

OHIO SECURITIES BULLETIN

George V. Voinovich
Governor of Ohio

James J. McNamee
Interim Director of Commerce

Mark V. Holderman
Commissioner of Securities

OHIO JOINS SETTLEMENT TO RESOLVE CLAIMS AGAINST PRUDENTIAL

Thousands of Ohioans Now Eligible for Recovery from Open-Ended Claims Fund for Limited Partnership Investors

On October 21, 1993, the Ohio Division of Securities announced that it will enter into the largest settlement on behalf of individual investors in the Division's history. The settlement will resolve allegations of massive misconduct by Prudential Securities Incorporated from 1980 to 1990 in selling limited partnerships. Approximately 16,000 defrauded Ohio investors, who invested over \$180,000,000, may be eligible to participate in an open-ended claims fund of \$330 million that will be set up under the settlement. In addition, Prudential Securities will pay a record penalty of \$500,000 to Ohio.

The settlement is a result of unprecedented "global" negotiations involving the Ohio Division of Securities, the North American Securities Administrators Association (NASAA), of which the Ohio Division is a member, the federal Securities and Exchange Commission (SEC), and the National Association of Securities Dealers (NASD). NASAA has established a toll-free "hotline" (1-800-220-9125) to provide eligible investors in Ohio with written information about the settlement and how to make a claim on the fund.

In announcing the settlement agreement, Ohio Securities Com-

missioner Mark V. Holderman said: "This record penalty for Ohio and the open-ended claims fund for investors sends a clear message that we mean business in insisting that brokerage firms must play by the rules when it comes to their sales tactics. Our goal in working with the SEC and other state securities agencies in this matter has been to make sure that the greatest number of defrauded investors in Ohio have a meaningful opportunity to recover as much money as possible ... as quickly as possible."

Under the terms of the settlement, Prudential Securities will be required to establish an open-ended \$330 million claims fund for the estimated 320,000 investors nationwide who purchased one or more of the firm's 700 limited partnership deals during the decade-long span covered by the settlement.

Prudential will also be directed to make radical changes in its way of doing business in order to prevent future abuses.

NASAA President Craig Goettsch, Iowa Superintendent of Securities, said: "This settlement is a home run. It serves the best interests of both securities law

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OHIO
DEPARTMENT OF
COMMERCE

DIVISION OF
SECURITIES

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enforcement and small investors. It can even be called revolutionary, since the investor claims fund of \$330 million has no ceiling. Through such efforts as the toll-free '800' number and the plain-English notice for Prudential investors, state securities regulators are going the extra mile to ensure that this settlement is as 'investor-friendly' as possible. I applaud the Ohio Division of Securities for joining the SEC and other state regulators to make this settlement happen."

Key aspects of the settlement between the Ohio Division of Securities and Prudential Securities include:

- A penalty of \$500,000 will be paid to Ohio and to other state securities divisions. The SEC will receive \$10 million and \$5 million will go to the National Association of Securities Dealers.
- Most of the 16,000 affected investors in Ohio will be eligible to apply to a court-supervised claims fund, which will be created by Prudential with a deposit in the amount of \$330 million. If the fund is exhausted, Prudential is still required to cover all valid claims. If some portion of the fund is not expended, the remainder will revert to the U.S. Treasury, rather than being returned to Prudential.
- A court-approved independent claims administrator will oversee the claims fund and insure that investor claims are settled and arbitrated fairly and expeditiously. The claims administra-

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Additional Remedial Sanctions against Prudential Securities

In addition to the \$330 million investor claim fund and the penalties paid to regulatory agencies, the remedial sanctions imposed on Prudential Securities by the Ohio Division of Securities include:

- Prudential will establish a new Compliance Committee of its board of directors to monitor the firm's observance of federal and state securities laws.
- Prudential will establish and maintain full-time regional compliance officers for each of its operating regions in the U.S.
- Prudential will have its independent auditors conduct three annual surveys of Prudential clients in order to determine compliance with sales practice standards, including suitability and accurate representations concerning investment products.
- * Prudential will evaluate its current policies and procedures and implement any new or revised policies needed to detect securities law violations. Excessive trading in customer accounts, prohibitions against sales of unsuitable, disclosure to customers of margin account information, the hiring and retaining of brokers with significant disciplinary history or multiple customer complaints, and supervision of mutual fund purchases to prevent abuses will all be scrutinized under the terms of the agreement.

