OHIO SECURITIES BULLETIN

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Commissioner's Letter

RECENT ACTIVITIES

Several members of the Division Staff participated in two conferences the week of April 7 through our involvement with the North American Securities Administrators Association (NASAA). A two-day conference was held in Baltimore involving the SEC and NASAA to provide a forum for discussions of topics of mutual concern and to foster cooperation between federal and state securities administrators. The 19(c) Conference is so called in reference to the 1934 statutory provision stating that the Securities and Exchange Commission shall conduct an annual conference as well as other meetings, to "engender cooperation" between the commission, state securities officials and other securities associations. The conference was broken up into several committees which covered a myriad of topics. The subject matter of the committees encompassed market regulation, corporate finance, investment management, and enforcement. At the conclusion of the 19(c) Conference, NASAA commenced its annual spring meeting in Washington, D.C. for panel discussions on current securities issues and to conduct association business.

Takeovers:

One area of focus at these meetings and a current concern of the securities community, particularly in Ohio, centers on takeovers. Representatives from NASAA met with U.S. Senator William Proxmire, the Senate Banking Committee Chairman. Senator Proxmire indicated he was studying the adverse effects of takeovers on capital investment, community adjustments, and corporate long range planning. The means used to finance an offer—commitment letters, junk bonds, and bridge loans—were also discussed, in the context of capital formation. He stated that federal legislative reform was needed to "level the playing field." His proposals include shortening from 10 days to 2 days the period given for reporting 5% acquisitions; increasing the minimum time before an offer can be consummated from 20 days to 60 days; and prohibiting the payment of greenmail or requiring a holding period of several years for shares acquired in a tender offer before they can be traded.

Thursday U.S. Representative Markey reflected similar views from the House side of Congress. Energy and Commerce Committee Chairman John Dingell and Representative Markey have since reduced their proposals to legislation which would also restrict or ban the payment of greenmail, shorten the 10-day reporting period, lengthen the 20-day offer period, restrict poison pills, mandate one share-one vote for certain securities, and restrict or ban golden parachutes.

At the state level Senator Pfeiffer has introduced S.B. 97, and Representative Mottl introduced H.B. 291, both of which are designed to stipulate under what conditions corporations may acquire their own shares at a price above the market.

All of these legislative solutions however must be tempered in light of the United States Supreme Court decision in *CTS Corp vs. Dynamics Corporation of America* handed down on April 21, 1987. Because the court reversed the Seventh Circuit Court of Appeals and upheld the Indiana Control Share Acquisition Act, legislative reforms to takeover abuses may not have to be as sweeping as anticipated. The Supreme Court vacated the Sixth Circuit Court of Appeals decision in Ohio's *Fleet Aerospace Corp v Holderman* case and remanded the case for reconsideration in light of *CTS*. Briefs were filed June 2, 1987.

Legislation:

Again, the NASD has proposed in H.B. 366 an amendment to broaden the Revised Code Section 1707.02(E) exemption to include NASDAQ National Market System securities. The Division is still opposed to this proposition

Contents

OHIO SECURITIES BULLETIN
Publication of the
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Broker Dealer	466-3466
Enforcement	466-6140
File Room	466-3001
Receptionist	462-7381
Registration	466-3440
Almond, Robert	466-4826
Bibler, Bob	462-7425
Blackwell, Lynn	466-3440
Bledsoe, Judy	462-7451
Brackman, Beverly	462-7473
Braithwaite, Melanie	462-7417
Brumfiel, Kim	466-3466
Cassidy, Vivian	462-7448
Caraccilo, Nick	462-7455
Celli, Doris	462-7453
Chafin, Debra	462-7371
Chapman, Jo	466-7043
Cleary, Joyce	462-7467
Crognale, Corey	462-7419
Cunningham, April	462-7445
Davis, Charlotte	462-7445
Essey, Norman	462-7387
Geist, Ken	462-6296
Harbert, Jodi	462-7461
Hawkins, Cathy	462-7447
Henry, Bill	462-7435
Hershberger, Don	462-7415
Hetterscheidt, Delilah	466-4297
Holderman, Mark	466-7043
Hunt, Jim	462-7463
Hunt, Joanne	466-5887
Jewell, Dale	462-7465
Joyce, Deborah	462-7427
Kahrl, Clyde	462-7421
Keller, Mary	462-6406
Lively, Bill	462-7459
Malkoff, Daniel	466-8109
Mayo, Nancy	466-6140
McDonald, Patricia	462-7399
Miglets, Mike	462-7373
Nobel, Sandra	462-7381
Palsgrove, Donna	466-1395
Quinn, Mike	462-7293
Sedlacko, Cy	462-7383
Seth, Vicki	466-3467
Silvian, Sid	462-7389
Stott, Gordon	462-7385
Tague, Paul	462-7413
Terhune, Karen	462-7411
Tesi, Dolores	462-6234
Veach, Kathy	462-7423
Warneka, Jim	462-7433
Wilson, Sandy	466-3001
Zelasko, Greg	462-7295

