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STATE OF NEW JERSEY
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BUREAU OF SECURITIES
153 Halsey Street
P.O. Box 47029
Newark, New Jersey 07101
(973) 504-3600

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| IN THE MATTER OF:<br><br>CHRISTOPHER CHUNG, CRD # 2132475,<br>KEVIN BRUNNOCK, CRD # 2836503,<br>and WILLIAM SAVINO, CRD # 721027,<br><br>RESPONDENTS. | NEW JERSEY OFFICE OF<br>ADMINISTRATIVE LAW<br>DOCKET NO. BOS 09049-2005N<br><br>**ADMINISTRATIVE CONSENT ORDER** |

Pursuant to the authority granted to the Chief of the New Jersey Bureau of Securities (the "Bureau Chief") by the New Jersey Uniform Securities Law (1997), N.J.S.A. 49:3-47 to 76 (the "Securities Law"), and in particular N.J.S.A. 49:3-67, and the Bureau Chief having recused himself from this matter and having designated the Deputy Bureau Chief in his stead, and after investigation and due consideration of the facts and statutory provisions set forth below, the Deputy Bureau Chief has determined that Christopher Chung ("Chung"), Kevin Brunnock ("Brunnock"), and William Savino ("Savino") (collectively "Respondents"), should be permanently barred from registration with the New Jersey Bureau of Securities (the "Bureau") and from acting as broker-dealers, agents, investment advisers, or investment adviser representatives, and from associating in any capacity with a broker-dealer or investment adviser who conducts business in New Jersey, and that Respondents should pay a civil monetary penalty as a consequence of certain conduct occurring during the period of January 2001 to October 2003, and in relation to Respondents' employment as agents of broker-dealer UBS Financial Services, Inc. ("UBS Financial Services" or "UBS") and subsequently as agents of broker-dealer Merrill Lynch & Co., Inc ("Merrill Lynch"). Consistent with the allegations of the First Amended Administrative Complaint the Bureau filed against Respondents with the New Jersey Office of Administrative Law, the Deputy Bureau Chief has determined that such permanent bar and penalty are necessary and appropriate in the public interest, for the protection of investors, and are otherwise consistent with the purposes of the Securities Law. Respondents consent to this Order and agree to resolve this matter on the terms set forth below.

The Deputy Bureau Chief makes the following **FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

1. Respondent Chung was employed as an agent of UBS

Financial Services from October 27, 2000 to January 4, 2002. Respondent Savino was employed as an agent of UBS Financial Services from May 2, 1997 to January 4, 2002. Respondent Brunnock was employed as an agent of UBS Financial Services from December 9, 1996 to January 4, 2002.

2. In or around January 2001, while employed as agents of UBS Financial Services, Chung and Savino began working as a team to provide investment services to hedge fund Millennium Partners, L.P. ("Millennium"). Brunnock, who was also employed as an agent of UBS Financial Services, began working with Chung and Savino to provide investment services to Millennium in or around May 2001.

3. Millennium engaged UBS as a broker-dealer after senior Millennium trader Steven Markowitz was introduced to Christopher Chung in late 2000. Millennium agreed to engage UBS as a broker-dealer after Markowitz and Chung discussed Millennium's trading strategies, the most significant of which was frequent, short-term "in and out" trading in mutual funds, or insurance products with mutual funds as their underlying investments, to exploit mutual fund pricing inefficiencies and capture short-term profits, a practice commonly referred to as "market timing."

4. Market timing is restricted or prohibited by many mutual funds because it allows the "timer" to capture short-term profits and dilute the value of the fund to the detriment of the mutual fund's other shareholders, the majority of whom are long-term investors. Market timing also forces the mutual fund to keep cash that would otherwise be invested on hand for redemptions, to incur excessive transactional costs, to hasten its realization of taxable capital gains, and at times causes the fund to sell securities in a depreciating market and consequently lose value.

