

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 85525/ April 5, 2019**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-19134**

**In the Matter of**

**TAI-CHENG YANG**

**Respondent.**

**ORDER INSTITUTING CEASE-AND-  
DESIST PROCEEDINGS PURSUANT TO  
SECTION 21C OF THE SECURITIES  
EXCHANGE ACT OF 1934, MAKING  
FINDINGS, AND IMPOSING A CEASE-  
AND-DESIST ORDER**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Tai-cheng Yang (“Yang” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, which are admitted, and except as provided herein in Section V, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

**III.**

On the basis of this Order and Respondent’s Offer, the Commission finds<sup>1</sup> that:

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<sup>1</sup> The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

## Summary

1. This matter involves insider trading by Tai-cheng Yang in the securities of Whole Foods Market, Inc. (“Whole Foods”) based on material nonpublic information that Yang misappropriated from his wife (“Wife”). On June 16, 2017, Whole Foods announced that it had entered into a definitive agreement to be acquired by Amazon.com, Inc. (“Amazon”) for approximately \$13.7 billion or \$42 per share (the “Announcement”). On the day of the Announcement, the price of Whole Foods stock rose by 29%. Prior to the Announcement, on June 9, 2017, Family Member A, an individual assisting Amazon with certain aspects of the transaction, disclosed to Wife, with whom Family Member A had a history, pattern, and practice of sharing confidences, that Family Member A could not travel to assist a family member with a medical procedure due to the work on the proposed transaction. Unbeknownst to Family Member A, Wife told Yang about Family Member A’s involvement in the proposed transaction, and between June 9 and June 13, 2017, in breach of a duty of trust and confidence owed to Wife, Yang misappropriated the information he received from Wife and purchased Whole Foods securities in advance of the Announcement. Yang realized illegal profits of \$27,761.55. By engaging in this conduct, Yang violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

## Respondent

2. **Tai-cheng Yang**, age 78, is a resident of Livingston, New Jersey and works as an engineer for a privately-held company.

## Relevant Entities

3. **Whole Foods Market, Inc.**, headquartered in Austin, Texas, is a natural and organic foods supermarket. Prior to August 28, 2017, Whole Foods’s common stock was registered with the Commission pursuant to Section 12(b) of the Exchange Act and was listed on the NASDAQ Global Select Market under the symbol “WFM.”

4. **Amazon.com, Inc.** is a publicly-traded company incorporated in Delaware and headquartered in Seattle, Washington. Amazon’s common stock is registered under Section 12(b) of the Exchange Act and listed on the NASDAQ Global Select Market under the ticker “AMZN.”

## Facts

5. In April 2017, Whole Foods and Amazon began preliminary discussions concerning a potential strategic transaction and on April 27, 2017, the companies entered into a non-disclosure agreement.

6. On June 1, 2017, Amazon and Whole Foods agreed to negotiate a transaction in which Amazon would acquire Whole Foods at a \$42 per share cash price. Thereafter, the companies conducted due diligence and negotiated the merger agreement.

7. On June 15, 2017, Whole Foods's board of directors voted to approve the transaction.

8. Leading up to the Announcement, Family Member A assisted Amazon with certain matters related to the transaction. Family Member A understood that information concerning the transaction was confidential, and that Family Member A owed a duty of trust or confidence to Amazon.

9. During the afternoon of June 9, 2017, Family Member A had a telephone conversation with Wife. Family Member A and Wife had a close personal relationship. They routinely shared confidences with each other and kept the other's confidences. While discussing another family member's upcoming medical procedures, Family Member A shared material nonpublic information with Wife. In explaining why Family Member A would not be able to travel to attend the medical procedure, Family Member A disclosed to Wife that Family Member A was engaged in work related to the transaction. By virtue of their history, pattern, and practice of sharing confidences, Wife owed a duty of trust or confidence to Family Member A, and Family Member A expected that Wife would maintain the confidentiality of the material nonpublic information.

10. Immediately following Wife's discussion with Family Member A, Wife relayed the material nonpublic information about Family Member A's involvement in the proposed transaction to Yang in the context of discussing why Family Member A would not be able to travel for the medical procedures. By virtue of their spousal relationship, Yang owed Wife a duty of trust or confidence and Yang knew or was reckless in not knowing that the information Wife disclosed was confidential and that he should not trade on the information.

11. Less than an hour later, Yang purchased 40 Whole Foods call option contracts with a strike price of \$25 and an expiration date of January 18, 2019, in four accounts at an average price of \$11.61 per contract, for a total of \$46,428.76. Thereafter, on June 13, 2017, Yang purchased an additional 10 Whole Foods call option contracts with a strike price of \$25 and an expiration date of January 19, 2018 in a fifth account at a price of \$10.70 per contract for a total of \$10,714.69.

12. Yang knew or was reckless in not knowing that his purchases of Whole Foods options were in breach of the duty of trust or confidence that he owed to Wife.

13. On June 16, 2017, Whole Foods announced that it had entered into a definitive agreement to be acquired by Amazon for approximately \$13.7 billion or \$42 per share.

14. That day, Whole Foods's stock price closed at \$42.68 per share, an increase of approximately 29% over the prior day's closing price of \$33.06 per share. As a result, the value of the Whole Foods call options that Yang had purchased increased by approximately \$27,761.55.

## Findings

16. Based on the foregoing, the Commission finds that Yang violated Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities.

### IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Yang's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Yang cease and desist from committing or causing any violations and any future violations of Section 10(b) and Rule 10b-5 thereunder.

B. Yang shall, within 10 days of the entry of this Order, pay disgorgement of \$27,761.55, prejudgment interest of \$1,563.52, and a civil money penalty in the amount of \$27,761.55 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717 and SEC Rule of Practice 600.

C. Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center  
Accounts Receivable Branch  
HQ Bldg., Room 181, AMZ-341  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Tai-cheng Yang as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Kelly L. Gibson, Associate

Regional Director, Philadelphia Regional Office, Division of Enforcement, Securities and Exchange Commission, 1617 JFK Blvd., Suite 520, Philadelphia, PA 19103.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, he shall not argue that he is entitled to, nor shall he benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that he shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

#### V.

It is further Ordered that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. §523, the findings in this Order are true and admitted by Respondent, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Respondent under this Order or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Respondent of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. §523(a)(19).

By the Commission.

Vanessa A. Countryman  
Acting Secretary