

OHIO SECURITIES BULLETIN

A QUARTERLY PUBLICATION OF THE OHIO DIVISION OF SECURITIES

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Governor of Ohio

Gary C. Suhadolnik
Director of Commerce

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An Ohio Primer . . .

“Providing investor protection and enhancing capital formation in Ohio....”

This is the mission, the prime objective, of the Division, one of nine agencies within the regulatory umbrella of the Ohio Department of Commerce. The Division is the “local cop on the beat” for purposes of overseeing securities transactions in Ohio. In calendar year 2001, the Division received over 6200 filings related to securities themselves, representing over \$207 billion in securities sold or hoped to be sold in Ohio. In calendar year 2000, the Division received almost 7000 filings related to securities themselves, representing over \$288 billion in securities sold or hoped to be sold in Ohio.

Registration Section filings for calendar year 2001 decreased about ten percent from calendar year 2000 with the

biggest change in the number of certain private offering filings submitted. The number of investment company/mutual fund filings remained relatively stable, but the aggregate amount of capital formation was “down” almost a third from 2000.

In 2001, the Division licensed over 135,000 securities dealers, stockbrokers, investment advisers and their agents. The filing fees stemming from these applications comprise the bulk of the Division’s revenue.

From a historical perspective, states started enacting securities legislation in 1911. The Ohio Securities Act (Act), Revised Code Chapter 1707, was initially enacted in 1913. Two decades later and subsequent to the crash of Wall Street, the federal Securities Act of 1933 and the Securities Exchange Act of 1934 were created.

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Division Obtains Temporary Restraining Order Against Vernon W. Shiflett and Organizations Under His Control

Franklin County Common Pleas Judge Davis Johnson issued a temporary restraining order against Vernon W. Shiflett and 22 Shiflett-controlled entities. The Judge also appointed Columbus attorney Keith McNamara as receiver of Shiflett’s companies. The receivership became effective April 22, 2001.

The Ohio Division of Securities had requested the TRO against Shiflett, a Powell resident, and his companies. The TRO prohibits Shiflett and the other defendants from engaging in and/or continuing to engage in the sale of securities in violation of the Ohio Securities Act. It also prohibits Shiflett and his companies from disposing of any assets obtained from the sale of securities and any documents related to their sale. The TRO also freezes all financial institution or brokerage firm accounts

held by Shiflett and the organizations he controls.

The Division alleges that Shiflett and his companies employed two fraudulent schemes to raise more than \$29,000,000 nationally from about 700 investors over the past three years. Many Ohio investors reside in smaller communities around the state, with a notable concentration to be found in Marion and Newark. The first alleged scheme involves the sale of Addmac Entertainment promissory notes. In selling the notes, Shiflett raised capital for Debra McCleary of Nouveau Entertainment, Inc. to be used for concert promotions. The money earned from the concerts was to be used to pay back the promissory note holders. The Division alleges that Shiflett misrepresented

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OHIO DEPARTMENT OF COMMERCE DIVISION OF SECURITIES

<http://www.securities.state.oh.us>



Ohio Securities Bulletin

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An Ohio Primer...

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The underlying philosophies of the Act—indeed, of all securities laws, lie, essentially, in three areas:

- The licensing of professionals,
- The registration or exemption of the securities themselves, and
- The prevention of fraud.

The Division's "table of organization" parallels these philosophies and consists of the Licensing Section, the Registration of Securities Section, and the Enforcement Section. In more recent years, many jurisdictions, including Ohio, have added a fourth underlying philosophy to their existence: education for investor protection. At the Division, representatives from each of the three sections participate in investor education initiatives.

In any transaction involving the disposition of securities, there are three areas of required compliance. One, there must be compliance with federal securities laws; two, there must be compliance with the securities laws of the state or states where the sale or sales are made; and three, there must also be compliance with regard to "who" is conducting the sale.

The definition of the term, "security" is broad in the Act. In general terms, a security is either an ownership interest or an evidence of indebtedness. Examples of securities include shares of stock, limited partnership interests, membership interests in limited liability companies, trusts, promissory notes, and viatical or senior settlements. See Revised Code 1707.01(B).

Examples of things that are not securities or are not regulated by the Division include business opportunities, insurance, annuities, and usually, general partnership interests.

The definition of the term "sale" is also broad and includes any disposition of securities or an offer to sell. A sale can include an exchange of securities or a gift—"for value" is not a requirement in Ohio.

Once it has been determined that a "security" exists and a "sale" has been, or

will be made, the next step in an analysis is how to comply with the securities laws.

For purposes of compliance for the securities themselves or securities transactions, the Act contains 42 exemptions from the registration provisions of the Act. Thirty-eight of these exemptions are self-executing, meaning that no paperwork needs to be filed with the Division in order to claim the benefits of the exemption. See Revised Code 1707.02, 1707.03 and Ohio Administrative Code 1301:6-3-03. Four exemptions require the payment of a filing fee and certain paperwork. For *any* exemption, the burden of proving the availability of the exemption rests with the one claiming the benefits of the exemption. See Revised Code 1707.45.

Examples of the nature of exemptions include those for "blue chip" stock listed on the New York Stock Exchange to sales of securities resulting from the exercise of a will, to certain mergers, and sales to institutional investors. Other exemptions encompass varying degrees of sophistication of investors—less sophisticated investors may need more protection whereas more sophisticated investors may need less of the regulator's protection. Exemptions are narrowly tailored and many parallel, or mimic, federal or uniform provisions.

It is important to keep in mind that, even though a security itself may have an exemption from registration at both the federal and state level, there must still be a determination whether the person conducting the sale is legally able to do so.

If an exemption from the registration provisions of the Act is not available, then the securities must be registered in Ohio. The Act contains three types of registrations; registration by description (Revised Code 1707.06 and 1707.08), registration by qualification (Revised Code 1707.09), and registration by coordination (Revised Code 1707.09.1.) In general, registrations are pre-sale filings on which merit reviews will be conducted.

Antifraud provisions exist in the Act because private remedies are inadequate protection alone—they are retroactive in application, coming into play long after the money and con artist are gone. However, the underlying premise of merit review is that antifraud provisions cannot completely protect investors either—investors need protection against more than fraud. Investors also need protection against unfairness and excessive risk in securities offerings. Therefore, the Division, through merit review, attempts to thwart fraud before the damage is done.

OHIO SECURITIES BULLETIN

Desiree T. Shannon, Esq., Editor

The *Ohio Securities Bulletin* is a quarterly publication of the Ohio Department of Commerce, Division of Securities. The primary purpose of the *Bulletin* is to (i) provide commentary on timely or timeless issues pertaining to securities law and regulation in Ohio, (ii) provide legislative updates, (iii) report the activities of the enforcement section, (iv) set forth registration and licensing statistics and (v) provide public notice of various proceedings.

