



# OHIO SECURITIES BULLETIN

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89:1 Winter Quarter 1989

## Administrative Hearings Pursuant to Chapter 119

One of the functions of the Ohio Division of Securities (hereinafter "the Division") is to investigate alleged violations of the Ohio Securities Act through its Enforcement Section and, if a violation is suspected, to prosecute the persons involved. That prosecution may be either through the criminal courts or through an administrative action. In the latter instance, an administrative hearing pursuant to Ohio Revised Code Chapter 119 (hereinafter a "119 Hearing") is offered to afford the respondent in a Division action an opportunity to be heard and to challenge the Division's allegations. The procedures of a 119 Hearing, as those procedures are specifically applied by the Division, are the focus of this article.

Note that the Division is empowered to hold other types of hearings. Ohio Revised Code Section 1707.13 provides for an immediate suspension with a hearing to follow and Section 1707.23 grants to the Division the authority to hold investigative hearings. These hearings, and others, will not be discussed at this time.

The majority of administrative actions by the Division take the form of Cease and Desist or broker-dealer/salesman licensure proceedings. 119 Hearings are afforded to determine whether a proposed Cease and Desist Order should be issued, or whether a proposed refusal, suspension, or revocation of a dealer or salesman license should be imposed.

Even experienced trial counsel have indicated that they are unclear regarding what to expect in administrative hearings before the Division. Part of that uncertainty is due to the fact that the Ohio Administrative Procedure Act, Ohio Revised Code Chapter 119, dictates when an agency must provide a hearing, but only generally describes the hearing itself. The specific mechanics are left to the individual agencies. Agencies may conduct hearings under their jurisdictions with somewhat different procedures. Also, different Hearing Officers (the administrative judges) may vary procedures even within the same agency. This lack of uniformity is comparable to what may be encountered at different courts of common pleas, except that the varia-

tion is exaggerated because the administrative hearings are typically more informal and evidentiary rules are relaxed.

The Division's hearing process begins with an administrative order, pursuant to Ohio Revised Code Section 119.07. This is analogous to a complaint by the Division and is entitled Notice of Opportunity for a Hearing. This Notice will contain the Division's allegations, and it will end with a statement indicating the Respondent

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**Ohio Department of Commerce  
Division of Securities**

All listings are area code (614)

**ADMINISTRATION**

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Jim Hunt Legislative Liaison .....	644-7435

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Information .....	466-3440
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Jo Chapman Form 3-O .....	644-7429
Jim Hunt Attorney Examiner—Forms 3-Q & 3-W ..	644-7435
Deborah Dye Joyce Attorney Examiner—Forms 09 & 091 ...	644-7373
Bill Lively Form 2(B) .....	644-7459
Gordon Stott Forms 39 & 391 .....	644-7427
Kathy Veach Mutual Funds .....	644-7423
James Warneka Oil and Gas .....	644-7433

(i.e., the subject of the Division's action) is entitled to a hearing, if, and only if, the hearing is requested by the Respondent within thirty (30) days of the date the Notice was mailed. The Notice is sent certified mail to the Respondent and filed with the Division. If service on the Respondent by certified mail is not effected, Section 119.07 directs that publication, and a mailed copy of the newspaper containing the notice, be the next method of service.

If the Respondent submits a request for a hearing within the thirty-day period, the Division will immediately respond in writing and set a hearing date, time, and place. Ohio Revised Code Section 119.07 requires the hearing to be set for a date between seven and fifteen days after the party requests the hearing. Since that time frame is usually inadequate for the Respondent to prepare for the hearing, every attempt will be made to coordinate with the Respondent, or his counsel, in rescheduling the hearing date. Ohio Revised Code Section 119.07 permits the parties to agree to any date, and Section 119.09 gives the Division the authority to continue the hearing on the motion of the Respondent or on the Division's own motion. The Division may use that authority to initially continue the hearing to a date beyond the fifteen days described above. For reasons of expense, availability, and convenience, the hearing will almost always be held at the Division's office in Columbus.

