 Riviana shares at prices ranging from \$27-1/4 to \$27-7/8, realizing a profit of \$8,948.

33. By reason of the activities described in paragraphs 8 through 32, the defendant Chiarella has violated, is violating and is about to violate Section 10(b) of the Exchange Act, 15 U.S.C. 78j(b), and Rule 10b-5 thereunder, 17 CFR 240.10b-5.

#### SECOND CAUSE OF ACTION

Section 14(e) of the Exchange Act [15 U.S.C. 78n(e)].

34. The allegations of paragraphs 1 through 7 and 9 through 32 are realleged and incorporated herein by reference.

35. By reasons of the activities described in paragraph 34 above, Chiarella has violated, is violating, and is about to violate Section 14(e) of the Exchange Act, 15 U.S.C. 78n(e).

#### PRAYER FOR RELIEF

WHEREFORE, the plaintiff Commission prays that this Court:

I

Grant a permanent injunction restraining and enjoining defendant Chiarella and his agents, servants, employees, successors and assigns, and those persons in active concert or participation with them, from, directly or indirectly, in connection with the offer, purchase or sale of securities Sprague, Booth, Food Town, Riviana, or the securities of any other issuer, by the use of

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

II

Grant a permanent injunction restraining and enjoining defendant Chiarella and his agents, servants, employees, successors and assigns, and those persons in active concert or participation with them, from, directly or indirectly, in connection with any tender offer for or request or invitation for tenders of the securities of Sprague, Booth, Food Town, Riviana or the securities of any other issuer, or any solicitation of security holders in opposition to or in favor of any such offer, request or invitation to make any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, or to engage in any fraudulent, deceptive or manipulative act or practice.

III

Order the defendant Chiarella to disgorge all profits which he has obtained as a result of the aforesaid illegal activities.

IV

Grant such other and further relief as the Court may deem just and equitable.



Respectfully Submitted,

[Redacted Signature] (b)(6);(b)(7)(C)

[Redacted Signature] (b)(6);(b)(7)(C)

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DATED: May 16, 1977