and will offer testimony to support its position during the committee hearings. (Testimony of two academicians, as delivered in the last legislative session regarding HB 345, is included herein, representing both sides of the issue.) Another bill directly affecting the Ohio Securities Code is H.B. 70 sponsored by Representative Otto Beatty, Jr. This bill would impose licensure requirements upon investment advisors. The Division has had input during the drafting stage, utilizing NASAA's 1986 model code as a template while incorporating a few slight variations.

Training and Education:

In an effort to maintain professional training, numerous staff members have participated in various seminars and conferences recently. There have been an ample number of enforcement oriented programs that the Division has been able to participate in funded mainly by NASAA. Staff members were enrolled in an SEC Enforcement Training Program in Washington, D.C., the Annual Rocky Mountain State-Federal-Provincial Securities Conference in Denver, and the Florida Department of Banking and Finance Investigative Training Program in Tallahassee.

The Division was also able to rekindle its involvement with the Cincinnati and Cleveland Bar Associations' securities law conferences. Over the years these have been by far the most significant educational forums for Division staff members and we were fortunate to be able to send ten Division employees to these. In another provocative and timely panel discussion, the University of Toledo College of Law featured Henry Manne, Dean of the George Mason University School of Law, who discussed his proposition that insider trading should not be considered reprehensible and actually increases market efficiency. Finally, the NASAA Spring Conference sponsored several panels of luminaries, highlighted by a luncheon speech by the esteemed economist John Kenneth Galbraith.

Lastly, over the past six months the Division has been active in teaching classes, in house, and has begun to videotape the sessions for use in future training sessions. The Division will continue to aggressively pursue all educational and training opportunities that become available.

Staff Change

The Division recently lost a veteran enforcement attorney, Tina Manning, who resigned to assume a position with the Miami, Florida office of the S.E.C. Tina was one of the most vigorous criminal enforcement attorneys in recent Division history, and the Division will sorely miss her efforts.

Articles

STATEMENT IN SUPPORT OF AM. S.B. 345 EXEMPTING NASDAQ/NMS SECURITIES FROM THE REGISTRATION PROVISIONS OF THE OHIO SECURITIES LAW—Before The Sub-committee on Financial Institutions, Tuesday, July 8, 1986 (major excerpts)

My name is Lizabeth Moody. I am a Professor at Cleveland State University College of Law where, *inter alia,* I teach Securities Regulation. I have also taught this subject

matter at George Washington University National Law Center and at the University of Toledo College of Law.

The pending legislation in Ohio generally follows the lead of the National Conference of Commissioners on Uniform State Laws which, in 1985, approved the Revised Uniform Securities Act which included within its model provisions: Section 401(8), an express exemption for NASDAQ/NMS securities.

Ohio's inclusion of the proposed exemption would eliminate unnecessary regulation which impedes capital formation, achieve internal consistency in the Ohio regulatory scheme, promote uniformity among the states and insure coherence with the federal regulatory scheme.

Considered as a whole, the Ohio Securities Law establishes a regulatory scheme designed to protect Ohio investors by:

(1) prohibiting fraud in the offer or sale of securities;

(2) requiring disclosure of sufficient information to allow an investor to make an informed investment decision; and

(3) imposing qualitative standards as a prerequisite to the right of an issuer to sell securities to the public.