After the Division receives the Respondent's request for a hearing, the Division will appoint a Hearing Officer who will immediately assume control of the administrative hearing process. The Hearing Officer will be an attorney and, usually, a member of the Division's Registration Section. Recognizing that conflicts could arise, the Division's staff, both Enforcement and Registration, take every possible precaution to avoid any information concerning a particular case reaching the Hearing Officer, other than the Notice of Opportunity for a Hearing. This precaution includes excluding Registration staff from discussions of potential cases and cases at the investigative stage.

Once the hearing date has been set, the Hearing Officer handling the case should be contacted if the Respondent desires to have subpoenas (or subpoenas duces tecum) issued pursuant to Ohio Revised Code Section 119.09. Names and addresses should be provided at least two weeks in advance of the hearing. Motions, including motions for continuance, must be made to the Hearing Officer.

Procedural questions may be directed to the Hearing Officer or the Enforcement staff person handling the case. Any litigation issues should be addressed to the Assistant Attorney General representing the Division. The Attorney General's Office represents the Division in all 119 Hearings and will become involved shortly after the request for the hearing is received.

The hearing is adjudicative and adversarial in nature and will be conducted in a manner similar to any trial-level adjudication. In opening and closing statements, and presenting the case-in-chief, the Division will precede the Respondent. Witnesses will testify under oath and the opportunity for cross-examination will be provided. Pursuant to Ohio Revised Code Chapter 119, the Respondent may appear, with or without counsel, or

may present his position in writing. If the Respondent does not testify on his own behalf, the Division may, nevertheless, require that party to testify as if upon cross-examination. (See 1960 OAG 1573.) An individual Hearing Officer may keep the record open long enough to allow closing arguments to be in writing, rather than, or in conjunction with, oral closing arguments. Any written closing arguments permitted may be coordinated with the availability of the transcript.

The most conspicuous difference between the Division's 119 Hearings and judicial proceedings is the more informal setting at the former; typically all the parties are seated around one table. That informal setting is not an indication of any informality tolerated during the conduct of the hearing. The most important substantive difference between the hearing and a judicial proceeding is the application of evidentiary rules; the rules of evidence are not as strictly construed in the hearing as in a judicial proceeding. For example, this may lead to the admission of hearsay testimony in the hearing. However, in general those rules are followed as a guideline to admissibility. Evidence, when admitted, will be accorded the weight the Hearing Officer deems appropriate.

Pursuant to Ohio Revised Code Section 119.07, a record of the hearing will be made. If the Respondent desires a copy of the transcript, he may request it of the reporter directly—at the reporter's usual fee—or, if the Division's in-house reporter prepared the stenographic record, the Division will make a copy of the original, at the Division's usual copying charge. In addition, the Respondent may examine the original transcript through arrangements made with the Division.

After the close of the hearing, the Hearing Officer will prepare a written report setting forth findings of fact, conclusions of law, and a recommendation. (See Ohio Revised Code Section 119.09.) Within five days of the submission of the report to the Division, the report shall be served upon the Respondent or his attorney. Within ten days of the Respondent's receipt of the Hearing Officer's report, the Respondent may file with the Division any written objections to the report and recommendation. The Commissioner of Securities will then rule to accept, reject, or modify the report and recommendation, taking into account any objections by the Respondent. The Commissioner's decision, as set forth in the final Division Order, will be prepared after the above ten-day period has expired and served on Respondent. Pursuant to Ohio Revised Code Section 119.12, the final Division Order may be appealed to common pleas court. The Respondent must appeal within fifteen days after the certified mailing of the Division's final Order.

This article serves as a basic description of the 119 Hearing process. It is not intended to replace a thorough examination of the Administrative Procedure Act, nor does the Division represent that the procedures described are immutable. However, when read in conjunction with the applicable statutes, it should provide a sufficient description of the hearing process to allow counsel to focus on the substantive issues when preparing for a 119 Hearing.

