

## SEC Enforcement Case Summary Market Manipulation & Fraud by Public Company CEOs

On June 25, 2024, in a partially litigated partially settled case, the Securities and Exchange Commission (**SEC**) charged Meta Materials Inc. (**Meta**), formerly known as Torchlight Energy Resources, Inc. (**Torchlight**), a Texas-based publicly traded company purportedly in the business of oil and gas exploration and production, John Brda, the former Chief Executive Officer of Torchlight, and Georgios Palikaras, the subsequent CEO and President of Meta, with engaging in a concerted market manipulation scheme designed to trigger a short squeeze and artificially raise the price of the public company's stock. SEC staff noted in their press release that the conduct "was a sophisticated, yet brazen plan by a public company and its former CEOs to purposely mislead investors in the company's stock. This conduct is particularly alarming because it involves public company CEOs who were more concerned with 'burning the shorts' than creating long-term value for shareholders."

According to the SEC's complaint, Brda devised the scheme in 2020 in response to Torchlight's deteriorating financial condition when the stock was trading below \$1 per share and at risk of being delisted from Nasdaq, and the company needed capital to pay its debt obligations and fund ongoing drilling expenses in oil and gas assets. The SEC alleged that Brda orchestrated a series of transactions intended to create a short squeeze, including a merger agreement between Torchlights and Metamaterial, Inc. (**Meta I**), which was led by Palikaras, who knew of and willingly participated in the scheme. On September 21, 2020, Torchlight simultaneously announced the merger and issuance of a dividend in the form of preferred stock, issued to shareholders of record but not registered or made available for immediate trading on any exchange. The preferred dividend was ostensibly to allocate proceeds from the sale of Torchlight's oil and gas assets to legacy Torchlight shareholders. While the two defendants believed that such an announcement alone would cause a short squeeze, the market did not immediately react. Accordingly, over the next nine months, Brda and Palikaras initiated a series of private meetings with investors and third parties as well as public communications in regulatory filings and statements that were widely circulated on social media that were intended to promote the preferred dividend, advance their short squeeze theory, cause short sellers to exit their short positions, encourage investors to buy or hold Torchlight common stock and raise new capital in an at-the-market (**ATM**) offering.

The SEC alleged that Torchlight made false and misleading statements and omissions in public filings, proxy statements, and other public communications creating the impression that Torchlight's oil and gas assets would be quickly monetized and distributed to shareholders with net proceeds paid to preferred dividend shareholders ranging from \$1-\$20 per share when, in fact, a valuation study by investment bankers only supported a per-share value range of \$0.03

to \$0.83. The defendants allegedly made other false public statements indicating that the company had significant interest from potential buyers of its oil and gas assets, although the company had no prospects at the time such statements were made. The hype succeeded in driving the company's stock price from less than \$1 per share before the announcement, to \$3.58 in June 2021 before the record date for the preferred dividend was set, and as high as \$10.88 per share in the days leading up to the record date (June 24) and merger close (June 25). Over a five-day ATM offering (June 18-24), Torchlight sold 16.2 million off-the-shelf shares into the public market at an average price of \$8.50, raising \$137.5 million.

In the litigation action, the SEC charged Brda and Palikaras with violating the antifraud and proxy disclosure provisions of the federal securities laws and charged Brda with aiding and abetting Meta violations of the reporting, internal accounting controls, and books and records provisions. The complaint seeks permanent injunctions, officer-and-director bars, and civil penalties from both defendants. The complaint also seeks disgorgement with pre-judgment interest from Brda.

The SEC also instituted a separate administrative proceeding against Meta, entering a settled order finding that Meta violated the antifraud, reporting, internal accounting controls, and books and records provisions of the federal securities laws. In the settled action, Meta was ordered to cease and desist from violations of the relevant provisions of the federal securities laws and to pay a \$1,000,000 penalty.

See Press Release – <https://www.sec.gov/newsroom/press-releases/2024-77>