The Division encourages members of the securities community to submit for publication articles on timely or timeless issues pertaining to securities law and regulation in Ohio. If you are interested in submitting an article, contact the Editor for editorial guidelines and publication deadlines. The Division reserves the right to edit articles submitted for publication.

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Federal securities regulation complements state regulation by focusing on full and fair disclosure. Federal securities laws, created subsequent to most state securities laws, were not intended to replace blue sky laws; rather, to supplement them. As a consequence, each regulator plays an important role.

Ohio is one of the stronger “merit review” states, with registration attorney examiners reviewing offering materials to ensure the offering is not being sold on grossly unfair terms. Available information is reviewed—including material on the Internet—to make a determination whether the offering should “go forward”. The reviews are made promptly, often within one week of receipt, and effectiveness can usually be coordinated with effectiveness in other states and the Securities and Exchange Commission. Maximum filing fees in Ohio are \$1100.

Merit review is no substitute for a strong system of regulatory enforcement and private antifraud remedies by both the state and federal governments. However, merit review is part of the solution and does assist regulators in thwarting some fraud and investor loss before it begins.

Information regarding securities in filings made with the Division is considered “public” and is available by calling the Division’s hotline or searching the ERNIE database on the Division’s web site. Although the Division only has information stemming from filings—recall the almost forty self-executing exemptions—investors should utilize the Division as an important resource when asking questions about specific investments.

It should be mentioned that the Division, in conducting its merit review, does not speak to the viability of the offering. In other words, the Division does not make a determination as to whether the offering is good or will generate returns.

Generally, if someone professes to engage in the sale of securities in Ohio with the reasonable expectation of receiving a commission, the person must be licensed by the Division as a securities dealer or salesperson. While there are exceptions from the definition of “dealer” or “salesperson” under the Ohio Act, these exceptions all require that no commission or remuneration, directly, or indirectly, be

paid to the person for the sale. For example, officers and directors of a company may conduct the sale of company stock—as long as they do not receive a commission.

In order to obtain a dealer or salesperson’s license, it is necessary for the applicant to establish his or her minimum competency—minimum qualifications—by taking and “passing” an approved examination administered by the self-regulatory organization, the National Association of Securities Dealers, Inc. (NASD). In addition, it is necessary for the Division to make an affirmative finding of the existence of “good business repute” on behalf of the applicant.

As part of the licensing procedure, the Division uses the Central Registration Depository (CRD), an Internet based database maintained by the NASD containing the background, experience, and disciplinary history for stockbrokers and their firms. Applicants submit their requests for licensure throughout the states via the CRD and the CRD, in turn, makes available information to the public.

The Division also licenses and accepts filings from investment advisers—those persons in Ohio who, for compensation, hold themselves out and provide investment advice involving securities. As with securities dealers and stockbrokers, investment advisers and their agents—investment adviser representatives—must establish minimum competency and be of “good business repute”.

In 1994, legislation was passed in Ohio requiring dealers to be members of the NASD. The importance of this legislation was to subject these licensees to the “oversight” of the NASD, a self-regulatory organization with extensive standards of conduct and an extensive network of NASD examiners to police the industry.

Securities dealers, stockbrokers, and investment advisers—collectively, securities professionals—all stand in a fiduciary relationship to their clients and have an affirmative obligation of utmost good faith and full and fair disclosure. Clients are owed undivided loyalty. Securities professionals also have a duty to not mislead their clients and generally, may not engage in activity that conflicts with a client’s interest without the client’s consent.

Conduct standards within the Ohio Act and the NASD Rules of Fair Practice include antifraud provisions regarding misstatements or misleading omissions of material facts; requirements to provide material information regarding remuneration; and, requirements that advertisements and solicitations must be fair and accurate. Only investments or investment advice *suitable* to the client are permitted, thereby requiring that the securities professional take into consideration the client’s financial situation, investment experience and investment objectives.

As individuals, we depend on the trust and fiduciary relationship between ourselves and our physician or legal counsel. Similarly, potential investors and investors—of all degrees of financial sophistication—daily place their reliance on their securities professionals.

There are two types of investor protection: that accorded by securities laws and that accorded by investor education. One is no substitute for the other.

Full and fair disclosure accompanied by merit review helps to “head off” potential fraud or investor abuse. Minimum competency, good business repute, and standards of conduct for securities professionals are further measures to deter scams and to ensure protection of the investing public. These are all good prophylactic measures. But con artists may still be able to get money from innocent and trusting investors. The Division has a number of administrative remedies, but investor education also plays a vital role.

There is no guarantee when you make an investment. *The first rule of investing is that if it sounds too good to be true, it probably is.* Similarly, there is no guarantee that deterrents in securities laws will prevail every time, that every con artist will be caught, or that money will be returned to investors.

The Division believes the best action any potential investor can take is to *ask questions*. Be skeptical. When making presentations to investors, the Division relays to investors to keep in mind that con artists don’t wear cheap pin stripe suits like in the movies. The Division tells investors that con artists will say what they believe is necessary to get your money; that con

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artists will make investors feel as though they have inside information, that they know what's good for investors, that the investment is guaranteed. The Division tells investors that con artists will purport to give investors their personal guarantee. The Division cautions investors to stay vigilant. Investors must ask questions and obtain as much information as possible about an investment and the securities professional with whom they are dealing. The Division cautions investors to not give anyone control over their money if they do not understand what is involved in a particular offering.

The bottom line is: investors need to read the bottom line. Investors need to contact regulators to "check out" their stockbroker. Investors need to be aware of the sources of information available to them. This is why the Division believes it is vitally important that the Division itself be involved in investor education. These messages are what the Division promotes as part of its investor education initiative—especially during Governor Taft's pronouncement of Savings and Investing Month in April. Remember, if it sounds too good to be true, it probably is...

Again, there are two types of investor protection: investor education and comprehensive securities laws. Ohio's laws are strong and the Division has a number of administrative sanctions that can be levied against the perpetrator, against the *actions* taken by the con artist.

First, the Division has comprehensive investigatory authority and can issue subpoenas to compel witnesses and the production of documents. On-site examinations can be conducted. In fact, the Division routinely has five personnel out in the field examining securities professionals and sometimes issuers.

The Division can suspend, deny, or revoke a securities professional's license in Ohio. In essence, take away their legitimate livelihood. The Division can suspend an offering of securities or issue a stop order and the Division can request injunctive relief from the courts. We can initiate criminal proceedings, laying before the prosecuting attorney of any county, evi-

dence of criminality and we can issue "cease and desist" orders. All of these actions are substantial "black marks" on the record of a securities professional, potentially precluding him from conducting business in the securities industry. Depending on the degree of his actions, the con artist may land in jail.