D. Michael Quinn

## Commissioner's Letter

As indicated in the previous issue, the Division intends to provide the Advisory Committees with an ongoing forum in the *Ohio Securities Bulletin* for discussion of issues and dissemination of information. In this issue, summaries of each committee's initial meeting are presented and initial issue identification is highlighted. The Division believes that it is in the best interests of the investing public in Ohio for the organized bar and industry to maintain a continuing dialogue. In such manner, the Division is better able to respond to perceived areas of need in coordinating the regulation of the securities industry in the state. Many of the Advisory Committees' initially identified issues serve as examples of this point. Although we have not promised to implement every proposal from the committees, we can assure them that we are listening.

By the same token, the Division is able to share its perspectives with the committees on matters that might not seem obvious to the practitioner or industry person. Problems with a particular issue or section of law, from a regulatory standpoint, can be presented to the collective mind of the Advisory Committees with a view towards resolution and improvement of the Ohio Securities Act and the investor protection that it contemplates.

The Division is very pleased with the interest and effort being put forth as the Advisory Committees are becoming organized. It is evident from the summaries in this issue that committee members have assumed responsibilities in furthering the work of the particular committees. I applaud the enthusiasm shown by the bar and industry in supporting the Advisory Committee concept.

## Personnel

Corey Crognale, staff attorney in the Division's Enforcement Section, resigned at the end of February to enter private practice. Corey had been with the Division since 1986. His expertise in enforcement matters was evidenced by numerous criminal convictions obtained over the past few years. Corey has become associated with the law firm of Schottenstein, Zox & Dunn in Columbus.

## Outstanding Employee Award

Jack Heminger, field examiner in the Division's Enforcement Section, was named the recipient of the Division's Outstanding Employee Award for the quarter ending December 31, 1988. Jack has devoted over a half-century of service to the Department of Commerce as an examiner. He works predominantly in the Cincinnati and southern Ohio areas.

Jack was honored at a luncheon in December where he was presented with the Outstanding Employee Award by Commissioner Mark V. Holderman. The Commissioner also read a letter of commendation from Governor Richard F. Celeste saluting Jack's 50 years of service. Division employees gave him a gold watch in honor of this milestone in his career.

The Outstanding Employee Award was established to recognize employees who have contributed to the work of the Division in some special way. The recipient is selected from nominations based on "initiative, creativity, excellence and achievement in the overall performance on the part of the employee."

## Interesting Reading

*The "Poison Pill" Defense*, Henry Lesser in *Standard & Poor's Review of Securities and Commodities Regulation*, Vol. 22, No. 2 (January 25, 1989).

*Ohio Corporations*, John P. Beavers (1984).

## Advisory Committees

### TAKEOVER ADVISORY COMMITTEE

The Takeover Advisory Committee held its first meeting at the Ohio Securities Conference. The fifteen members in attendance voted Jim Tobin of Squire, Sanders & Dempsey as co-chairman. Division co-chairman is Clyde Kahrl.

The committee engaged in a broad-ranging discussion taking in matters regarding the application of various statutory provisions to takeovers—including § 1701.831, and §§ 1707.041, .042, and .14—what should be the Division's appropriate posture regarding each provision, and issues regarding the Division's enforcement capabilities.

In view of the very modest use of § 1707.042 during its lifespan, the committee undertook to develop the necessary initial ancillary papers to the filing of an action under those provisions. A subcommittee of John Edwards, James Gross, David Johnson, and Beatrice Wolper was formed to work with Sandra Becher of the Attorney General's office in that regard.

Robert Schwartz agreed to review the issue regarding the potential scope of "manipulative" conduct under § 1707.042.

It was suggested that the committee might coordinate its meetings with meetings of the Ohio State Bar Association's Corporate Law Committee.

### EXEMPTIONS ADVISORY COMMITTEE

The first meeting of the Exemptions Advisory Committee included twenty-four participants. The Division representatives, Debbie Dye Joyce and Paul Tague, pre-

sided over the meeting, election of industry co-chairs, and further topics discussion.

