

BROS OR INSIDER TRADERS? EX-WELLS FARGO COLLEAGUES SEEK TO DISMISS SEC CASE

By

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“Many props bro – it’s all good in the hood biatchhhhh,” Gregory Bolan, a former research analyst for Wells Fargo & Co., wrote in an August 2010 email to Joseph Ruggieri, then a trader at the firm.

“Bro Fk it – Were partners,” Mr. Ruggieri responded. “Together, we can lift this sector team and crush it.”

The emails are part of a chain between the two men, both of whom covered the health-care sector at Wells Fargo, that makes no reference to insider-trading or other illegal activity.

But enforcement officials at the Securities and Exchange Commission are including the emails in their insider-trading civil case against the two men, saying the messages help demonstrate the duo were a partnership in which “each scratched the other’s back.”

The email evidence was published Friday, as part of motions filed by the two men seeking to dismiss

the civil insider-trading charges filed against them by the SEC.

The men, who both deny any insider trading, say the SEC’s case fails to meet the standard for proving illegal activity set out in a landmark appeals-court ruling in December. The court found the government had to show the person trading on the information knew the tipper got a tangible personal benefit from passing it on.

This ruling has triggered a string of legal challenges, as The Wall Street Journal previously reported.

Former Wells Fargo trader Mr. Ruggieri’s motion to dismiss says the SEC’s case is “fatally flawed” in the light of the appeal-court ruling, because the agency can’t show Mr. Bolan, the former Wells Fargo analyst, tipped for a personal benefit.

The motion also states the SEC’s theory “defies credulity” by alleging that Mr. Ruggieri risked his career and reputation to trade on tips from a

colleague for no personal financial benefit. Mr. Ruggieri's alleged trades on the tips were done in a Wells Fargo account, rather than a personal account, and his total compensation was fully guaranteed for 2010, so wouldn't have been affected by the alleged insider trading, according to his court filing.

Mr. Bolan, in his filing, says Wall Street analysts are encouraged to talk to traders within their firm as a routine part of their job. Allowing the SEC's "novel" case to go ahead would "pressure analysts into self-imposed solitary confinement" when they get close to publishing a research report on a company, for fear the SEC will pursue them should a fellow-employee happen to trade in that stock, his legal motion says.

A spokesman for the SEC declined to comment. In a letter last month, the SEC told the administrative-law judge overseeing the case that a motion to dismiss the charges is "doomed to fail." A spokeswoman for Wells Fargo, which wasn't charged by the SEC, declined to comment, as did Mr. Ruggieri's lawyer, Paul Ryan, a partner at law firm Serpe Ryan LLP.

Sam Lieberman, a partner at law firm Sadis & Goldberg LLP, who is representing Mr. Bolan said the allegations of personal benefit in this case don't meet the appeal-court standard, "so the question ... is whether the administrative law judge will apply the law" and make the appeal-court ruling binding.