Statistically, in calendar year 2001, the Division issued 126 cease and desist orders, 31 suspensions, 19 revocations and 19 denials of licensure. Compare these figures to, say, only five or six years ago, when the Division issued 31 cease and desist orders, four suspensions, six revocations, and three denials. The Division continues to issue more and more administrative sanctions against the bad guys.

Certainly, from the public's standpoint, the concern is the return of their money and whether the Division can fulfill that desire. The Division does not have the direct authority to require restitution, but does have the authority to request the appointment of a receiver upon substantial violations of the Ohio Act. In those instances where the Division believes assets to exist, the Division is not hesitant to exercise this authority and has done so many times over the past couple of decades. However, regardless of the nature of the enforcement authority vested in the Division, *the sad truth is that there often is no money*. Unfortunately, once the money leaves an investor's pocket, it may be virtually impossible to obtain its return because it may not exist. The con artist may not have any assets or any assets the Division can find.

The Division continues to be the "impetus" for outstanding white collar crime sentences based on our referrals made for criminal prosecution and the work performed during our investigations. During 2001, sentences of 10, 27 and 30 years were levied on con artists as a result of the Division's efforts. Money has been returned to investors via receiverships, but much, much more has been lost to the "con" artists.

When victims lose money, the question is always posed as to whether the laws are broken. Certainly not. Ohio has comprehensive merit, disclosure and anti-fraud provisions in its Securities Act that

are applied fairly, consistently and vigilantly. The Ohio Division of Securities has long been regarded as a tough, yet fair, regulator. We have a wealth of knowledge, experience and devotion within the Division. Regardless of the breadth—and vigilance—of the regulatory framework, though, the brokerage firm must be vigilant, the stockbroker must be compliant and fulfill his fiduciary duties, and, yes, the investor must be vigilant, as well.



Shiflett

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that the notes were insured, were low risk and that appropriate accounting safeguards were in place. The Division alleges that Shiflett also failed to disclose to investors that McCleary had a criminal history of passing bad checks and drug possession. In addition, the Division maintains the notes were not properly registered or exempt from registration with the Division of Securities. The second alleged scheme involves Shiflett's sale of interests in limited liability partnerships that he controlled. The Division alleges that he repeatedly misrepresented to investors that their money would be under his control in a bank account or at a major brokerage firm, that the funds would be insured, and that there was no risk to their principal investment. The Division also maintains the partnership interests were not properly registered or exempt from registration with the Division of Securities.

IARD Mandate

As of January 1, 2002, the Ohio Division of Securities mandated that all licensed investment advisers in Ohio obtain entitlement, transition, and file their Form ADV with the Investment Adviser Registration Depository (IARD) by June 30, 2002. This deadline must be met by current Ohio licensees in order to continue to offer investment advisory services in Ohio. Those persons *initially* seeking investment advisory licensure are required to file their applications via the IARD immediately.

Investment advisers should visit the IARD web site at www.iard.com and download the ENTITLEMENT PACKET and instructions. These forms request basic information such as the adviser's name, address, contact person, telephone number and who should be approved to have access to the IARD system on behalf of the firm. The completed forms must be submitted directly to the IARD. In a few weeks, the IARD provides a user name and password. Questions should be directed to the IARD hotline at 240-386-4848.

Upon receipt of a user name and password, the investment adviser must go into the TRANSITION Queue on the IARD and enter each state in which the investment adviser is currently licensed. This will send a notification to those states and the states will then enter the original licensing date. This completes the transition filing.

Once an investment adviser has successfully made a transition filing, the investment adviser should begin entering the Form ADV electronically into the IARD. Remember, investment advisers have until June 30, 2002 to submit the ADV Part 1 *via* the IARD. Investment advisers can start by entering data onto the electronic form and saving it until the form is completed to the investment adviser's satisfaction.

Entitlement, transitioning, and filing the Form ADV are not difficult procedures. However, to meet Ohio's June

30, 2002 deadline, investment advisers need to begin the procedure now.

If an investment adviser is unfamiliar with the IARD, the Division encourages a review of the web sites provided below. In addition, listed below are some facts about the IARD:

- The IARD is an electronic filing system for investment advisers. The IARD will operate over the Internet and interface with the Central Registration Depository (CRD) maintained by the National Association of Securities Dealers, Inc. (NASD). No special equipment will be required other than Internet access and the appropriate version of a compatible web browser (Internet Explorer 5.01 or Netscape 4.6 or greater are recommended). It is contemplated that the Division will mandate investment adviser representative filings via the IARD as of January 1, 2003. It is anticipated that the IARD will interface in the future with the professional organizations that grant certain professional designations enabling applicants to establish their minimum competency for purposes of licensing in Ohio.
- At this time, the IARD can only be used in Ohio for purposes of investment adviser filings.
- The Form ADV has been revised to accommodate electronic filings on the IARD. A paper version of the revised form can be found at www.sec.gov/pdf/fadvpaper.pdf. To use this revised Form ADV, follow the instructions on the Form itself. Currently, neither the Securities and Exchange Commission nor the States have adopted a revised Form ADV Part 2. As a consequence, all investment advisers are required to continue to use the "old" Form ADV Part II for client disclosure.
- Please note that there are no Ohio specific paper forms to file.

- To use the IARD, complete the IARD State Firm Entitlement forms available at www.iard.com. The **IARD Firm User's Manual** at this address will provide a great deal of information about entitlement, transitioning and filing on the IARD. The NASD, the proprietor of the IARD, will send investment advisers a confirmation packet including a user name and password; financial account deposit information; system configuration requirements; and, security reminders.
- After receiving entitlement and an account with the NASD, investment advisers will make a "non filing information" submission to the IARD to effect transition to the IARD in states where the investment adviser is required to make a license or notice filing. The Division will then enter the original pre-IARD licensing date to create a history prior to the date of transitioning. It is extremely important for investment advisers to remember to fund the daily and renewal accounts. After transitioning, investment advisers must submit the electronic version of the Form ADV for purposes of Ohio licensure.

Additional information about the IARD can be found at www.sec.gov/iard, www.nasaa.org, and www.iard.com.

THE DEADLINE FOR ACCOMPLISHING INVESTMENT ADVISER FILINGS IN OHIO VIA THE IARD IS JUNE 30, 2002. THEREAFTER, ALL FILINGS—INCLUDING RE-NEWALS—MUST BE EFFECTED BY USING THE IARD.

Please contact the Division in the event you have any questions regarding minimum competency standards in Ohio—IARD questions, however, should be directed to the IARD or NASD directly.