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Broker-Dealer	466-3466	Examination	644-7467
Records	466-3001	Registration	466-3444

Key Elements of the Investor Remedies in the Settlement between the Ohio Division of Securities and Prudential Securities Incorporated

- Investors who purchased Prudential Securities Limited Partnerships during the period from 1980 to 1990 will be eligible to apply to a court-supervised claims fund, which will be created by Prudential with a deposit in the amount of \$330 million.
- Even in the event that the \$330 million fund is exhausted, Prudential is still obligated to pay all valid claims. There is no limit on Prudential Securities liability under the settlement agreement.
- Investor claims will be settled and arbitrated under the supervision of a court-approved independent claims administrator will also oversee the claims fund.
- Prudential will waive its statute of limitations defense for investors who seek to resolve their partnership claim through the settlement process.
- Callers to a NASAA hotline (1-800/220-9125) will be provided with a plain-English document describing the settlement process and how to make a claim on the fund.

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tor, Irving M. Pollack, is a Washington attorney who retired from the Securities and Exchange Commission in 1980 after 30 years of service in a variety of positions, including Commissioner and Enforcement Division Director.

- Prudential will waive its statute of limitations defense for those investors in Ohio and elsewhere who seek to resolve their partnership claim through the settlement process. Investors will be eligible to submit a claim even if the time limit has expired to file a lawsuit or arbitration claim outside of the settlement process. Investors whose arbitration cases or lawsuits were dismissed solely on statute-of-limitations grounds will also be eligible to submit claims.

- Eligible Prudential investors in Ohio who call the NASAA hotline (1-800/220-9125) will be provided with a plain-English document describing the settlement process and how to make a claim on the fund. The toll-free number will

be in operation for one month from the date of the announcement.

"This novel and far-reaching settlement goes to the heart of the mission of the Ohio Division of Securities to protect small investors by keeping the capital markets as clean as possible and then intervening when abuses do arise. I want to stress that the settlement deals only with Prudential as a firm and does not preclude the possibility of additional actions against individual brokers and managers who were involved in the misconduct."

**Ohio Commissioner of Securities
Mark V. Holderman**

Commissioner Holderman said: "This novel and far-reaching settlement goes to the heart of the mission of the Ohio Division of Securities to protect small investors by keeping the capital markets as clean as possible and then intervening when abuses do arise. I want to stress that the settlement deals only with Prudential as a firm and does not preclude the possibility of additional actions against individual brokers and managers who were involved in the misconduct."

Eligible Prudential investors in Ohio who call the NASAA hotline (1-800/220-9125) will be provided with a plain-English

document describing the settlement process and how to make a claim on the fund.

William E. Leber





Securities Legislation in the 120th General Assembly

The 120th General Assembly has directed significant attention to legislation directly and indirectly affecting the operations of the Ohio Division of Securities. During its current term, the legislature has proposed both specific amendments to the Ohio Securities Act, and other changes to the Ohio Revised Code which will impact the organization and practices of securities holders, issuers, and dealers in Ohio.

Three legislative proposals have already been enacted by the Ohio Senate and House of Representatives, and signed into law by Governor George V. Voinovich.

House Bill 62, Ohio's Uniform Transfer-on-Death Security Registration Act, was signed by Governor Voinovich on July 2, 1993 and was effective on October 1, 1993. House Bill 266, a bill to correct conflicts in section 1707.37 of the Ohio Securities Act which resulted from two Acts passed during the 119th General Assembly, was signed by Governor Voinovich on July 30, 1993 and, as Emergency Legislation, was also effective on July 30. Senate Bill 98, a series of revisions to Ohio's Close Corporations laws, was signed by Governor Voinovich on July 30 and will commence effectiveness on October 29.

Five other proposals to directly or indirectly impact the Ohio Securities Act and the operations of the Division of Securities have been introduced in the legislature.

Senate Bill 67 and Senate Bill 74 would authorize the establishment of Limited Liability Companies in Ohio. Senate Bill 97 proposes a series of revisions to Ohio's Limited Partnership Laws. House Bill 488 would amend the Ohio Securities Act to require that

"retail securities dealers" with a minimum number of customers and a minimum level of income from securities transactions register with the Securities and Exchange Commission and carry Securities Investor Protection Corporation insurance. House Bill 569 is a proposal to make the exemptions in R.C. 1707.02(B) and 1707.03(O) self-executing, to require only one copy of documents filed with Form 091, and to repeal the Bond Investment Company provisions of section 1707.47 and Chapter 3949. of the Revised Code.