5. Market timing violates the Securities Law when, among other things, a deceptive practice is used to: (i) conceal or attempt to conceal the nature or identity of a transaction from a mutual fund; or (ii) any attempt is made to induce a mutual fund to accept trades that it would otherwise not accept under its own market timing policies.

6. While employed as agents of UBS Financial Services, in contravention of the known policies of several dozen mutual funds, Respondents engaged in an aggressive pattern of market timing on behalf of Millennium, utilizing various practices designed to avoid detection by those mutual funds. Respondents internally referred to those practices as "flying under the

radar."

7. Respondents' market timing activities at UBS caused mutual funds to issue at least 150 stop letters to UBS and reject nearly 1,000 trades Respondents attempted. A "stop letter" is generally defined as correspondence from a mutual fund stating an objection to detected excessive trading and requesting or demanding that Respondents cease and desist their market timing activities.

8. On numerous occasions, Respondents continued to practice market timing in a mutual fund or family of funds after stop letters were issued, often using different and previously undetected account numbers, account names, financial advisor numbers, and UBS branch codes. When certain mutual funds attempted to block Respondents or Millennium from further trading, Respondents simply redeemed Millennium's shares in the fund and repurchased shares of the same fund using different identifying information.

9. In addition to using deceptive practices to fly under the radar, Respondents entered into covert agreements with persons at several mutual funds whereby Respondents were permitted, contrary to the fund's prospectus, to market time in the fund in exchange for "sticky assets," which are multi-

million dollar, long-term investments placed at mutual funds to induce the fund to allow market timing.

10. While employed as agents of UBS Financial Services, Respondents used 35 Millennium accounts, at least 8 variable annuity contracts, at least 7 different Financial Advisor numbers and 2 different branch codes to place close to 16,000 short-term mutual fund transactions, continuously engaging in practices designed to avoid detection of their market timing by the mutual funds.

11. By October 2001, many mutual funds had blocked or attempted to block Respondents from trading in Millennium accounts at UBS Financial Services. In or around December 2001, UBS made a decision to phase out all market timing activity by February 2002.[1] As a result of these developments, Respondents sought employment with another broker-dealer and contacted Merrill Lynch to discuss a possible arrangement.

12. Merrill Lynch had a stated policy, issued in or around June 1999, prohibiting market timing. Without fully disclosing their market timing activity and the strategies they had been

[1] On January 11, 2006, UBS entered into a Consent Order with the New Jersey Bureau of Securities and agreed to pay $24,750,000.00 in penalties and costs to the Bureau and an additional $24,750,000.00 to the New York Stock Exchange for its failure to properly supervise Respondents and other UBS agents in connection with their market timing activity.

employing on behalf of Millennium, Respondents represented to executives at Merrill Lynch that they would bring a diversified client base and $10 million in assets to Merrill Lynch. In fact, Millennium was by far Respondents' most substantial client and accounted for at least 75% of the assets Respondents would transfer from UBS Financial Services to Merrill Lynch.

13. Respondents were employed as agents of Merrill Lynch from January 4, 2002 to October 3, 2003.

14. When Millennium liquidated its accounts at UBS Financial Services and transferred assets to Merrill Lynch, many of the accounts established at Merrill Lynch were given a new name. Merrill Lynch's use of an omnibus account to trade shares of mutual funds was conducive to Respondents' plan to continue their market timing activity without detection because the omnibus account batched all Merrill Lynch sales together and provided the mutual funds with limited details regarding who was behind each transaction.

15. In addition to giving Millennium's accounts new names and using Merrill Lynch's omnibus account for their short-term trading of mutual funds, Respondents continued to engage in several other practices designed to avoid detection of market timing, including splitting large trades among multiple accounts

and moving positions back and forth between Merrill Lynch and accounts Millennium held directly at the mutual fund.