Investment Adviser Highlights of Am. Sub. S.B. 138

Becoming effective June 18, 2002, Am. Sub. S.B. 138 affects the regulatory framework of not only the Ohio Division of Securities (Division), but the Ohio Division of Financial Institutions (DFI) and Department of Insurance, as well. DFI is a sister agency to the Division within the Ohio Department of Commerce and, along with the Ohio Department of Insurance, worked with the Division to broaden the “information sharing” provisions contained in the Ohio Securities Act (Act), the banking laws in Ohio, and the Ohio insurance laws.

More specifically, the provisions adopted in Am. Sub. S.B. 138 will improve the sharing of *regulatory information between agencies* to better serve and protect Ohioans. The federal Gramm-Leach-Bliley Act (GLB) was enacted into law November 12, 1999, repealing the 66-year old Glass-Steagall Act, which had prohibited banks, securities firms and insurance companies from affiliating. The GLB now permits banks, securities firms, and insurance companies to affiliate within a new financial holding company structure. Because the barriers have been removed in the financial services industry, the Division, DFI, and Department of Insurance need to be able to share otherwise confidential information with each other to better protect the public. *It is important to note that the information retains its confidentiality status once it is shared with another governmental entity.*

Upon effectiveness, Revised Code 1707.12 will allow information obtained by the Division through any investigation, as well as confidential law enforcement investigatory records and trial preparation records, to be shared with law enforcement agencies, state agencies, federal agencies, and other entities the Division designates by rule. The bill clarifies that no employee or representative of the Division or the Department of Commerce shall be required to testify concerning any document or record subject to information sharing except as set forth by rules adopted by the Division.

Other changes contained in Am. Sub. S.B. 138 include those intended to streamline both the substantive and procedural requirements of investment adviser filings. Generally, the aim of the amendments is to streamline the investment adviser filing process, thereby enabling industry filers to use the Investment Adviser Registration Depository (IARD), a nationwide database on the Internet through which applications for licensure and other filings may be submitted to the respective states, and which contains background information and experience on filers. The IARD is accessible by each of the states, thereby creating a virtually paperless application and review process. As noted in a companion article entitled *IARD Mandate* on page 5 of this edition of the *Ohio Securities Bulletin*, the Division has mandated the electronic submission of filings by investment advisers via the IARD.

The current version of the Act contains requirements for Ohio-specific forms and substantive requirements not otherwise accommodated by the IARD. Notably among these provisions is the requirement for a non-natural person investment adviser to designate a principal who in turn will establish the minimum competency of the investment adviser. Since natural persons “fitting” within the definition of the term “investment adviser representative” (IAR) must seek licensure as an IAR (all IARs are natural persons) and consequently demonstrate their competency for the IAR license, a legal fiction is created by requiring the investment adviser firm to establish competency. By eliminating this requirement, the natural person—whether a sole proprietor investment adviser or an IAR—still must fulfill minimum competency requirements, and the IARD will more fully accommodate Ohio’s filings. Am. Sub. S.B. 138 accomplishes this.

Other changes in Am. Sub. S.B. 138 assist investment adviser filers in being accommodated by the IARD, including the elimination of Ohio-specific forms, Ohio-specific penalties, and filing date parameters. What the Division has previously referred to as “uncodified exceptions” (resulting from provisions of federal law) to the licensing requirements of investment advisers, are also codified as a result of Am. Sub. S.B. 138.

OHIO SECURITIES CONFERENCE 2002

NOVEMBER 22, 2002

**Executive Conference and Training Center
Vern Riffe Center
77 South High Street, 31st Floor
Columbus, Ohio 43215**

Investment Adviser Regulations
Securities Law in Cyberspace
Ohio Control Share Acquisition Act: Northrop Grumman v. TRW
Private Placements
Ohio Division of Securities Update

presented by
Ohio Division of Securities
The Cybersecurities Law Institute at the University of Toledo College of Law

The meetings of the Ohio Division of Securities Advisory Committees
will be held in conjunction with this Conference.

In September, a Conference Brochure with detailed information and registration
instructions will be sent to all Ohio subscribers to the Ohio Securities Bulletin.

KNC Software LLC

On January 16, 2002, the Division issued Division Order No. 02-027, a Cease and Desist Order, against KNC Software LLC. Respondent's business address is in California.

On September 19, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order No. 01-263, to KNC Software LLC. The Division alleged that the Respondent had violated the provisions of Revised Code sections 1707.44(C)(1), and 1707.44(B)(4), respectively, by selling unregistered securities and falsely representing that KNC Software LLC would go public soon and that the investors' investments would greatly increase in value shortly after the company went public. The Division also notified the Respondent of its right to an administrative hearing pursuant to Chapter 119 of the Revised Code. Respondent failed to timely request an adjudicative hearing pursuant to Chapter 119 of the Ohio Revised Code. Therefore, the Division issued Cease and Desist Order No. 02-027.

Joseph Edward Wright

On January 31, 2002, Joseph Edward Wright entered into a Consent Agreement with the Division and consented to the issuance of a Cease and Desist Order, Division Order No. 02-044. Mr. Wright is an Ohio resident.

On January 8, 2002, the Division issued a Notice for Opportunity for Hearing, Division Order No. 02-005, to Mr. Wright. The Division alleged that he violated the provisions of Ohio Revised Code sections 1707.44(C)(1) and (B)(4) respectively, by selling unregistered shares of stock in Yippy - Ky - Yay! Communications and falsely representing to investors that they would receive a return on their investment when the company went public in early 2000.

The Division notified Mr. Wright of his right to an administrative hearing pursuant to Chapter 119 of the Revised Code and he did not request one. The parties entered into a Consent Agreement and the final

Order to Cease and Desist was issued on January 31, 2002.

Caffé Diva Group, Limited

On February 27, 2002, the Division issued Division Order No. 02-078, a Cease and Desist Order, against Caffé Diva Group, Limited. Respondent's business address is in Portland, Oregon.

On November 13, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order No. 01-295, to Respondent. The Division alleged that Respondent had violated Revised Code section 1707.44(C)(1) by selling promissory notes that were not registered as securities. The Division also notified the Respondent of its right to an administrative hearing pursuant to Chapter 119 of the Revised Code. Respondent failed to timely request an adjudicative hearing pursuant to Chapter 119 of the Ohio Revised Code. Therefore, the Division issued Cease and Desist Order No. 02-078.

Jerry Shinsky

On March 5, 2002, Jerry Shinsky entered into a Consent Agreement with the Division and consented to the issuance of a Cease and Desist Order, Division Order No. 02-082.

The Division found that Mr. Shinsky violated the provisions of Ohio Revised Code sections 1707.44(A)(1) and (C)(1) by selling Alliance Trust and Chemical Trust promissory notes that had not been registered as securities while he was not licensed as a securities dealer. Mr. Shinsky waived his right to the issuance of a Notice of Opportunity for Hearing and his right to an administrative hearing pursuant to Chapter 119 of the Revised Code in the Consent Order. The final Order to Cease and Desist was issued on March 5, 2002.