House Bill 488

On September 22, 1993, Representative Michael G. Verich of Warren introduced House Bill 488, a proposal supported by the Ohio State Bar Association. The bill amends the Ohio Securities Act by redefining the term "dealer," by requiring that Ohio dealers meeting certain revenue and customer minimums register with the Securities and Exchange Commission and obtain Securities Investor Protection Corporation insurance, and by establishing criminal penalties under Ohio law for violating sections 15(c) and 15(g) of the Federal Securities Exchange Act of 1934, as well as the rules adopted under those sections. Additionally, House Bill 488 revises the terminology "sections 1707.01 to 1707.45 of the Revised Code" to "this chapter," and makes additional house-keeping corrections throughout the five sections amended by the bill: 1707.01, 1707.03, 1707.041, 1707.14, and 1707.44. More specifically, the amendments proposed for the Securities Act are as follows:

In section 1707.01 the definition of "dealer" is amended to incorporate the terminology that now appears

in the definition of "broker" in 1707.01(X). The "broker" definition is eliminated from the Act. The process of moving the "broker" terminology to the dealer definition is not a direct pass-through, however. In the exceptions to the definition, "licensed" accountant has been changed to "public" accountant. New paragraph 1707.01 (E)(1)(c) exempts purchases or sales of a majority or more of the voting power of the corporation rather than the "80% of the equity interest in a business enterprise" that now appears in 1707.01(X)(3).

The bank exception in new paragraph 1707.01(E)(1)(e) is modified from the current 1707.01(X)(5), but does not appear to substantively change. In relettered section 1707.01(X), the "Investment Advisor" definition is also changed from "licensed" accountant to "public" accountant

Because current 1707.01(X) is to be deleted, the bill re-letters the paragraphs following. Former paragraphs Y through CC, are now X through BB and references have been changed accordingly.

Section 1707.03 and Section 1707.041 are, generally, to be amended only to reflect other changes in the bill; the renumbering of 1707.14, the deletion of 1707.01(X) and the elimination of the "statutory" term "broker." There are, however, two house-keeping exceptions to that general statement: The correction of the typo in 1707.041(A)(2)(b) so that "equal" security will read "equity" security, and the change to the reference to the Administrative Procedure Act at 1707.041(E) to "Chapter 119."

Section 1707.14 is the most substantially revised provision of the bill. The reference to acting as a

"broker" in 1707.14(A) is removed, and paragraphs (A) and (B) are combined. Subsequent paragraphs are re-lettered accordingly.

Securities registered under 1707.06 are afforded the same treatment as the currently enumerated section 1707.03 exempt securities [at 35.25].

Current section 1707.14(B)(4) and the "single purchaser" and "notwithstanding" paragraphs that follow it are deleted.

New paragraph 1707.14(B) presents the basic criteria for the SEC registration requirement: That any dealer who has total revenues from securities sales of \$150,000 and 100 or more retail securities customers in any twelve month period will be required to register with the SEC. "Retail securities customer" is defined in section 1707.14(E). Exceptions to SEC registration requirement are presented in 1707.14(B)(1) and 1707.14(B)(2).

Paragraph (B)(1) makes an exception for Banks and Credit Unions. 1707.14(B)(2) allows a dealer to enter into an undertaking with the Division to the effect that it will not engage in transactions with natural persons except for transactions in the securities of not-for-profit organizations, and securities described in 1707.14(A)(1) through (4).

Section 1707.14(C) requires SEC Registration no later than 90 days after meeting the threshold, and section 1707.14(D) allows the Division to except dealers on a case-by-case basis.

House Bill 488 also proposes revisions to the Ohio Securities Act's criminal penalty provisions in section 1707.44. Section 1707.44(A) of the Bill simply makes a violation of section 1707.14 (A), (B) or (C) a violation of 1707.44 (A).

Additionally, new paragraph 1707.44 (B) specifically provides that no dealer shall violate section

15(c) or 15(g) of the federal 1934 Securities Exchange Act or the rules adopted under those sections.

House Bill 569

On Monday, November 29, Representative Robert L. Schuler introduced House Bill 569, a series of amendments to the Ohio Securities Act and Bond Investment Company Act. The proposal supported by the Division has three major elements: 1) To amend Sections 1707.02(B) and 1707.03(O) to make those exemptions self-executing. 2) To amend Section 1707.091 to allow applicants to file just one copy of required registration documentation. 3) To repeal Section 1707.47 and Chapter 3949

Amend Sections 1707.02(B) and 1707.03(O): These amendments would allow issuers who already qualify for the form 02B and 03O exemptions to raise capital in Ohio without having to pay additional fees or file forms and documents in Ohio.

Generally, exemptions from the various provisions of the Securities Act may be grouped into two categories: Those which must be perfected by making a filing with the division, and "self-executing" exemptions which are effective without a filing. In both instances, the exemption must meet specific standards presented in the statute in order to qualify. Some of the more widely used exemptions in the Securities Act are now self-executing, including securities listed on the major stock exchanges, sales in the secondary market, and sales to institutional investors.