16. While employed as agents of Merrill Lynch, Respondents continued to market time many of the same funds that previously sought to curtail their activity when Respondents were agents of UBS. As Respondents had done at UBS, after certain funds issued stop letters requesting or demanding that Respondents' market timing activity cease and desist, Respondents continued to market time the same fund using different identifying information and/or techniques designed to avoid detection. Respondents placed over 9,000 mutual fund transactions at Merrill Lynch on behalf of Millennium, including over 3,000 transactions in the sub-accounts of insurance products.[2]

17. While employed as agents of Merrill Lynch, Respondents also assisted Millennium in avoiding the contingent deferred sales charges ("CDSCs") mutual funds typically assess when an investor holds a purchase of shares for fewer than 12 to 18 months. Respondents created a scheme to avoid incurring CDSCs while continuing to make short-term investments and hold shares

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[2] On March 4, 2005, Merrill Lynch entered into a Consent Order with the New Jersey Bureau of Securities and agreed to pay the Bureau a $10,000,000.00 penalty for its failure to properly supervise Respondents and other Merrill Lynch agents in connection with their market timing activity.

for a number of days or weeks. Respondents would purchase shares in standard, retail accounts subject to CDSCs. After transferring the shares between different types of accounts, Respondents sold the same shares from accounts not subject to CDSCs and designated for long-term investments of over $1 million. As a result, Respondents were able to simultaneously conceal their market timing activity, collect a commission for purchases made in retail accounts, and avoid incurring CDSCs for selling shares before the minimum holding period.

18. In violation of N.J.S.A. 49:3-52(a), Respondents' trading practices while employed as agents of UBS Financial Services and Merrill Lynch, designed to allow Respondents to successfully engage in high-volume and aggressive market timing in contravention of the mutual funds' stated policies and notices specifically seeking to curtail Respondents' activity, constituted a scheme to defraud in connection with the purchase and sale of securities.

19. In violation of N.J.S.A. 49:3-52(b), Respondents' failure, after certain mutual funds requested or demanded that their market timing activity on behalf of Millennium cease and desist, to inform those mutual funds that many of the account numbers, account names, and other identifying information

Respondents used to trade were connected to Millennium, constituted omissions to state material facts in connection with the purchase and sale of securities.

20. In violation of N.J.S.A. 49:3—52(c), the activity described in the preceding paragraphs also constituted engaging in acts, practices, and a course of business that operated or would operate as a fraud or deceit in connection with the purchase and sale of securities.

21. Pursuant to the authority granted to the Bureau Chief by N.J.S.A. 49:3-58 and N.J.S.A. 49:3-67, the activity described in the preceding paragraphs is grounds for a finding that it is in the public interest to permanently revoke Respondents' registration with the Bureau for violating the Securities Law and engaging in dishonest and unethical practices in the securities industry.

22. Pursuant to the provisions of N.J.S.A. 49:3-69(a)(2), the preceding violations of the Securities Law are grounds for the imposition of permanent injunctive relief.

Without admitting or denying the foregoing findings of fact and conclusions of law, Respondents consent to the form and binding effect of this Consent Order, and

Provided that all parties execute this agreement on or before the 31st Day of January, 2009, IT IS ORDERED AND AGREED:

## REVOCATION AND PERMANENT BAR

1. Each of Respondents' registration with the Bureau to act, directly or indirectly, as agents of a securities broker-dealer is hereby permanently revoked.

2. Respondents are hereby permanently barred from participating, directly or indirectly, in the issuance, sale, offer for sale, purchase, offer to purchase, promotion, negotiation, advertisement or distribution from or within New Jersey of any securities.

3. Respondents are hereby permanently barred from acting, directly or indirectly, as a broker-dealer, agent, investment adviser or investment adviser representative in the State of New Jersey pursuant to the definitions set forth at N.J.S.A. 49:3-49. Pursuant to this provision, Respondents are also permanently barred from associating, as an employee, officer, or any other type of representative or agent, with a broker-dealer or investment adviser who is registered with the Bureau to conduct business in the State of New Jersey.