The elected industry co-chairpersons are Albert Salvatore, of McDonald, Hopkins & Hardy Co., LPA, representing northern Ohio; Rick McQuown, of Porter, Wright, Morris & Arthur, representing central Ohio; and, Ty Votaw, of Taft, Stettinius & Hollister, representing southern Ohio.

The committee discussed and proposed an exemption from registration for section 701(c) plans. Disclosure requirements for a form 3-Q filing and section 1707.02(G) concerns highlighted further discussion.

The Division representatives will apprise the proper Division parties of the nature of these proposals and discussions. The committee meeting concluded with some committee members volunteering to do further work on-related topics for distribution.

Please contact the Division if you are interested in being a member of the Exemptions Advisory committee.

### REGISTRATION ADVISORY COMMITTEE

A total of twenty-seven of the thirty-six members of the Registration Advisory Committee were in attendance for the first meeting. The meeting was opened by Division representative Michael Miglets with D. Michael Quinn, staff attorney with the Division, serving as secretary and keeping minutes. Warren Udisky of Benesch, Friedlander, Coplan & Aronoff was elected co-chairman by the committee members.

The committee agenda included discussion of two Division proposals for registration by description. The Division suggested an amendment to Ohio Administrative Code Rule 1301:6-3-06(G) to require actual delivery of an offering circular for offerings over \$250,000 or oil and gas offerings. The delivery requirement would be similar to Ohio Administrative Code Rule 1301:6-3-09(K) which would allow issuers to register Rule 504 offerings by description.

Another Division proposal was to amend Revised Code Sections 1707.06(A)(2) and (3) to exclude accredited investors from the thirty-five purchaser limit instead of excluding purchasers of \$100,000 of securities. This amendment would bring registration by description more in line with Rule 505 and 506 offerings, giving practitioners an alternative to exemption filings. This proposal was voted on and approved by the committee.

Among the other topics that were discussed were expense limitations on registrations by description and a proposed exemption pursuant to Revised Code Section 1707.03(V). Mary Henkel of Taft, Stettinius & Hollister submitted the proposed rule which would exempt pooled income funds maintained by a public charity. The committee discussed the proposed rule, but final language for the rule was not submitted to the committee. Mary Henkel and Michael Miglets will continue to work on the final version of the proposed rule in conjunction with the exemption committee.

The remainder of the meeting was spent discussing committee format. It was agreed that an annual committee meeting would be scheduled with the Division's fall conference. Semi-annual committee meetings in the spring or summer may also be held when needed.

## ENFORCEMENT ADVISORY COMMITTEE

Twenty people attended the first meeting of the enforcement advisory committee on November 18, 1988. Becky Robbins-Penniman, Attorney Inspector of the Division of Securities, opened the session. Charles F. Dugan II, of Vorys, Sater, Seymour & Pease in Columbus, was chosen by the membership to serve as co-chair.

Based on suggestions received before the meeting, a list of possible topics for review was presented. After discussion, the membership formed three subcommittees, with responsibility for analyzing issues as follows:

**Issuer Compliance Subcommittee:** Problems relating to retroactive registration by qualification pursuant to R.C. §§ 1707.39 and 1707.391; effective examination of issuers; problems with record-keeping requirements underlying registration and exemption filings.

**Litigation and Practice Subcommittee:** Optimal scope of Division's enforcement authority, including the ability to levy fines; settlement of enforcement cases; public access to Division information; statute of limitations in administrative and civil cases by the Division.

**Public Interest and Broker/Dealer Subcommittee:** Investor education; broker/dealer supervision rules; broker/dealer licensure requirements; cooperation with self-regulatory organizations and governmental agencies.

Division personnel were assigned as subcommittee liaisons to facilitate future discussions. To date, telephone conferences have been held by the Issuer Compliance and Public Interest subcommittees. The Litigation subcommittee will hold its first teleconference in the near future.