Historically, a filing to "perfect" an exemption has been required when either the circumstances dictated that the Division receive notice of the transaction and the parties to it, or when the demands of investor protection indicated the need for additional revenues for increased regulatory oversight. Neither applies to the 02B and 03O exemp-

tions. The net regulatory benefit to investors and the Division of receiving and reviewing form 02B and 03O exemption claims has been nil. Generally, the only violations of 1707.02(B) and 1707.03(O) are technical, "inside" violations of the filing provisions themselves, such as failing to file the form or to file in a timely manner. The proposal does not affect those situations where the substance of the exemptions is breached.

Amend Section 1707.091: When section 1707.091 was enacted in 1979 to provide a consistent registration format for securities also being registered by qualification with the SEC, it appeared that the Division would need three copies of the documentation being filed. The Division's experience since 1979 and a greater awareness of the advantages of limiting the unnecessary use of paper have shown that only one copy of each document is necessary. This proposal would eliminate the statutory requirement that three copies be filed with the Division.

Repeal Section 1707.47 and Chapter 3949: Ohio's Bond Investment Company ("BIC") laws are interesting anachronisms, but they are, nonetheless, anachronisms. The BIC laws were enacted in Ohio long before the Ohio Securities Act, but the provisions of the Securities Act now include BIC's. There are currently only five BIC's registered in Ohio, and all five are also licensed as securities dealers. There does not appear to be any necessity for double regulation of those companies as the Division's records do not disclose any action taken under the BIC laws that could not now be initiated under the Securities Act.

William E. Leber





Rules Amendments Effective July 3, 1993

Four Rules Amended by Division Action

On July 3, 1993, Ohio Securities Commissioner Mark V. Holderman ordered the effectiveness of amendments to four Division rules: 1301:6-01, 1301:6-02, 1301:6-15 and 1301:6-16. The July 3 amendments are the third revision of the Division's rules in the past three years, and are indicative of a continuing effort to keep them in line with current Division policies and practices. All four amendments represent changes that were considered by the Division's Advisory Committees.

Rule 1301:6-01

Rule 1301:6-01 was amended to clarify the definition of "Having no readily determinable value" in paragraph A of the rule and to add paragraph D to the rule. The new paragraph expands on the Ohio definition of "Institutional Investor" that appears in R.C. 1707.01(S) to include "Qualified Institutional Buyer" as that term is defined in the federal context.

Rule 1301:6-03

The amendment to rule 1301:6-03 adds to and expands on the scope of a December 14, 1992 exemption for Pooled Income Funds adopted under the authority of R.C. 1707.03(V). As amended on July 3, rule 1301:6-03 now also provides that transactions in Charitable Remainder Trusts, Charitable Lead Trusts and Charitable Gift

Annuities which qualify under the rule are exempt. Compliance with the exemption requires that sales of the securities be made by persons not licensed as securities salesmen or dealers, or by persons not compensated directly for sales of the securities. Colleges, universities, Civic foundations, and other eleemosynary organizations are the expected beneficiaries of those newly exempted transactions.

Rules 1301:6-3-15 and 1301:6-3-16, which establish standards for the licensing of securities dealers and salesmen, were amended solely to revise the specification of the license tests which the Division will accept for license applicants. For each class of licenses, the Division's Broker-Dealer Advisor Committee recommended that certain tests offered by the National Association of Securities Dealers, Inc. (NASD) be replaced by other NASD tests which were more appropriate to the duties and responsibilities of Division licensees. Changes to the listing of acceptable license exams were the only amendments to rules 1301:6-3-15 and 1301:6-3-16.

Rule 1301:6-3-15

Rule 1301:6-3-15 was amended to drop the NASD Series 54 (Municipal Financial and Operations Principal) exam from the list of tests which the Division will accept to qualify an applicant for licensing as a Securities Dealer. The NASD Series 4 (Registered Options Principal) exam was added to the list of acceptable exams for Dealer applicants

which appears in Division (C) of rule 1301:6-3-15.

Rule 1301:6-3-16

Rule 1301:6-3-16 was amended to remove the NASD Series 27 (Financial and Operations Principal), and Series 54 (Municipal Financial and Operations Principal) from the list of salesman license tests in Division (A) of rule 1301:6-3-16. The NASD Series 2 (SECO), Series 4 (Registered Options Principal), Series 42 (Registered Options Representative), and Series 62 (Corporate Securities Representative) were added as license exams which will now qualify individuals for licensing as securities salesmen under R.C. 1707.16.

Changes to the lists of acceptable license exams were the only amendments to rules 1301:6-3-15 and 1301:6-3-16.

The text of the amendments to the rules is presented on pages 7 through 9 of this issue of the *Ohio Securities Bulletin*.

Text of Amendments to Division Rules Effective July 3, 1993

1301:6-3-01 Definitions.

(A) "Having no readily determinable value," as used in division (L)(1) of section 1707.01 of the Revised Code, means any securities not listed on an exchange specified in division (E)(1) of section 1707.02 of the Revised Code or approved by the division in accordance with division (E)(2) of section 1707.02 of the Revised Code or securities not actively traded in the over-the-counter market.