## CIVIL MONETARY PENALTY ASSESSMENT

4. Respondents are collectively assessed and liable to pay a civil monetary penalty, pursuant to N.J.S.A. 49:3-70.1, to

the New Jersey Bureau of Securities in the amount of One Million One Hundred Fifty Thousand Dollars ($1,150,000.00). This sum shall be payable by check to "State of New Jersey, Bureau of Securities," and delivered to the attention of the Bureau Chief at New Jersey Bureau of Securities, 153 Halsey Street, 6th Floor, Newark, New Jersey, 07101, as follows:

a. $300,000.00 from Respondent Kenneth Brunnock on or before March 31, 2009;

b. $425,000.00 from Respondent Christopher Chung on or before March 31, 2009; and

c. $425,000.00 from Respondent William Savino on or before March 31, 2009.

## GENERAL PROVISIONS

5. Nothing in this Consent Order shall in any manner be construed to limit or affect the rights of any persons, other than the Bureau or the Attorney General as it pertains to the allegations in the Bureau's Amended Administrative Complaint, who may have a claim against Respondents or any individual or entity involved in this matter.

6. The parties to this Consent Order acknowledge that for

the purpose of enforcement of this Consent Order, New Jersey law shall govern the terms and provisions herein.

7. As used in this Consent Order, the plural shall include the singular and the singular shall include the plural. In addition, "or" and "and" shall be interpreted conjunctively;

8. The parties to this Consent Order represent that a person authorized to sign a document legally binding each party to its terms has signed this Consent Order with full knowledge, understanding, and acceptance of its terms.

9. This Consent Order constitutes the entire agreement between the Bureau and Respondents with respect to its subject matter. Any addition, deletion or change to this Consent Order must be in writing and signed by all parties to be bound by such addition, deletion, or change.

10. The parties to this Consent Order have negotiated and fully reviewed its terms and therefore uncertainty or ambiguity shall not be construed against the drafter.

11. Except as otherwise explicitly provided in this Consent Order, nothing herein shall be construed to limit the authority of the New Jersey Attorney General or the Chief of the New Jersey Bureau of Securities to protect the interests of the State of New Jersey or the people of the State of New Jersey.

12. If any portion of this Consent Order is held invalid or unenforceable by operation of law, the remaining terms of this Consent Order shall not be affected.

13. This Consent Order shall be binding upon the parties and their successors. In no event shall assignment of any right, power or authority avoid compliance with the terms of this Consent Order.

14. Respondents shall not represent or imply that by virtue of this Consent Order, any business practice or other act or practice hereinafter used or engaged in is required or approved, in whole or in part, by the New Jersey Attorney General, the New Jersey Bureau of Securities, or any other State of New Jersey agency or subdivision.

15. Any signature required for the entry of this Consent Order and Final Judgment may be executed in counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same Consent Order.

CHRISTOPHER CHUNG HEREBY CONSENTS TO THE FORM, CONTENT, AND ENTRY OF THIS ORDER:

By: ______________________

Christopher Chung

Dated: 12/28/08

KEVIN BRUNNOCK HEREBY CONSENTS TO THE FORM, CONTENT, AND ENTRY OF THIS ORDER:

By: ______________________
Kevin Brunnock

Dated: 12/30/08

WILLIAM SAVINO HEREBY CONSENTS TO THE FORM, CONTENT, AND ENTRY OF THIS ORDER:

By: ______________________
William Savino

Dated: 12/28/08

THE NEW JERSEY BUREAU OF SECURITIES HEREBY CONSENTS TO THE FORM, CONTENT, AND ENTRY OF THIS ORDER:

By: ______________________________

Amy Kopleton
Deputy Bureau Chief/Acting Bureau Chief

Dated: 1/28/09

NEW JERSEY OFFICE OF THE ATTORNEY GENERAL
DIVISION OF LAW

By: ______________________________ 1/28/09

Victoria A. Manning
Deputy Attorney General, Assistant Section Chief,
Securities Fraud Prosecution