Rudy Cyphert

On March 8, 2002, the Division issued Division Order No. 02-086, a Cease and Desist Order, against Rudy Cyphert. Respondent is an Ohio resident.

On February 1, 2002, the Division issued a Notice of Opportunity for Hearing, Division Order No. 02-046, to Rudy Cyphert. The Division alleged that the Respondent had violated the provisions of Ohio Revised Code sections 1707.44(A)(1) and (C)(1) by selling Alliance Trust and Chemical Trust promissory notes that had not been registered as securities while he was not licensed as a securities dealer. The Division notified Respondent of his right to an administrative hearing pursuant to Chapter 119 of the Revised Code and Respondent did not request a hearing. Therefore, the Division issued Cease and Desist Order No. 02-086.

Gary W. Hasselbusch

On January 14, 2002, the Division issued Division Order No. 02-023, a Cease and Desist Order, to Gary W. Hasselbusch of Parma Heights, Ohio.

The Division found that Hasselbusch, an Ohio-licensed insurance agent, violated the provisions of Ohio Revised Code sections 1707.44(A)(1) and 1707.44(C)(1) by selling unregistered securities in the form of pay telephone and related service agreements for National Communications Marketing, Inc. and Communications Marketing Associates, Inc. while he was unlicensed as a securities salesperson. ETS Payphones, Inc. was the exclusive supplier of the customer owned coin operated telephones. The Securities and Exchange Commission obtained a permanent injunction against ETS for securities law violations. On December 14, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order 01-327, to Hasselbusch.

The Division notified Hasselbusch of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and the Cease and Desist Order was issued on January 14, 2002.

Michael J. Rudolph

On January 18, 2002, the Division issued Division Order No. 02-029, a Cease and Desist Order to Michael J. Rudolph of Twinsburg, Ohio.

The Division found that Rudolph, an Ohio-licensed insurance agent, violated the provisions of Ohio Revised Code section 1707.44(C)(1) and Ohio Administrative Code Rule 1301:6-3-19(A)(19) by selling unregistered securities in the form of pay telephone and related service agreements for National Communications Marketing, Inc. and Communications Marketing Associates, Inc., and he did not receive prior authorization from securities dealer Jefferson Pilot Securities Corporation whom he was licensed with at the time of the sales, i.e. "selling away". The Division found that he was paid commissions of 10% to 12% for selling the securities. ETS Payphones, Inc. was the exclusive supplier of the customer owned coin operated telephones. The Securities and Exchange Commission obtained a permanent injunction against ETS for securities law violations. On December 20, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order 01-336, to Rudolph.

Rudolph waived his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code, and the Cease and Desist Order with Consent Agreement was issued on January 18, 2002.

John E. Prokop; Pro Insurance, Inc.

On January 23, 2002, the Division issued Division Order No. 02-037, a Cease and Desist Order, against John E. Prokop and Pro Insurance, Inc. Respondents conducted business from Boardman, Ohio.

The Division found that both Respondents violated Revised Code section 1707.44(C)(1) by selling unregistered securities, and that Prokop further violated Ohio Administrative Code Rule 1301:6-3-19(A)(19) by "selling away" while employed by IAC Securities, Inc.

The Division's allegations stem from the sale of viatical settlement investments by Respondents for Mutual Benefits Corporation and American Benefits Services, Inc. Respondents additionally sold sale/leaseback investment contracts for ETS Payphones, Inc.

The Division notified Respondents of their right to an administrative hearing pursuant to Chapter 119 of the Revised Code, which Respondents waived by failing

to timely request a hearing. Therefore, the Division issued Cease and Desist Order No. 02-037.

Bari L. Courts

On January 23, 2002, the Division issued Division Order No. 02-035, a Cease and Desist Order to Bari L. Courts of Cincinnati, Ohio.

The Division found that Courts, an Ohio-licensed insurance agent, violated the provisions of Ohio Revised Code section 1707.44(C)(1) and Ohio Administrative Code 1301:6-3-19(A)(19) by selling unregistered securities in the form of pay telephone and related service agreements for National Communications Marketing, Inc. and Communications Marketing Associates, Inc., and by failing to receive prior authorization from securities dealer Washington Square Securities, Inc. whom he was licensed with at the time of the sales, i.e. "selling away". The Division found that he was paid commissions of 12% for selling the securities. ETS Payphones, Inc. was the exclusive supplier of the customer owned coin operated telephones. The Securities and Exchange Commission obtained a permanent injunction against ETS for securities law violations. On December 20, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order 01-335, to Courts.

The Division notified Courts of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and the Cease and Desist Order was issued on January 23, 2002.

Dennis A. Hawk

On February 4, 2002, the Division issued a Cease and Desist Order, Division Order No. 02-047, to Dennis A. Hawk of Grove City, Ohio.

The Division found that Hawk, an Ohio-licensed insurance agent, violated the provisions of Ohio Revised Code sections 1707.44(A)(1) and 1707.44(C)(1) by selling unregistered viatical settlements while

unlicensed as a securities dealer. The Division's investigation stemmed from Hawks' sale of viatical settlements of Imtek Funding Corporation and Beneficial Assistance of Maryland. The Division found that he earned commissions of 7% for selling the viatical settlements. On November 19, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order 01-301, to Hawk.

The Division notified Dennis A. Hawk of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and the Cease and Desist Order was issued on February 4, 2002.

Dennis L. Siers

On January 24, 2002, the Division issued Division Order No. 02-039, a Cease and Desist Order to Dennis L. Siers of Middleburg, Ohio.

The Division found that Siers, an Ohio-licensed insurance agent, violated the provisions of Ohio Revised Code section 1707.44(C)(1) and Ohio Administrative Code 1301:6-3-19(A)(19) by selling unregistered securities in the form of pay telephone and related service agreements for National Communications Marketing, Inc. and Communications Marketing Associates, Inc., and he did not receive prior authorization from securities dealer Prime Capital Services, Inc. whom he was licensed with at the time of the sales, i.e. "selling away". The Division found that he was paid commissions of 12% to 14% for selling the securities. ETS Payphones, Inc. was the exclusive supplier of the customer owned coin operated telephones. The Securities and Exchange Commission obtained a permanent injunction against ETS for securities law violations. On December 21, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order 01-339, to Siers.

The Division notified Siers of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and the Cease and Desist Order was issued on January 24, 2002.

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Enforcement Reports

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American Telecommunications Company, Inc.

On February 13, 2002, the Division issued a Cease and Desist Order, Division Order No. 02-057, to American Telecommunications Company, Inc. (ATC) of Grants Pass, Oregon.