The proposed exemption would in no way frustrate the achievement of the law's objectives and could in fact release resources for more effective enforcement of useful regulations. It would have no effect on the anti-fraud provisions of the present law, since exemptions from registration do not apply to fraudulent activities. Nor would it affect adequate disclosure. The securities in question would not be exempt from federal registration requirements, which mandate fair and complete disclosure.

Ohio has already recognized that coordination of disclosure between the state and federal systems is practical and necessary in the interests both of the investor and the issuer. It has taken major steps to that end in providing for registration in Ohio by coordination with registration under the Securities Act of 1933 (O.R.C. § 1707.091) and in adopting the exemptions and safe harbors contained in § 4(2) of the Securities Act of 1933 and in the Securities and Exchange Commission's Regulation D (O.R.C. §§ 1707.03(Q) and 1707.03(W)). It, therefore, is only the qualitative (or merit) controls over securities which may be sold in Ohio that is in issue with respect to exempting NMS designated securities. Such an exemption is completely consistent with the present system of merit regulation.

A study of the exemptions provided in Ohio Revised Code Section 1707.02 indicates that the Ohio Securities Act approaches merit regulation by exempting securities which, because of the nature of the issuer or the fact that they are regulated by some other body, will necessarily meet the Act's standards of investment quality. On this basis, Ohio has long exempted securities listed on stock exchanges, recognizing that the listing requirements of self-regulatory exchanges operating under the supervision of the Securities and Exchange Commission serve to insure the quality of the investment to at least as great a degree as state registration. Considered in the light of the extensive listing requirements and monitoring activities of self-regulatory bodies, state regulation of listed or designated securities is redundant. Adding NASDAQ/NMS designated securities to the catalogue of exempt securities is in keeping with the approach of the Act since the NASDAQ system can be shown to be on a parity with the exchanges which are now recognized.

The NASDAQ system compares favorably with the exchanges which now enjoy the exemption. Share volume exceeds that of all exchanges other than the New York and Tokyo Stock Exchanges. A comparison of NASDAQ/NMS designated securities as to reporting characteristics, average price and average issuer assets shows NMS securities to more than qualitatively equal those listed on other exchanges. In addition, the organizational structure and regulatory programs of NASD are similar to those of the exempt exchanges. Federal securities laws have been continually modernized to take into account the development of national security associations and to regulate them on the same basis as exchanges.

These features were recognized by the National Conference of Commissioners on Uniform State Laws in according full parity to the NASDAQ system in the Revised Uniform Securities Act. The Revised Act is an attempt to modernize "blue sky" law in the light of dramatic changes in both the market and regulatory environment since the adoption of the original Uniform Act in 1956. The Commissioners adopted the proposed revision after five years of study and debates. Failure to recognize that NASDAQ/NMS criteria provide an adequate substitute for state registration is to continue regulatory activities which are wasteful and which discriminate among self-regulatory agencies, where there is no rational basis for such discrimination. Such activities also place an unfair burden on Ohio NMS companies which must bear additional expenses and delays in order to sell to Ohio investors.

A major theme of securities regulation in the last decade has been the belief that investor protection and capital formation could be better served by increased coordination and uniformity of regulation among the various states and between the federal government and the states.

The inclusion of the NASDAQ/NMS designated securities in the list of securities exempt from the Ohio registration requirements would promote the congressionally mandated national market system by promoting uniformity and by eliminating unnecessary interference with the business of capital formation.

STATEMENT IN OPPOSITION TO AM. S.B. 345 EXEMPTING NASDAQ/NMS SECURITIES FROM REGISTRATION UNDER THE OHIO SECURITIES ACT—October 9, 1986—Before the Sub-committee on Financial Institutions (major excerpts)

By
Joseph C. Long

Let me first introduce myself. My name is Joseph C. Long and I am a law professor at the University of Oklahoma College of Law. I have been teaching at Oklahoma for approximately 15 years and teach, among other courses, classes in both state and federal securities law. To my knowledge, the class in state securities regulation is the only regularly taught independent course covering this subject offered by any of the law schools in the United States. I am also the author of one of the two presently available treatises on state securities, J. Long, Blue Sky Law, published in 1985 by Clark Boardman, Ltd., as volume 12 of their Securities Law Series. Further, I served as the first Reporter for the National Conference on Commissioners on Uniform State Law's project to revise the

Uniform Securities Act of 1957. During my tenure as Reporter I drafted, and the Committee considered extensively, an NASDAQ/NMS exemption.