The Issuer Compliance subcommittee is drafting proposals to change Division rules regarding the definition of "date of sale" under R.C. § 1707.03(O) and (Q), and retroactive qualification of mutual fund oversales. In addition, recommendations for changes in the methods of implementing R.C. §§ 1707.39 and 1707.391 are being developed.

The Public Interest subcommittee has discussed investor education programs and possible modifications to broker/dealer licensure prerequisites. A national survey of state licensing laws has been conducted, and the subcommittee will soon consider whether to propose statutory amendments. Educational programs and a newspaper column by one of the subcommittee members are imminent.

Persons desiring to join the Enforcement Advisory Committee, or participate in one or more of the sub-

committees, should contact either Charles Dugan or Becky Robbins-Penniman.

## LICENSING ADVISORY COMMITTEE

Thirteen members attended the initial Licensing Advisory Committee meeting on November 18, 1988. Dale Jewell, Division Co-Chairman, and Norman Essey of the Division had opening comments concerning the scope and direction of the committee. James Francis, Vice-President and General Counsel of The Ohio Company, was then selected as the Bar/Industry Co-Chairman.

An initial item of discussion involved arbitration clauses in customer agreements. The Division presented its concerns with *mandated* arbitration and also with the lack of choice as to forum. Committee members then commented on industry and trial bar concerns including fairness of forum, adequacy of record/lack of record, and whether customers fare better in arbitration than in court. In light of these concerns and proposed rule changes being presented by the industry, the committee will give further study to this issue. Towards that end, Jim Francis has provided copies of the NYSE's proposed rule changes and comments concerning arbitration.

Other issues identified included a proposed change to Ohio Administrative Code Rule 1301:6-3-15(L) to require 30 days (as opposed to the current 10 days) within which to notify the Division of a salesman's termination of employment. A proposed rule change will be drafted by Jack Frost of Frost, McCann & Danchak to bring this rule into line with requirements of the majority of states and the NASD. Also, language will be proposed which would permit a salesman to become licensed with a new firm upon submission of an affidavit indicating that the salesman has a clean disciplinary record. This proposal comes in response to situations where a salesman's former employer holds up the license transfer process by delaying submission of a Form U-5 when the salesman leaves for another firm.

The committee also discussed monetary penalties as an alternative sanction in administrative actions involving dealers and salesmen. Joe Carney of Calfee, Halter & Griswold has obtained information on this topic from the Administrative Conference of the United States. The committee is interested in discussing this topic with the Enforcement Advisory Committee.

## Registration

### LIMITED PARTNERSHIPS

NOTE: The policy statement regarding merit review pursuant to the NASAA real estate guidelines published in the October 1986 Bulletin will be applied by analogy to all interstate and intrastate partnership offerings.

### LIMITED PARTNERSHIPS

In order to update the Division's policy with regard to re-registrations of limited partnerships (see December

1987 Bulletin), the Division has adopted the changes promulgated by the North American Securities Administrators Association for real estate limited partnerships, effective January 1, 1989.

To this end, the Division will no longer maintain its 75% specificity test for potential re-registrations.

Programs will be permitted a two-year selling period, one year at a time, in accordance with section VI(D) of the guidelines.

## REGISTRATION FILINGS

Form Type	First Quarter 1989
2(B)	224
3-O	3,292
3-Q	449
3-W	34
04	0
041	0
041(B)(4)	0
5(A)	0
6(A)(1)	64
6(A)(2)	28
6(A)(3)	14
6(A)(3)OG	0
6(A)(4)	20
09	194
09OG	0
091	488
10	0
39	61
391/09	2
391/3-O	213
391/3-Q	44
391/3-W	4
391/6(A)(1)	2
391/6(A)(2)	0
391/6(A)(3)	3
391/6(A)(4)	0
TOTAL	5,136

## Broker-Dealer

### ADEQUATE BOOKS AND RECORDS TO BE MAINTAINED AT ALL TIMES

Ohio Administrative Code 1301:6-3-15(F)(1) requires that every licensed dealer shall keep and maintain books and records which shall be adequate to enable the Division to determine at all times the financial condition of such dealer and to disclose fully all the transactions entered into by such dealer.