(B) "The distribution by a corporation of its securities," as used in division (K)(1) of section 1707.03 of the Revised Code, includes the distribution on a pro rata basis of shares of a subsidiary to shareholders of the parent corporation.

(C) For the purposes of Chapter 1301:6-3 of the Administrative Code, "division" shall, where the context indicates, mean the Ohio division of securities.

(D) "Institutional investor," as used in division (S) of section 1707.01 of the Revised Code, includes, but is not limited to, "qualified institutional buyer," as that term is defined in 17 C.F.R. 230.144(A).

Effective: July 3, 1993

*Prior Effective Dates: 1/17/92,
10/26/84, 12/31/75*

1301:6-3-03 Exempt transactions.

(A) Definitions. For the purposes of this rule and section 1707.03 of the Revised Code:

(1) "Bank" shall have the meaning specified in division (O) of section 1707.01 of the Revised Code.

(2) "Escrow Agreement" shall mean a written instrument

established by a dealer registered with the securities and exchange commission in accordance with the standards set forth in 17 CFR 15c2-4(b), or a written instrument signed by the issuer and the bank, the deposits of which are insured by the federal deposit insurance corporation and which is not an affiliate, subsidiary, or parent of the issuer, which instrument provides for the establishment of an escrow account with the bank, establishes procedures for the prompt deposit into the escrow account of funds received from purchasers, specifies that no funds will be disbursed from the escrow account until a minimum stated amount of the securities have been sold and the proceeds have been deposited into the escrow account, and specifies a termination date when the proceeds held in the escrow account will be returned without deduction to the purchasers if the proceeds for a minimum stated amount of the securities have not been deposited in the escrow account.

(3) "Mortgage-backed security" shall mean indebtedness, a participation in indebtedness, or other interest in indebtedness secured by a mortgage lien upon real estate, or a participation in or other interest in a syndicate, pool, trust, or other entity consisting of indebtedness secured by a mortgage lien upon real estate.

(4) "Retail repurchase agreement" shall mean indebtedness arising from the sale of a security or pool of securities that is a direct obligation of or is fully guaranteed by the United States government or an agency thereof, or indebtedness collateralized by an interest in a security or pool of securities that is a direct obligation of or is fully guaranteed by the United States government or an agency thereof.

(5) "Ten per cent of the initial offering price" shall mean an amount equal to ten per cent of the offering price of the securities actually sold.

(6) "Internal Revenue Code" shall mean the Internal Revenue Code of 1986, as amended, 26 U.S.C. section 1, et seq.

(7) "Pooled income fund" shall mean a trust that meets the requirements of a pooled income fund as defined in Internal Revenue Code section 642(c)(5), provided that the remainder beneficiary is a qualified charity.

(8) "Charitable remainder trust" shall mean a trust that meets the requirements of either a charitable remainder annuity trust or a charitable remainder unitrust as defined in Internal Revenue Code section 664, provided that the remainder beneficiary is a qualified charity.

(9) "Charitable lead trust" shall mean a trust that meets the requirements of a charitable lead trust as described in Internal Revenue Code section 170(f)(2), provided that the lead beneficiary is a qualified charity.

(10) "Charitable gift annuity" shall mean an agreement between a qualified charity and a donor in which the qualified charity agrees to pay to an annuitant to annuitants for life or for a term of years a fixed percentage of the amount deposited by the donor with the qualified charity.

(11) "Qualified charity" shall mean an entity that is described in Internal Revenue Code section 501(c)(3) and that is not a private foundation as described in Internal Revenue Code section 509.

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Text of Amendments to Division Rules Effective July 3, 1993

Continued from page 7

Paragraphs C and D of 1301:6-3-03 were not amended.

(D) Additional exemptions in accordance with division (V) of section 1707.03 of the Revised Code.

(1) The sale by a bank, a subsidiary of a bank, or a service corporation owned by and organized to provide services to one or more banks of retail repurchase agreements is exempt pursuant to division (V) of section 1707.03 of the Revised Code.

(2) The sale by a bank, a subsidiary of a bank, or a service corporation owned by and organized to provide services to one or more banks of mortgage-backed securities is exempt pursuant to division (V) of section 1707.03 of the Revised Code.

(3) The sale of any security representing directly or indirectly a fractional interest in a pool of FHA-insured or VA-guaranteed first mortgage loans guaranteed by the full faith and credit of the United States government (commonly referred to as GNMA-backed securities or GNMA pass-through securities) pursuant to division (G) of section 306 of the National Housing Act of 1934, as amended, is exempt pursuant to division (V) of section 1707.03 of the Revised Code. The assets of a security sold in reliance on this paragraph may also include cash or other obligations backed by the full faith and credit of the United States government to a maximum of twenty per cent of

the total assets of the security.