The major claim that the NASD makes for the exemption is that it provides equal treatment for the NASD with the other major stock exchanges which have had an exemption for many years. Certainly equality of treatment and equal access to the securities marketplace is an appealing concept in American law.

But it is not the way in which the NASDAQ/NMS operates that is our concern. Rather it is whether the NASDAQ/NMS provides an adequate substitute for state merit regulation and investor protection with which we are concerned. This in turn involves the consideration of two separate questions. First, do any so-called self-regulatory agencies, such as the New York Stock Exchange, provide an adequate substitute for merit and disclosure through the state securities agency? And if the answer to this question is yes for the NYSE and AMEX, is it also yes for NASDAQ/NMS?

Taking the second question first, it is clear in spite of the position taken by the NASD that NASDAQ/NMS does not provide the same quality or investor protection standards as do the NYSE and AMEX. The NASD literature, a copy of which is attached as Exhibit "A", extolling the virtues of the NASDAQ/NMS points out that of the 2500 companies presently listed, 1700 could meet the listing standards of the NYSE or AMEX. What they do not point out, you notice, is that this means that 800 companies, approximately one-third of their total list, do not qualify for listing on the NSYE or AMEX. It is these companies about which the securities administrators are concerned.

Probably the most damning fault of the present proposal is that it does not deal with two major issues which have caused severe problems for state securities administrators. First, as structured, the exemption is available both for initial public offerings ("IPO's") of unseasoned companies as well as for secondary trading. It is believed that a large number of the 800 NASDAQ/NMS companies which do not meet the NYSE or AMEX listing criteria fall into the category of "unseasoned." This means that a company may become publicly traded without a merit review by the Ohio Securities Division. The NASD attempts to counter this argument by stating that their unspecified listing requirements supply an adequate substitute for such listing when coupled with full disclosure review by the Securities and Exchange Commission. The defect in this argument is obvious to those acquainted with the present facts of Federal securities regulation. First, the listing standards which supply adequate merit substitute are not identified. Second, the SEC presently is not reviewing many of the registrations which are filed with it. Somewhere between 40% and 60% of the current SEC filings become automatically effective at the end of the 30-day waiting period with *no review* by the SEC at all.

A point should also be made about the second claim about the anticipated results of the adoption of this amendment—uniformity of securities regulation among the states. This is largely a myth. By NASD's own figures, only 12 states have adopted a NASDAQ/NMS exemption. Certainly this does not show that the exemption has yet received wide-spread acceptance. Further, a review of the 12 states indicates that three quarters of them are either full disclosure states—that is, not concerned with merit review—or do not have vigorous review and enforcement programs. Ohio clearly does not fit either of those categories and therefore should not be swayed by the adoption of this exemption by those states. Nor should you be misled by the NASD claim that a NASDAQ/NMS exemption was included in the new Revised Uniform Securities Act (1985). The Section 401(a)(8) exemption contained in the Revised Uniform Act, a copy of which is attached as Exhibit "E", is not the same exemption as is proposed in the Bill before you. While the Uniform Act version is a weak alternative, it at least addresses several of the deficiencies not covered in the NASD proposed exemption. Further, you should note that the two major groups which participated in the debates and drafting of the Revised Uniform Act, the American Bar Association and NASAA, are both on record as repudiating the Revised Act. One of the specific grounds that the state administrators cited in their NASAA debates for rejecting the Revised Act was the NASDAQ/NMS exemption.

In closing I might say just a word about the second major policy issue—whether it is good public policy to delegate authority to exempt securities to a self-regulatory agency. In many states, this type of delegation raises substantial constitutional issues. I am not familiar enough with Ohio law to know whether yours is such a state. Beyond the legal issue, however, there is the public policy question. While the NASD is a self-regulatory agency, it is also a business operation run substantially for the benefit of its broker-dealer members. As such, it is in competition with other forms of stock execution. This is apparent by their "level playing field" argument about why they should be on a par with the NYSE and AMEX. As a result, unfortunately, their decisions concerning listing standards are dictated more by economic and competitive considerations than by merit regulation or investor protection. This fact is borne out by the recent moves by the NYSE to abandon the voting share requirement because the AMEX and NASD did not have such a requirement. As the commentary to the NASAA alternative exemption points out, this has resulted in a race to the bottom, with each market seeking to provide ever decreasing listing requirements. Beyond this, there are documented cases where exchanges have waived their own listing requirements in the case of IPO's for firms which by no stretch of the imagination would qualify for listing. And there are documented cases where the Exchange or the NASD has refused to de-list and thereby withdraw the exemption for issuers who have failed to continuously meet the minimum listing standard.