Ohio Administrative Code 1301:6-3-15(A)(1) requires all dealers, and issuers which sell their own securities, to retain in a separate file one copy of any prospectus, circular, advertisement, or literature used in offering or in connection with the offering for sale of any security for a period of at least three years from the date of last use. At least one copy of all correspondence relating to the sale or the offering for sale of any security shall be retained in the general files of such dealers and

issuers. Any material so filed is subject to periodic examination by the Division and shall be furnished to the Division upon request therefor.

The Division has recently experienced problems with dealers not making their records immediately accessible to Division examiners. Please be advised that dealers who do not keep adequate books and records and/or do not make their books and records available at any time for inspection by the Division risk possible suspension or revocation of their license. Dealer branch offices must also adhere to these requirements.

### DEALER AND SALESMAN LICENSES AS OF MARCH 31

	1989	1988
Broker-Dealer	1,622	1,631
Salesman	55,057	50,863

## Enforcement

### ADMINISTRATIVE ORDERS

The following are summaries of recent enforcement administrative orders of note. The orders have been issued by the Division after notice of the parties' opportunity for an administrative hearing in accordance with Ohio Revised Code Chapter 119. Orders which have been appealed to Common Pleas Court are so noted.

*Econoland Limited Partnership 1985-01; Eugene P. Tenuta; Richard J. Sterner*

On December 28, 1988, the Division issued a Cease and Desist order against Econoland Limited Partnership 1985-01 and its General Partners, Eugene P. Tenuta and Richard J. Sterner, all of Columbus, Ohio. The Division found that limited partnership interests were sold without valid registration or claim of exemption. In addition, the Division found that commissions were paid to unlicensed securities salesmen, although four Form 3(Q) filings completed and filed with the Division on behalf of the limited partnership stated that no commissions were paid. The Division declared null and void Forms 3(Q), Files #336633, #340179, #342648 and #345885 filed with the Division on behalf of Econoland Limited Partnership 1985-01. Ohio Revised Code §§ 1707.44(A), 1707.44(B)(4), 1707.44(C)(1), and 1707.44(K) were violated.

*Charles Root, President; Asset Management Co.*

On January 12, 1989, the Division issued a Cease and Desist Order against Asset Management Co. and its president, Charles Root, of Columbus, Ohio. The Division found that Charles Root failed to produce documents pursuant to subpoenas issued by the Division and the Franklin County Court of Common Pleas. Provisions of Ohio Revised Code §§ 1707.23 and 1707.24 were violated.

*Blackriver Drilling Program 1983-III, Malusky 3; Littlefield Oil Co., Offeror; Edward Little, President*

On January 18, 1989, the Division issued a Cease and Desist Order against Blackriver Drilling Program

1983-III, Malusky 3, Littlefield Oil Co. and Edward Little, all of Columbus, Ohio. An offering memorandum filed with the Division for the public offering of Blackriver Drilling Program 1983-III, Malusky 3, stated that the total of all compensation to be paid to the Offeror and its affiliates was not to exceed 40% of the value of the aggregate interest in the wells and if it did, a pro-rata refund was to be made to the unit purchasers. The Division found that compensation exceeding the stated maximum allowable compensation was paid and was not refunded as provided for in the offering memorandum. Ohio Revised Code §§ 1707.44(B)(1) and 1707.44(B)(4) were violated.

*Wayne Franklin Lang*

On February 21, 1989, the Division issued a Final Order revoking the securities salesman license of Wayne Franklin Lang of North Royalton, Ohio. The Division had previously issued three Cease and Desist Orders against Mr. Lang. After an administrative hearing was held, the Division found that Wayne Franklin Lang was not of good business repute as required by Ohio Revised Code § 1707.19.