The Division found that ATC violated the provisions of Ohio Revised Code sections 1707.44(A)(1) and 1707.44(C)(1) by selling unregistered securities in the form of pay telephone and related service agreements while ATC was unlicensed as a securities dealer. The Division found that ATC also paid commissions of 14% to a securities salesperson to sell the securities to Ohio investors. On September 5, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order 01-250, to ATC.

The Division notified ATC of their right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and the Cease and Desist Order was issued on February 13, 2002.

Robert A. Swanson

On February 22, 2002, the Division issued Division Order No. 02-065, a Cease and Desist Order to Robert A. Swanson of North Canton, Ohio.

The Division found that Swanson, an Ohio-licensed insurance agent, violated the provisions of Ohio Revised Code sections 1707.44(A)(1) and 1707.44(C)(1) by selling unregistered securities in the form of pay telephone and related service agreements for National Communications Marketing, Inc. and Communications Marketing Associates, Inc. while he was unlicensed as a securities salesperson. The Division found that he was paid commissions of 12% for selling the securities. ETS Payphones, Inc. was the exclusive supplier of the customer owned coin operated telephones. The Securities and Exchange Commission obtained a permanent injunction against ETS for securities law violations. On January 18, 2002, the Division issued a Notice of Opportunity for Hearing, Division Order 02-030, to Swanson.

The Division notified Swanson of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and the Cease and Desist Order was issued on February 22, 2002.

Edward M. Stanko, Jr.

On February 26, 2002, the Division issued Division Order No. 02-070, a Cease and Desist Order to Edward M. Stanko, Jr. of North Royalton, Ohio.

The Division found that Stanko, an Ohio-licensed insurance agent, violated the provisions of Ohio Revised Code sections 1707.44(A)(1) and 1707.44(C)(1) by selling unregistered securities in the form of pay telephone and related service agreements for National Communications Marketing, Inc. and Communications Marketing Associates, Inc. while he was unlicensed as a securities salesperson. The Division found that he was paid commissions of 12% for selling the securities. ETS Payphones, Inc. was the exclusive supplier of the customer owned coin operated telephones. The Securities and Exchange Commission obtained a permanent injunction against ETS for securities law violations. On December 19, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order 01-334, to Stanko.

The Division notified Stanko of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and the Cease and Desist Order was issued on January 14, 2002.

David M. Cody

On March 7, 2002, the Division issued two Final Orders to Cease and Desist, Division Order No. 02-084 and 02-085, to David M. Cody of Brecksville, Ohio.

The Division found that Cody, an Ohio-licensed insurance agent, violated the provisions of Ohio Revised Code sections 1707.44(C)(1), 1707.44(B)(4), 1707.44(G) and Ohio Administrative Code Rule 1301:6-3-19(A)(5) by selling shares in the Cyprus Funds, Inc., an unregistered mutual fund company whose address was in Belmopan, Belize and was purportedly incorporated in Belize, selling securities that were not suit-

able for investors, failing to disclose material facts while selling securities, and false representations in the sale of the securities. The Cyprus Funds processing center was located in Canton, Ohio. The Division found that Cody sold these securities while licensed with securities dealer First Securities Group, Inc.

The Securities and Exchange Commission obtained a Temporary Restraining Order in U.S. District Court for the Southern District of Florida from U.S. District Judge Edward B. Davis, against the Cyprus Funds and the officers and directors of the fund on September 3, 1999, for federal securities law violations that included massive fraud, involving the sale of securities to Ohio and other investors. Judge Davis appointed a receiver, and also issued a freeze of the Cyprus Funds' assets and those of the other defendants. On September 3, 1999, a Preliminary Injunction was issued by Judge Davis, that also indefinitely continued the freeze of assets.

On August 16, 2000, the Division issued a Notice of Opportunity for Hearing, Division Order 00-242, and on February 8, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order 01-038, to Cody. Administrative hearings were requested and held on March 14, 2001, and on May 2, 2001. The hearing officer issued two reports containing recommendations that were favorable to the Division. The reports were accepted by the Division, and two Final Orders to Cease and Desist were issued on March 7, 2002.

Dennis L. Flood

On March 12, 2002, the Division issued Division Order No. 02-088, a Cease and Desist Order to Dennis L. Flood of Brunswick, Ohio.

The Division found that Flood, an Ohio-licensed insurance agent, violated the provisions of Ohio Revised Code section 1707.44(C)(1) and Ohio Administrative Code 1301:6-3-19(A)(19) by selling unregistered securities in the form of pay telephone and related service agreements for National Communications Marketing, Inc. and Communications Marketing Associates, Inc., and while failing to receive prior authorization from securities dealers Prime Capital Services, Inc. and Royal Alliance

Associates, Inc. whom he was licensed with during the time of the sales, i.e. "selling away". ETS Payphones, Inc. was the exclusive supplier of the customer owned coin operated telephones. The Securities and Exchange Commission obtained a permanent injunction against ETS for securities law violations. On February 8, 2002, the Division issued a Notice of Opportunity for Hearing, Division Order 02-052, to Flood.

The Division notified Flood of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and the Cease and Desist Order was issued on March 12, 2002.

Vista Financial Services Corporation

On January 11, 2002, the Division issued a Cease and Desist Order and Consent Agreement, Division Order No. 02-016, to Vista Financial Services Corporation ("Vista") of Hudson, Ohio.

Vista waived its right to the issuance of a Notice of Opportunity for Hearing pursuant to Revised Code Chapter 119, submitted an Undertaking to offer rescission to affected Ohio investors, and entered into a Consent Agreement with the Division. The Cease and Desist Order found that Vista violated Revised Code section 1707.44(A)(1) by selling securities to Ohio residents as an unlicensed dealer.

Balentine & Company

On January 23, 2002, the Division issued a Cease and Desist Order and Consent Agreement, Division Order No. 02-034, to Balentine & Company of Atlanta, Georgia.

Balentine & Company waived its right to the issuance of a Notice of Opportunity for Hearing pursuant to Revised Code Chapter 119, submitted an Undertaking to offer rescission to affected Ohio investors, and entered into a Consent Agreement with the Division. The Cease and Desist Order found that Balentine & Company violated Revised Code section 1707.44(A)(1) by selling securities to Ohio residents as an unlicensed dealer.

OMNE SRL, Inc.

On February 25, 2002, the Division issued a Cease and Desist Order, Division Order No. 02-067, to OMNE SRL, Inc., of New York, New York.

On October 30, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order No. 01-287, to OMNE SRL, Inc., pursuant to Revised Code Chapter 119. The Division alleged that OMNE SRL, Inc., violated Revised Code section 1707.44(C)(1) by selling or causing to be sold unregistered promissory notes of OMNE SRL, Inc., to Ohio residents. The Division also notified OMNE SRL, Inc., of its right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and a final Cease and Desist Order was issued on February 25, 2002.