As important as all these factors are, probably the most important is that the state is losing control over the standards for the exemption. We know what the NASD standards are now, but there is no indication that they will continue into the future. The Commentary to the NASAA alternative exemption points out that the standards have changed several times during the last two or three years. The NASD claims that these standards can only be changed with the approval of the SEC. But the SEC is *not* a merit regulation organization. When it reviews changes in the NASD rules, it does not do so on the basis of the impact the changes will have on the quality of the products being sold to the public.

PUBLIC NOTICE OF RULE PROMULGATION

At 10:00 a.m. on July 23, 1987 the Ohio Division of Securities will hold a public hearing regarding proposed changes to rules of the Division. The hearing will be held in

the Large Conference Room, Ohio Division of Securities, Third Floor, Two Nationwide Plaza, Columbus, Ohio 43266-0548.

The Division proposes to amend the following rules as indicated:

OAC rule 1301:6-3-15 to eliminate testing by the Division for purposes of meeting the testing requirements of section 1707.15 of the Revised Code and to eliminate the letter of credit as an alternative to a dealer's net worth requirement. The purpose of the change is to ensure that all applicants have an adequate knowledge of the securities industry by requiring that they take a standardized, professionally designed examination and to eliminate a net worth alternative which has failed to provide for the protection of investors as intended.

OAC rule 1301:6-3-16 to eliminate testing by the Division for purposes of meeting the testing requirements of section 1707.16 of the Revised Code. The purpose of the change is to ensure that all applicants have an adequate knowledge of the securities industry by requiring that they take a standardized, professionally designed examination.

The Division proposes to rescind the following rule:

OAC rule 1301:6-3-33 to eliminate the requirements regarding foreign real estate. The reason is that the Ohio Division of Securities no longer regulates the sale of foreign real estate in Ohio. It is now regulated by the Ohio Division of Real Estate.

Copies of the proposed rule changes may be obtained by contacting either James Hunt or Mary Keller, Ohio Division of Securities, Two Nationwide Plaza, Columbus, Ohio 43266-0548.

DIVISION FORMS

The Division is currently revising its forms and is in the process of making all of them a standard 8 1/2" x 11" size. This will be an on-going process as existing supplies are exhausted. The Division also intends to publish the forms as part of the *Ohio Securities Law and Rules*, a loose-leaf compilation published by Banks-Baldwin for the Division. In this way we hope to give the practitioner ready access to current forms.

Your comments and suggestions about the forms are always welcome. You should direct them to the appropriate section chief.

Registration Guidelines

CHEAP STOCK

The term "cheap stock" refers to equity securities of a corporation that have been issued to promoters, insiders, officers, directors, or five percent shareholders for consideration less than the proposed public offering price within the three-year period immediately preceding the date its equity securities are proposed to be offered to the public. If the applicant has not demonstrated positive net earnings after taxes and exclusive of extraordinary items, the three-year period may be appropriately lengthened.

Venture capitalists and other similar financial institutions will not necessarily be considered "five percent shareholders" for purposes of this cheap stock policy statement.

A public offering of securities is presumed to be grossly unfair unless cheap stock is the subject matter of an Escrow and Subordination Agreement acceptable to the Division. Excluded from the shares subject to the Escrow and Subordination Agreement shall be that number of shares calculated by dividing the public offering price per share into the total amount paid in cash, or property for which a satisfactory value has been established, for such cheap stock.

The Escrow and Subordination Agreement shall be in effect until the issuer has provided to the Escrow Agent and the Commissioner of Securities audited financial statements in accordance with generally accepted accounting principles showing fully diluted net earnings, after taxes and exclusive of extraordinary items, of twelve percent of the public offering price per share over any period of four consecutive quarters, or of six percent of the public offering price per share over any period of eight consecutive quarters.

