

Trading by Corporate Insiders Pursuant to Rule 10b5-1 Plans Under Heightened Regulatory Scrutiny

Margot Laporte, a Partner in the Washington D.C. office, recently authored an article in Corporate Counsel. An excerpt from the article is available below.

On June 21, 2024, the U.S. Department of Justice (DOJ) secured a conviction in a first-of-its-kind insider trading prosecution based exclusively on a corporate insider's trades pursuant to a Rule 10b5-1 plan.

DOJ charged Terren S. Peizer, the former CEO and Chairman of the Board of Directors of Ontrak, Inc., in March 2023, alleging that he avoided losses of more than \$12.5M by trading pursuant to two Rule 10b5-1 plans established while he was in possession of material nonpublic information (MNPI).

Rule 10b5-1 plans are pre-set trading plans that can provide an affirmative defense for corporate insiders buying and selling company stock when entered into in good faith and without the benefit of MNPI. The U.S. Securities and Exchange Commission (SEC) brought a parallel civil enforcement action against Peizer.

Following the verdict, Principal Deputy Assistant Attorney General and Head of DOJ's Criminal Division, Nicole M. Argentieri, cautioned this was the DOJ's 'first insider trading prosecution based exclusively on the use of a trading plan, but it will not be our last.'

Read the [full article on Corporate Counsel](#). (A subscription is required)

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