*Frontier Development, Inc.; Chattico Development Inc.; Dennis M. Mayfield*

On February 22, 1989, the Division issued a Cease and Desist Order against Frontier Development, Inc., and Chattico Development, Inc., of Chattanooga Tennessee, and Dennis Mayfield of Gulfport, Mississippi. The Division found that Ohio investors were sold unregistered oil and gas participation interests in drilling programs in Oklahoma and Louisiana. All three respondents were also not licensed at the time of the sales. Ohio Revised Code §§ 1707.44(A) and 1707.44(C)(1) were violated.

**SUSPENSION ORDERS**

The following are summaries of recent enforcement Suspension Orders issued by the Division. The orders give notice to the parties of their right to a hearing before further action is taken.

*The Suspension of the Securities Dealer License of CDA Securities, Inc., License #14115 and the Securities Salesman's License of John Ross Coghlan, License #69795*

On January 23, 1989, the Division suspended the securities dealer license of CDA Securities, Inc., of Spokane, Washington and the securities salesman's license of an officer of the dealer, John Ross Coghlan of Spokane, Washington. The Division alleged that the parties were not of good business repute in accordance with Ohio Revised Code § 1707.19, due to a censure of CDA Securities, Inc., and a twelve-month suspension of the licensure of John Ross Coghlan.

*The Suspension of the Securities Dealer License of Power Securities Corporation (License #15527); Richard Thomas Marchese (License #1576651); Eric George Monchecourt (License #1229940); and Orville Leroy Sandberg (License #410035)*

On February 21, 1989, the Division suspended the securities dealer license of Power Securities Corporation of Las Vegas, Nevada, and the securities salesmen licenses of Orville Leroy Sandberg of Aurora, Colorado, Eric George Monchecourt of Las Vegas, Nevada, and Richard Thomas Marchese of Las Vegas, Nevada. The Division determined that the parties received an order restraining them from the solicitation of certain securities from the New York County Supreme Court. The Division alleged that the parties were not of good business repute in accordance with Ohio Revised Code § 1707.19.

**OTHER FINAL ADMINISTRATIVE ORDERS**

<u>Respondent</u>	<u>Date Issued</u>	<u>Order No.</u>	<u>Action Taken/ Type of Order</u>
Broken Sword Field Exploration Venture 1985-11; Nittany Energy, Inc. Form 3(Q), File No. 337167 Westerville, Ohio	12/6/88	88-188	Cease & Desist Null & Void
HER Equity Fund I, Limited Partnership Form 3(Q), File No. 335513 Columbus, Ohio	12/12/88	88-189	Cease & Desist Null & Void
Spencer Petroleum Corporation Form 3(Q), File No. 347787 and File No. 349471 Akron, Ohio	12/13/88	88-190	Null & Void
Jody D. Morgan Federal Prison Camp at Maxwell Air Force Base in Montgomery, Alabama	12/21/88	88-194	Cease & Desist
Medical Leasing Associates I; Hugh B. O'Neil Gaithersburg, Maryland	12/28/88	88-198	Cease & Desist
N.O.W. Cosmetics, Inc. Hudson, Ohio	12/29/88	88-201	Cease & Desist

**OTHER FINAL ADMINISTRATIVE ORDERS—continued**

<u>Respondent</u>	<u>Date Issued</u>	<u>Order No.</u>	<u>Action Taken/ Type of Order</u>
Mike Valcanoff Cuyahoga Falls, Ohio	1/12/89	89-003	Cease & Desist
Gregory Stamper; Gregory Stamper d.b.a. Gregory Stamper Associates Silver Springs, Maryland	1/12/89	89-004	Cease & Desist
Quality Call International, Inc. Columbus, Ohio; Dean R. Call, President North Palm Beach, Florida	2/27/89	89-026	Cease & Desist
J. Energy Corp. Oaklawn, Illinois; Joseph Jochheim Oaklawn, Illinois; Daryl Dillard Gulfport, Mississippi	2/28/89	89-027	Cease & Desist