Absent fulfillment of the above mentioned earn-out provisions, the Escrow and Subordination Agreement shall be in full effect for a period of five years after which twenty-five percent of the total amount of escrowed shares shall be released automatically. An additional 25% increment shall be released on each of the sixth, seventh and eighth anniversaries of the effective date of the registration. (Copies of the Escrow and Subordination Agreement can be obtained from the Division.)

The Division will waive the escrow requirement of cheap stock if the audited financial statements of the issuer indicate a substantial change in the revenues, earnings, assets, or other business circumstances of the applicant between the date of purchase of the cheap stock by the promoters, insiders, officers, directors, or five percent shareholders and the date of the public offering, that would justify the disparity in price.

USE OF PROCEEDS

A proposed public offering of securities is presumed to be grossly unfair if the issuer intends to allocate and use in its business enterprise more than twenty-five per cent of the aggregate net proceeds of the offering for working capital or other unspecified purposes.

The Division will waive this guideline in a non-initial public offering if the ratio of unallocated aggregate net proceeds of the offering to the issuer's shareholder equity immediately preceding the offering is less than 1.00/1.00.

OPTIONS AND WARRANTS

The issuance or proposed issuance of options and/or warrants to promoters, employees, or affiliates of the issuer in connection with a proposed public offering of equity securities will be presumed to be grossly unfair unless the issuer's Final Offering Circular indicates that the number of shares covered or called for by the options and/or warrants previously issued and proposed to be issued to the above-mentioned persons will not exceed ten per cent (10%)

of the total number of shares outstanding at the completion of the proposed offering for a one-year period commencing on the effective date of the offering. Excluded for this purpose are all options and/or warrants issued or proposed to be issued to underwriters, financial institutions, or in connection with acquisitions, or to all of the security holders of the issuer on a pro rata basis.

If the issuer cannot comply with the above standard, the Division may accept language in the Final Offering Circular indicating that such issuer will not issue further options and/or warrants during the pendency of the registration in Ohio.

REGISTRATION BY DESCRIPTION

The Ohio Division of Securities will require all Offering Circulars used in connection with selling securities pursuant to Section 1707.06 R.C. to include on the front cover of such Offering Circular and in bold print the following statement:

These securities have not been approved or disapproved as an investment for any Ohio resident by the Ohio Division of Securities, nor has the Division passed upon the accuracy of the Offering Circular.

Enforcement

MICHAEL R. COLEY

Michael Coley pleaded guilty in Franklin County Common Pleas Court on October 30, 1986, to one count of securities fraud and was later sentenced to serve one year in the Chillicothe Correctional Reception Center and pay a fine of One Thousand Dollars ($1,000.00). In 1984, Mr. Coley had attempted to make sales to Ohio residents of limited partnership interests in a purported office building investment in St. Louis. James Lummanick, Philip Lehmkuhl, and Cyril Sedlacko of the Division staff investigated this matter.

DAVID A. THOMAS

On February 6, 1987, David A. Thomas was indicted on 13 counts of securities violations in Fairfield County, Ohio. Prior to this indictment, Mr. Thomas had placed an advertisement in a newspaper offering for sale limited partnership units. Mr. Thomas was on probation for a previous bad check felony conviction at the time and was arrested for the ad which constituted an unlicensed sale of an unregistered security in Ohio. A Cease and Desist Order had previously been issued in 1983 against Thomas for selling securities without a license.

On March 18, 1987, Mr. Thomas pled guilty to one count of selling securities without a license and one count of selling unregistered securities. He was sentenced to one year on each count to be served concurrently. This case was investigated and referred by Tina K. Manning.

KENNETH ERWIN, JR.

On March 9, 1987, Kenneth Erwin was indicted in Summit County, Ohio for selling unregistered securities, selling securities without being licensed, securities fraud, and grand theft. The prosecutor accused Mr. Erwin of persuading a widow to invest $10,000 in a mutual fund and provided her with a share certificate from American Securities, Inc., a defunct Ohio broker with whom Mr. Erwin had no connection. The widow was promised a good return but received nothing.

The indictment resulted from an investigation by Michael Miglets and Tina K. Manning.