(4) The sale of any security representing directly or indirectly a fractional interest in a certificate of deposit or a pool of certificates of deposit is exempt pursuant to division (V) of section 1707.03 of the Revised Code, provided that:

(a) The certificates of deposit are issued by a bank with assets of two billion dollars or more;

(b) If a pool, no more than ten per cent of the pool's assets may be invested in the certificates of deposit of any one bank; and

(c) The total expenses of sale, issuance and distribution of the securities do not exceed three per cent of the gross proceeds of the sale of the securities.

(5) The sale of any security pursuant to a pension plan, stock plan, profit-sharing plan, compensatory benefit plan or similar plan is exempt pursuant to division (V) of section 1707.03 of the Revised Code if:

(a) The security is sold pursuant to a plan qualified under sections 401 to 425 of the Internal Revenue Code of 1986;

(b) The sale of the security is exempt from the provisions of section 5 of the Securities Act of 1933 because it meets the exemption set forth in rule 701 of the Securities Act of 1933 and any commission, discount or other remuneration paid or given for the sale of the security in this state is paid or given only to dealers or salesmen licensed by the division; or

(c) The security is effectively

registered under sections 6 to 8 of the Securities Act of 1933 and is offered and sold in compliance with the provisions of section 5 of the Securities Act of 1933.

(6) The sale of a warrant, subscription right, or option to purchase a security exempted by division (E) of section 1707.02 of the Revised Code or the sale of a unit consisting of a warrant, subscription right, or option which is exempt under division (E) of section 1707.02 of the Revised Code and a security exempt under division (E) of section 1707.02 of the Revised Code is exempt pursuant to division (V) of section 1707.03 of the Revised Code if it is sold by a licensed dealer.

(7) The sale of a security of an issuer that is either a pooled income fund, a charitable remainder trust or a charitable lead trust and that has a qualified charity as the only charitable beneficiary, or the sale by a qualified charity of a security that is a charitable gift annuity if:

(a) The sale is made by persons not licensed as dealers or salesmen whose compensation, however characterized, is not based directly on the amount of sales of the security;

(b) The security is evidenced by a written instrument that has been executed by the donor and the issuer and a copy of which has been provided to the qualified charity which is designated in the security as the beneficiary; and

(c) The designation of the qualified charity in the security is irrevocable so long as the qualified charity retains its status as a

qualified charity.

Effective: July 3, 1993

Prior effective dates: 12/14/92, 1/17/92, 8/23/85, 10/26/84, 4/1/83, 10/23/79, 12/31/75

1301:6-3-15 Dealer responsibilities.

(A) Requirements for preserving and filing sales material

All dealers and any issuer selling its own securities shall retain in its general files, for a period of at least four years from the date of last use, one copy of any prospectus, offering circular, advertisement, literature, or correspondence used in offering or in connection with the offering for sale of any security.

(B) Application forms

The division shall not issue a license to any applicant for a dealer's license or transfer a current dealer's license unless the applicant or dealer has filed a complete form 15 of the division or a form B-D of the securities and exchange commission.

(C) License exam requirements

As a continuing condition of licensing, every dealer and every applicant for licensing as a dealer shall furnish evidence to the division that a natural person who is a principal, officer, director, general partner, or employee of the dealer has passed an approved examination establishing knowledge of securities laws and practices. Every dealer which is not a natural person shall notify the division of the name and relationship to the dealer of the natural person who has passed an approved examination on behalf of the dealer and who will serve as the designated principal on behalf of the dealer. The division shall consider a dealer or an applicant for licensing as a dealer to have met this

requirement, if the dealer, applicant or a designated principal of the dealer or applicant has:

(1) Achieved a score of eighty-five per cent or better on the "Uniform Securities agent State Law Exam," series 63 administered by the National Association of Securities Dealers, Inc.;

(2) Been continuously licensed as a dealer of securities by the division since May 1, 1991, or

(3) Achieved a passing score on one of the following examinations administered by the National Association of Securities Dealers, Inc.:

(a) General securities sales supervisor, series 8,

(b) General securities principal, series 24,

(c) Investment company and variable contracts products principal, series 26 ,

(d) Direct participation programs principal, series 39,

(e) Municipal securities principal, series 53, or

(f) Registered options principal, series 4.

Paragraphs D through K of 1301:6-3-15 were not amended.

Effective: July 3, 1993

Prior effective dates: 1/17/92, 9/1/87, 5/9/86, 8/5/85, 10/26/84, 9/8/83, 6/23/81, 8/3/78, 12/31/75

1301:6-3-16 Application for salesman's license.