**CRIMINAL CASES**

<u>Case Name</u>	<u>Jurisdiction/ Referring Staff Person</u>	<u>Action Taken</u>	<u>Comments</u>
Richard Underwood	Montgomery County/ Referred by Karen Terhune	<ol style="list-style-type: none"> <li>1. Sentenced on 12/1/88 to 1 year imprisonment on each of 9 counts, to be served concurrently.</li> <li>2. Confinement was suspended and five years probation was imposed.</li> </ol>	Richard Underwood pled guilty on 10/19/88 to 9 counts relating to securities violations, theft, and forgery. He was indicted on 25 counts on 7/26/88 relating to sales of stock in his company in which he promised monthly dividends of \$100 per share on shares purchased for \$100 per share.
Lyle Loughry	Portage County/ Referred by Corey Crognale	<ol style="list-style-type: none"> <li>1. Pled guilty on 12/16/88 to 1 count of a securities law violation.</li> <li>2. Sentencing was suspended and probation was imposed.</li> </ol>	Lyle Loughry, a financial planner and former insurance salesman, was indicted on 7/3/88 for 2 counts of selling unregistered securities. He sold shares of an unincorporated trust association located in California to investors.
Gary C. Davies	Seneca County/ Referred by Norman Essey	<ol style="list-style-type: none"> <li>1. Pled no contest on 12/20/88 to 4 counts relating to securities law violations and was found guilty on all 4 counts.</li> <li>2. Sentenced on 12/20/88 to 1½ years imprisonment. Confinement was suspended and he was placed on probation for 3 years and ordered to make restitution.</li> </ol>	Gary C. Davies was indicted on 4 counts of theft by deception on 10/26/87 and 4 counts of misrepresentations in the sale of securities on 10/5/88 for his involvement in the sale of stock in the Mezzanine Fund, Inc.

**CRIMINAL CASES—continued**

<u>Case Name</u>	<u>Jurisdiction/ Referring Staff Person</u>	<u>Action Taken</u>	<u>Comments</u>
Charles S. Miller	Franklin County/ Referred by Melanie Braithwaite	<ol style="list-style-type: none"> <li>1. Pled guilty on 1/3/89 to 5 counts of securities law violations.</li> <li>2. Sentenced on 2/6/89 to 1 year imprisonment on each of 5 counts, to be served concurrently. Confinement was suspended and he was ordered to serve 60 days in prison, placed on 3 years probation, prohibited from dealing or selling securities, and ordered to pay restitution.</li> </ol>	Charles Miller was indicted on 1/5/88 for securities law violations relating to sales made while he was a salesman for Fortune Securities, Inc., an affiliate of Littlefield Oil Co.
Kenneth T. Young, III	Franklin County/ Referred by Corey Crognale	<p>Indicted on 2/6/89 for the following:</p> <ol style="list-style-type: none"> <li>1. 2 counts of unlicensed sales of securities;</li> <li>2. 2 counts of misrepresentations in the sale of securities;</li> <li>3. 2 counts of securities fraud; and</li> <li>4. 1 count of theft.</li> </ol>	Kenneth Young allegedly took money from an investor to be placed in a mutual fund. The purported transaction was never executed and Mr. Young was not licensed to sell securities.
Michael J. Burke	Franklin County/ Referred by Karen Terhune	<p>Indicted on 2/8/89 for the following:</p> <ol style="list-style-type: none"> <li>1. 6 counts of securities fraud;</li> <li>2. 6 counts of unlicensed sales of securities;</li> <li>3. 6 counts of sales of unregistered securities;</li> <li>4. 6 counts of false representations in the sale of securities; and</li> <li>5. 5 counts of theft.</li> </ol>	Michael J. Burke allegedly sold promissory notes to investors for his company, AMM Investments, and promised annual rates of return of 50% - 60%. The securities sales occurred after a Cease and Desist Order was issued against Mr. Burke and a predecessor company, MJB Enterprises, for indistinguishable activities.

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