GEM CITY LIFE HOLDING COMPANY

In 1985, the Division was granted a permanent injunction and receivership in the matter of Gem City Life Holding Company. (See 1986 Bulletin, Issue 2, July, 1986). On April 2, 1987, Charles M. Walden and James Kevin Brown, company promoters, were indicted in Montgomery County, Ohio on charges of selling unregistered securities, selling securities without a license, securities fraud, and grand theft. Charles Musick, the sales manager, was indicted on charges of selling unregistered securities and selling securities without a license.

This matter was investigated by former Acting Commissioner Philip Lehmkuhl and Tina K. Manning.

HOLLIS B. REED/REED ENERGY, INC.

On December 19, 1986, Hollis B. Reed, the former owner of Reed Energy, Inc. based in Dublin, Ohio, was indicted on five counts of securities violations in Franklin County. Mr. Reed sold fractional undivided interests in more than nine oil and gas programs to approximately 200 investors, mostly to out-of-state residents.

On March 31, 1987, Hollis Reed pleaded guilty to one count of making false representations while selling securities and one count of selling securities without a securities license. Mr. Reed is to be sentenced on May 13, 1987. This case was investigated and referred by Karen Terhune.

D.L.F.I., INC/DALE L. FURTWENGLER

On August 13, 1986, Dale L. Furtwengler was found guilty on one count of theft by deception and his company, D.L.F.I., Inc., was found guilty of seven counts of theft by deception by a Hamilton County jury. Mr. Furtwengler was a financial planner who promoted investment deals for his now defunct company, D.L.F.I., Inc. Mr. Furtwengler told clients that he was putting their money in a complicated web of certificates of deposit, secondary mortgage funds, and real estate. He then "rolled-over" their investments. The charges alleged that Furtwengler diverted approximately $500,000 to his own account for his personal use.

Hamilton County Common Pleas Court Judge, Robert Kraft, dismissed 15 counts of securities violations during the trial because in his opinion there was no document that Furtwengler used as he sought investment funds from others, therefore, he ruled that a security did not exist. The single guilty verdict of theft by deception resulted from an investor who had a written receipt signed by Furtwengler.

On August 28, 1986, Furtwengler was sentenced to 18 months in prison and was ordered to make $20,000 restitution. Judge Kraft then suspended most of the sentence, ordering Furtwengler to spend 180 days in jail and 4 ½ years on probation. Furtwengler's company, D.L.F.I., Inc., was fined $10,000 on each of seven counts. A request for a stay of sentence and fine pending appeal was granted to Furtwengler. This case was investigated and referred for

prosecution by former Staff Attorney James Lummanick and Staff Attorney Melanie Braithwaite.

JAMES LINKE/QUANTAM FINANCIAL CORP.

On December 15, 1986, in Richland County, James Linke pleaded guilty to two counts of selling securities without a securities license. Mr. Linke sold participation certificates through his company, Quantam Financial Corporation. The investors only received two bad checks as a return. On January 12, 1987, James Linke was sentenced to one year on each securities count to be served concurrently. Mike Quinn of the Division staff provided information to the Richland County Prosecutor's office in this matter.

ROBERT L. LARSON (AKA J. ROBERT LARSON)

In 1985, Mr. Larson pled guilty in Cuyahoga County to one count of securities fraud and one count of grand theft in connection with his unlicensed sale of unregistered limited partnership units in a fraudulent limited partnership scheme (Capricorn I). (See 1986 Bulletin Issue 2 dated July, 1986.) He was placed on 5 years probation.

In December, 1986, Larson was arrested for violating the terms of that probation by selling unregistered limited partnership units in another bogus partnership without being licensed. He was indicted on February 4, 1987, on 32 counts of securities and theft charges. On March 19, 1987, he pled guilty to 8 third degree felony theft counts. He will be sentenced in 6 to 8 weeks. This case was investigated and referred by Tina K. Manning.

DANIEL MATSUI

On January 13, 1987, Daniel Matsui was indicted in Cuyahoga County, Ohio on five felony counts. Mr. Matsui pled guilty and on April 9, 1987 was convicted of one count of theft by deception, one count of unregistered sales, and one count of securities fraud. He received a suspended three-year prison term, two years probation, and was ordered to pay full restitution. This case was investigated and referred by Staff Attorney Daniel Malkoff.