Icon Trading, Inc.; Raece Richardson; Joseph Isaac

On January 26, 2002, the Division issued a Cease and Desist Order, Division Order No. 02-072, to Icon Trading, Inc., Raece Richardson, and Joseph Isaac ("Respondents"), all of Costa Mesa, California.

On March 30, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order No. 01-103, to Respondents pursuant to Revised Code Chapter 119. The Division alleged that Respondents violated Revised Code sections 1707.44(C)(1) and 1707.44(B)(4) by selling or causing to be sold unregistered shares of stock of Icon Trading, Inc., to Ohio residents and making misrepresentations in connection with such sales. The Division also notified Respondents of their right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and a final Cease and Desist Order was issued on February 26, 2002.

Dale Carone

On January 27, 2002, the Division issued a Cease and Desist Order, Division Order No. 02-073, to Dale Carone of Huntington Beach, California.

On May 7, 2001, the Division issued a Notice of Opportunity for Hearing, Divi-

sion Order No. 01-142, to Dale Carone pursuant to Revised Code Chapter 119. The Division alleged that Dale Carone violated Revised Code sections 1707.44(C)(1) and 1707.44(B)(4) by selling or causing to be sold unregistered shares of stock of Icon Trading, Inc., to Ohio residents and making misrepresentations in connection with such sales. The Division also notified Dale Carone of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and a final Cease and Desist Order was issued on February 27, 2002.

Tim Nicholls

On January 27, 2002, the Division issued a Cease and Desist Order, Division Order No. 02-074, to Tim Nicholls of Huntington Beach, California.

On May 7, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order No. 01-145, to Tim Nicholls pursuant to Revised Code Chapter 119. The Division alleged that Tim Nicholls violated Revised Code sections 1707.44(C)(1) and 1707.44(B)(4) by selling or causing to be sold unregistered shares of stock of Icon Trading, Inc., to Ohio residents and making misrepresentations in connection with such sales. The Division also notified Tim Nicholls of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and a final Cease and Desist Order was issued on February 27, 2002.

Howard Miller

On January 27, 2002, the Division issued a Cease and Desist Order, Division Order No. 02-075, to Howard Miller of Costa Mesa, California.

On May 7, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order No. 01-143, to Howard Miller pursuant to Revised Code Chapter 119. The Division alleged that Howard Miller violated Revised Code sections 1707.44(C)(1) and 1707.44(B)(4) by selling or causing to be sold unregistered shares of stock of Icon Trading, Inc., to Ohio residents and making misrepresentations in connection with such sales. The Division

also notified Howard Miller of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and a final Cease and Desist Order was issued on February 27, 2002.

Phil D'Auria

On January 27, 2002, the Division issued a Cease and Desist Order, Division Order No. 02-076, to Phil D'Auria of Huntington Beach, California.

On May 7, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order No. 01-141, to Phil D'Auria pursuant to Revised Code Chapter 119. The Division alleged that Phil D'Auria violated Revised Code sections 1707.44(C)(1) and 1707.44(B)(4) by selling or causing to be sold unregistered shares of stock of Icon Trading, Inc., to Ohio residents and making misrepresentations in connection with such sales. The Division also notified Phil D'Auria of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and a final Cease and Desist Order was issued on February 27, 2002.

J.R. Tulloch

On January 27, 2002, the Division issued a Cease and Desist Order, Division Order No. 02-077, to J.R. Tulloch of Costa Mesa, California.

On May 7, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order No. 01-144, to J.R. Tulloch pursuant to Revised Code Chapter 119. The Division alleged that J.R. Tulloch violated Revised Code sections 1707.44(C)(1) and 1707.44(B)(4) by selling or causing to be sold unregistered shares of stock of Icon Trading, Inc., to Ohio residents and making misrepresentations in connection with such sales. The Division also notified J.R. Tulloch of his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and a final Cease and Desist Order was issued on February 27, 2002.

Microvision Systems, Inc.; Walt Korenkiewicz; Colin Nathanson; James Armstrong

On March 28, 2002, the Division issued a Cease and Desist Order, Division Order No. 02-105, to Microvision Systems, Inc., Walt Korenkiewicz, Colin Nathanson, and James Armstrong ("Respondents"), all of Newport Beach, California.

On September 7, 2001, the Division issued a Notice of Opportunity for Hearing, Division Order No. 01-261, to Respondents pursuant to Revised Code Chapter 119. The Division alleged that Respondents violated Revised Code sections 1707.44(C)(1) and 1707.44(B)(4) by selling or causing to be sold unregistered shares of stock of Interactive Acquisition Master, Inc., and Comtech 2000, Inc., to an Ohio resident and making misrepresentations in connection with such sales. The Division also notified Respondents of their right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code. A hearing was not requested and a final Cease and Desist Order was issued on March 28, 2002.

Donald Wayne Owens

On March 21, 2002, the Division issued a Cease and Desist Order, Division Order No. 02-100, to Donald Wayne Owens of Hamilton, Ohio.

The Division entered into a Consent Agreement with Owens in conjunction with the Cease and Desist Order. The Division found that Owens violated the provisions of Ohio Revised Code sections 1707.44(A)(1) and 1707.44(C)(1) by selling unregistered "Tee to Green Golf Parks" promissory notes while unlicensed as a securities dealer. Additionally, the Division found that Owens violated R.C. 1707.44(B)(4) by making false representations that the promissory notes were guaranteed by an insurance company.

Owens waived his right to an adjudicative hearing pursuant to Chapter 119 of the Revised Code, and the final Cease and Desist Order with Consent Agreement was issued on March 21, 2002.

Robert Douglas Westerfield

On March 21, 2002 the Division issued a final Cease and Desist Order to Robert Douglas Westerfield, of Springboro, Ohio. The Order found that Westerfield had violated Revised Code sections 1707.44(C)(1), 1707.44(A)(1), 1707.44(B)(4) and 1707.44(G). These sections prohibit, respectively, selling unregistered securities, engaging in any act or practice that violates subsections (A), (B) or (C) of R.C. 1707.14 (which prohibits persons from acting as a dealer of securities without a license); selling securities while knowingly making a false representation of a material and relevant fact; selling securities while knowingly engaging in any act or practice that is declared illegal, defined as fraudulent, or prohibited.