(A) The division shall not issue a license to any applicant for licensing as a salesman who has not first furnished evidence to the division that he or she has:

(1) Achieved a score of seventy per cent or better on the "Uniform Securities Agent State Law Exam," series 63, or the "SECO exam," series 2, as administered by the National Association of Securities Dealers, Inc.;

(2) Been licensed as a salesman by the division within the two years immediately preceding the date of the application; or

(3) Achieved a passing score on one or more of the following examinations administered by the National Association of Securities Dealers, Inc.:

(a) Investment company and variable contracts products representative, series 6,

(b) General securities representative, series 7,

(c) General securities sales supervisor, series 8,

(d) Direct participation programs representative, series 22,

(e) General securities principal, series 24,

(f) Investment company and variable contracts products principal, series 26 ,

(g) Registered options principal, series 4,

(h) Direct participation programs principal, series 39,

(i) Municipal securities representative, series 52,

(j) Municipal securities principal, series 53,

(k) Registered options representative, series 42 , or

(l) Corporate securities representative, series 62.

(B) The division shall not issue a license to any applicant for licensing as a salesman who has not first submitted to the division a fully completed form U-4 of the National Association of Securities Dealers, Inc. or form 16 of the division.

Effective: July 3, 1993

Prior effective dates: 1/17/92, 9/1/87, 5/9/86, 6/23/81, 12/31/75



Enforcement Section Reports

Criminal Case Reports

Herman Weigand

On January 7, 1993, felony charges were filed against Herman Weigand of Dover, Ohio, after a Tuscarawas County Grand Jury returned a 20-count indictment against him. Weigand was charged with 16 counts of grand theft and one count each of theft, selling unregistered securities, unlicensed sale of securities and securities fraud.

Weigand, an accountant, allegedly sold promissory notes to area investors for whom he had prepared income tax forms, and misused their funds. Investors lost hope in recouping their investments after he declared bankruptcy in April 1991 and his debts to them were discharged by the bankruptcy court.

This case was referred to the Office of the Tuscarawas County Prosecutor, Ronald Collins, by Mary Spahia-Carducci, Enforcement Section Staff Attorney.

Kenneth A. Jackson

On February 1, 1993, the Ninth District Court of Appeals affirmed Wayne County Common Pleas Judge Mark Wiest's decision of October 1, 1992 regarding Kenneth A. Jackson. The Court denied his request for appointment of counsel and a transcript of his criminal trial proceedings at the state's expense. On February 24, 1993, an appeal was filed with the Ohio Supreme Court by Kenneth Jackson, pro se.

Jackson, a Wooster, Ohio resident, received a 37-47 year prison term

on August 27, 1992, after a Wayne County jury returned a guilty verdict on all 117 felony counts. Jackson's September 22, 1992 appeal of his final Judgment of Sentence is still pending.

This case was referred to the office of Wayne County Prosecuting Attorney Keith A. Shearer by Karen Terhune, Enforcement Section Assistant Manager, who assisted Assistant Prosecuting Attorney John Williams during Jackson's trial.

John W. Paparella

On February 18, 1993, John W. Paparella, of Norton, Ohio, was sentenced in U.S. District Court in Cleveland by Judge Thomas D. Lambros to twelve months imprisonment. Paparella pled guilty to one count of conspiracy to commit securities fraud and mail fraud, and one count of securities fraud in connection with providing and causing to be provided false information to state and federal agencies concerning the financial condition of First Ohio Securities Company (FOSC). Paparella's involvement included providing fictitious assets in the form of nonexistent securities.

FOSC was an Ohio-based broker-dealer which also had offices in Chicago, New Jersey and Texas. FOSC was one of eight firms nationwide taken over by the Securities Investor Protection Corporation (SIPC) in 1990. Over \$2.9 million was paid out by SIPC in customer claims.

The Office of United States Attorney Joyce J. George, United States Attorney for the Northern District of Ohio was assisted in

this matter by Karen Terhune, Enforcement Section Assistant Manager, and E.J. Dugas, Jr., Enforcement Section Staff Attorney.

Wilson M. Graham

On March 15, 1993, 35 charges were filed against Wilson M. Graham of Mason, Ohio after he was indicted by a Warren County Grand Jury. The charges included 7 counts each of grand theft, unregistered sales of securities, unlicensed sales of securities, misrepresentations in the sale of securities and securities fraud.

Graham, a former certified public accountant, allegedly sold promissory notes in which he promised investors double their funds in six to eight months. He allegedly told investors that the funds were going to finance the opening of several branches of Graham & Associates, CPAs. At least \$83,000 was allegedly misappropriated.

This case was referred to the Office of Warren County Prosecutor Timothy Oliver by Mary Spahia-Carducci, Enforcement Staff Attorney and Donald Meyer, Attorney-Inspector.

Enforcement Division Orders

Patriarch II Joint Venture, JLM Energy Corp., and Dennis L. Jeffers

On February 11, 1993, the Division entered into a consent Cease and Desist order with Patriarch II Joint Venture, JLM Energy Corp., and Dennis L. Jeffers of Lakewood, Ohio. An examination by

the Division established that units of Patriarch II Joint Venture, a joint venture between JLM Energy Corp. and the purchasers of the joint venture interests, were sold to eleven Ohio residents between October 21, 1989 and November 20, 1990. The Division established that the joint venture interests were neither registered nor qualified for exemption under the Ohio Securities Act, and that

none of the subjects of the consent Cease and Desist order were licensed to sell securities in Ohio at the time of the sales. In the Consent Agreement attached to Division Order 93-006, Patriarch II Joint Venture, JLM Energy Corp., and Dennis L. Jeffers consented, stipulated, and agreed to the findings, conclusions, and orders set forth in the Cease and Desist order.

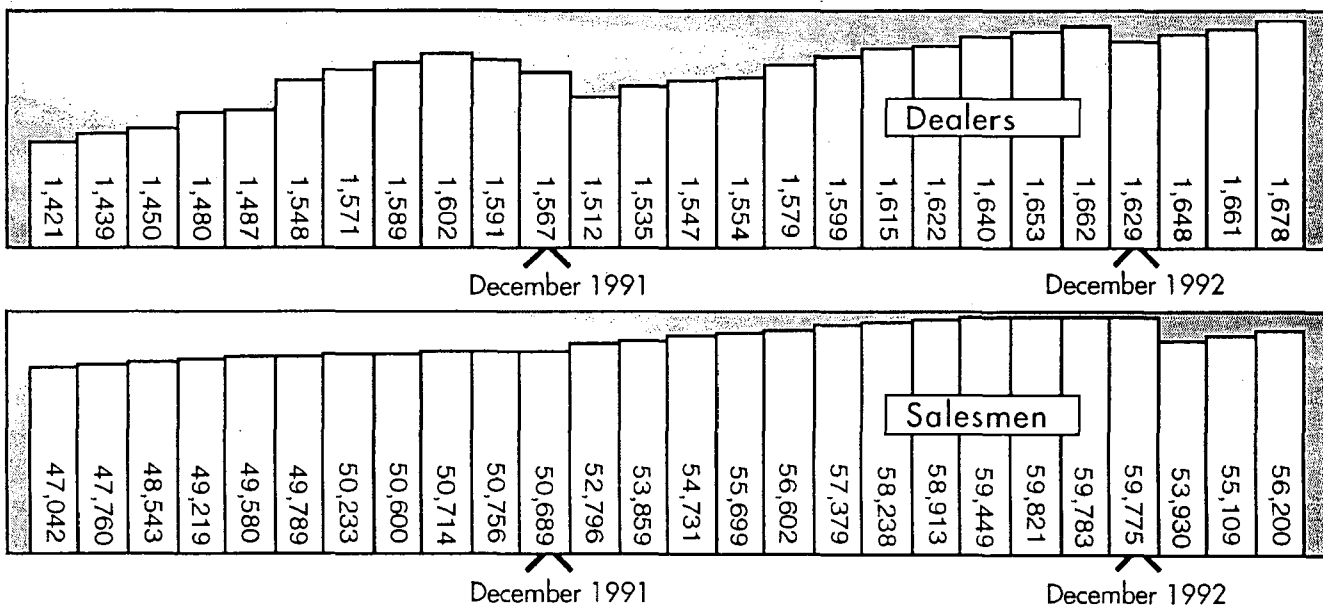
If you did not receive a copy of Issue 92-4 or 93-1 of the Ohio Securities Bulletin and you wish to receive one, please contact the Ohio Division of Securities.

Registration Statistics Steady Through First Quarter 1993

Form Type	1992	1993	Form Type	1992	1993	Form Type	1992	1993
02B	294	449	06A3	5	9	391/30	197	205
030	2,780	2,793	0613OG	2	0	391/3W	31	35
03Q	299	308	06A4	16	22	391/6A1	0	0
03W	30	29	09	432	146	391/6A2	0	0
04	0	0	09OG	0	0	391/6A3	0	0
041	0	1	091	264	592	391/6A4	0	0
05A	0	0	39	38	22			
06A1	45	64	391/09	2	2			
06A2	9	17	391/091	3	3			

Dealer and Salesman License Totals Follow Annual Cycle

License totals *generally* follow a reliable, cyclical pattern. They drop at the start of the year, then gradually rise until the next December. Within that pattern, the 1992 active license totals were true to course, but gradually increased within the cycle.





OHIO SECURITIES BULLETIN

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