The Division had previously issued a Notice of Opportunity for Hearing on January 8, 2001 alleging the Respondent had violated the above-cited sections of the Revised Code. The allegations stemmed from the Respondent's sale of promissory notes in World Vision Entertainment, Inc., a Florida corporation that declared bankruptcy in September 1999. The Division asserted that the notes were not registered and that the Respondent sold the notes, on commission, without obtaining a dealers' license from the Division. The Division also asserted that the Respondent made several misrepresentations and omissions. Among other things, Respondent represented to investors that they would not lose their money, as the notes were bonded by an insurance company that was capable of guaranteeing the investments, when in fact the Respondent had no knowledge as to whether the insurance companies involved with World Vision Entertainment, Inc. had the financial strength to pay all claims. Respondent also failed to disclose, among other things, that the insurance companies were located overseas and were not licensed to do business in Ohio. The Notice of Opportunity for Hearing also advised Respondent of his right to an adjudicatory hearing pursuant to Chapter 119 of the Revised Code. Respondent failed to request a hearing, so the Division issued its final order to Cease and Desist.

CRIMINAL UPDATES

On January 2, 2002, **Thomas E. Buck** was sentenced in U.S. District Court in Akron, pursuant to a guilty plea entered on September 10, 2001, to charges of conspiracy, securities fraud, and mail fraud. Buck, a former colleague of **Andrew P. Bodnar**, was sentenced to 20 months in prison, three years supervised release, and ordered to pay \$247,000 in restitution.

On January 15, 2002, **Marsha Pawlowski Koerber** was sentenced in U.S. District Court in Akron to 34 months in prison, three years supervised release, and ordered to pay \$521,103 in restitution. Koerber was **Andrew J. Bodnar's** former office manager and had plead guilty on November 5, 2001 to charges of conspiracy, securities fraud, mail fraud, and tax evasion. Her sister, **Monica Reiter**, Bodnar's former administrative assistant, was also sentenced on January 15, 2002, to one day in prison, five months of home confinement, and ordered to pay \$160,000 in restitution. Reiter

plead guilty in October 2001 to charges of conspiracy, securities fraud, and mail fraud.

On January 30, 2002, **Kevin Ostrowski** was indicted in Lorain County on five counts each of selling unregistered securities and making false representations in connection with the sale of securities. Ostrowski, of Brunswick, Ohio, sold promissory notes of Pacific Air Transport and Lomas de la Barra to Ohio residents. The Division previously issued a Cease and Desist Order to Ostrowski in December 2000 for selling unregistered promissory notes and "selling away".

On February 11, 2002, **Essam A. Mikhail** pled guilty in Franklin County Common Pleas Court to one felony count of acting as an unlicensed investment adviser and one felony count of improperly maintaining custody of a client's funds or securities. Mikhail was sentenced on April 15, 2002 to four years on the unlicensed count and one year on the count involving the improper maintaining of clients' funds or securities. These sentences are to be served concurrently. This case represents the Division's first conviction under the new

investment adviser provisions to the Ohio Securities Act enacted in March 1999.

On March 25, 2002, in Cuyahoga County Common Pleas Court, **Gary Nelson Burg** pled guilty to four counts of selling securities without a license and two misdemeanor counts of attempted sale of securities without a license. Burg's plea was the result of his involvement in the sale of promissory notes of Serengeti Diamonds USA and Lomas de la Barra Development to Ohio residents.

Joseph Anthony Vargo was sentenced on March 27, 2002, in Cuyahoga County Common Pleas Court to two years' probation, 50 hours community service, and ordered to pay a fine and restitution. Vargo pled guilty on February 26, 2002, to two counts of selling securities without a license in connection with the sale of promissory notes of Serengeti Diamonds USA and Lomas de la Barra Development to Ohio residents.



Licensing Statistics

License Type	YTD 2001
Dealer	2,294
Salesmen	122,884
Investment Adviser	1,390
Investment Adviser Representative	8,652

Final Order Summaries

The following is a summary of recent final orders issued by the Division in response to salesperson and investment adviser representative license applications.

PARTY	DECISION	ORDER SENT/NO.	ALLEGATIONS H.O. RECOMMENDATIONS
Gregory Emmett John	DENIED	1/11/02 02-013	O.A.C. 1301:6-3-19(D)(2),(7) and (9); R.C. 1707.19(A)(1) FINDINGS DISAPPROVED
Gregory Wendel Meyers	DENIED	3/14/02 02-094	O.A.C. 1301:6-3-19(D)(1), (2), (7),and (9) & R.C.1707.19(A)(1) FINDINGS APPROVED
Kenneth Robert Edelbrock	DENIED	3/20/02 02-098	O.A.C. 1301:6-3-19(D) (2), (7), and (9) & R.C. 1707.19(A) NO HEARING REQUESTED

Registration Statistics

The following table sets forth the number of registration, exemption, and notice filings received by the Division during the first quarter of 2002, compared to the number of filings received during the first quarter of 2001. Likewise, the table compares the year-to-date filings for 2002 and 2001.

Filing Type	1st Qtr '02	YTD '02	1st Qtr '01	YTD '01
1707.03(Q)	33	33	39	39
1707.03(W)	8	8	8	8
1707.03(X)	249	249	301	301
1707.03(Y)	4	4	1	1
1707.04/.041	2	2	1	1
1707.06	31	31	23	23
1707.09/.091	36	36	50	50
Form NF	1081	1081	1409	1409
1707.39/.391	13	13	23	23
Total	1457	1457	1855	1855

Capital Formation Statistics*

Because the Division's mission includes enhancing capital formation, the Division tabulates the aggregate dollar amount of securities to be sold in Ohio pursuant to filings made with the Division. As indicated in the notes to the table, the aggregate dollar amount includes a value of \$1,000,000 for each "indefinite" investment company filing. However, the table does not reflect the value of securities sold pursuant to "self-executing exemptions" like the "exchange listed" exemption in R.C. 1707.02(E) and the "limited offering" exemption in R.C. 1707.03(O). Nonetheless, the Division believes that the statistics set out in the table are representative of the amount of capital formation taking place in Ohio.

*Categories reflect amount of securities registered, offered, or eligible to be sold in Ohio by issuers.

**Investment companies may seek to sell an indefinite amount of securities by submitting maximum fees. Based on the maximum filing fee of \$1100, an indefinite filing represents the sale of a minimum of \$1,000,000 worth of securities, with no maximum. For purposes of calculating an aggregate capital formation amount, each indefinite filing has been assigned a value of \$1,000,000.

Filing Type	First Qtr 2002	YTD 2002
Exemptions		
Form 3(Q)	69,167,178	69,167,178
Form 3(W)	13,662,000	13,662,000
Form 3(X)	137,993,455,204	137,993,455,204
Form 3(Y)	408,751,000	408,751,000
Registrations		
Form .06	253,046,399	253,046,399
Form .09/.091	13,493,109,426	13,493,109,426
Investment Companies		
Definite	2,118,945,099	2,118,945,099
Indefinite**	530,000,000	530,000,000
TOTAL	\$154,880,136,306	\$154,880,136,306

OHIO SECURITIES BULLETIN

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Division of Securities
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