

STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
NEW JERSEY BUREAU OF SECURITIES
OAL DKT. NO. BOS 11902-96N

Administrative Action

IN THE MATTER OF:

Palmer J. Myers

**FINAL DECISION AND ORDER
ADOPTING INITIAL DECISION**

**BEFORE FRANKLIN L. WIDMANN, CHIEF
NEW JERSEY BUREAU OF SECURITIES**

This matter is before Franklin L. Widmann, Chief of the New Jersey Bureau of Securities, Division of Consumer Affairs, to review the January 9, 2002 Initial Decision in this matter and to render a Final Decision pursuant to N.J.A.C. 1:1-18.

Based upon a thorough review of the Initial Decision and of the entire record, the Bureau Chief hereby determines that the Initial Decision should be adopted without modification.

THUS, IT IS on this *5* th of *February* 2002, ORDERED that:

The January 9, 2002 Initial Decision is adopted for the reasons set forth therein.

NEW JERSEY BUREAU OF SECURITIES

By: *Franklin L. Widmann*
Franklin L. Widmann, Chief



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

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INITIAL DECISION

OAL DKT. NO: BOS 11902-96

In the Matter of:

PALMER J. MEYERS

John P. Miscione, Deputy Attorney General, for petitioner
(John J. Farmer, Jr., Attorney General of New Jersey, attorney)

Henry Putzel III, Esq., for respondent

Record Closed: January 3, 2002

Decided: January 9, 2002

BEFORE JEFFREY A. GERSON, ALJ:

This matter having been presented to the Office of Administrative Law (OAL) on a Motion for Summary Decision assessing penalties with respect to the violation of the Uniform Securities Law, *N.J.S.A. 49:3-47 et seq.*, which this tribunal determined constituted the factual basis for revoking respondent's registration as an agent in the court's July 2, 2001 Order Granting Partial Summary Decision which the Chief of Bureau of Securities adopted in his August 7, 2001 Final Decision and Order.

This tribunal has considered the papers submitted and has determined that the Bureau has shown that the standards for summary decision contained in *N.J.A.C. 1:1-12.5(b)* have been met, namely, that there is no genuine issue as to any material fact challenged and that the Bureau is entitled to prevail as a matter of law.

Accordingly, this tribunal finds that during the more than three years from August 1992 through November 1996 when Myers was an agent of the broker-dealer L.C. Wegard & Company, Inc., he committed at least 82 violations of the securities law in that, believing that his actions constituted fraudulent sales practices and that they violated the securities law, Myers nevertheless knowingly, intentionally and voluntarily:

- a. offered to sell and sold at least 27 speculative, high-risk securities by misrepresenting material facts and that such misrepresentation enhanced the sale of the securities;
- b. offered to sell and sold at least 27 speculative, high-risk securities by omitting material facts, and that such omission enhanced the sale of the securities;
- c. distributed sales scripts to other agents, to be used to induce customers to purchase at least 27 speculative, high-risk securities, which scripts misrepresented and omitted material facts, and that such misrepresentation and omission enhanced the sale of the securities; and
- d. concealed these practices from securities regulators, e.g., by destroying the sales scripts.

Further, I FIND that:

- a. Each misrepresentation of a material fact constituted a separate violation of §52(b) of the Securities Law, namely, misrepresenting material information regarding the securities offered and sold under the standard enunciated in *Merin v. Maglaki*, 126 N.J. 430 (1992): “. . . a civil penalty may be imposed . . . for each of the knowing and material false statements . . . which significantly enhanced [the single] fraudulent [sale]” (*Merin, supra*, 440, emphasis added).
- b. Each omission of a material fact constituted a separate violation of §52(b) of the Securities Law, namely, “. . . omit[ting] to state [] material fact(s) necessary in order to make the statements made . . . not misleading” under the *Merin* standard.
- c. Distributing scripts to other agents which misrepresented and omitted important facts constituted violations of §52(c) of the Securities Law, enjoining “any . . . course of business which . . . would operate as a fraud . . .”
- d. Concealing these practices from securities regulators constituted a separate violation of §52(c) of the Securities Law, enjoining “any . . . course of business which . . . would operate as a fraud . . .”

In view of the record in this matter as to:

- (1) the number, nature and widespread effect of Myers' violations,
- (2) the more than three year period over which they occurred,
- (3) the losses incurred by his customers and those of the other brokers in the office to whom he distributed scripts,
- (4) his having been a securities agent since 1990 and having continued to be registered as an agent subsequent to his association with Wegard until 1999,
- (5) his admission that he acted with full knowledge that he was violating the law, and
- (6) the federal sanctions already imposed upon him

It is therefore **ORDERED** that:

- (a) Myers is assessed a monetary penalty of \$2000 for each of his 82 violations;
- (b) \$1000 per violation = \$82,000 in total - - is payable within 30 days of the date on which this initial decision becomes final under *N.J.A.C. 1:1-18.6*;
- (c) in view of Myers' prior cooperation with the Bureau, the remaining \$1000 - - \$82,000 in total - - is payable in four installments of \$20,500 on each of the first four anniversaries of the Initial Decision becoming final, subject to (d), below;
- (d) also in view of Myers' prior cooperation with the Bureau, the payment of any installment required under (c), above will be forgiven if:
 - i Myers shall have continued to cooperate with the Bureau as requested from time to time;
 - ii Myers shall have made written application for forgiveness of that installment not sooner than 60 days before its due date and not later than 30 days before such date;
 - iii Myers shall have certified that, since the date on which the initial decision became final, he has not come within any of the provisions of §52(a)(2) of the Securities Law warranting denial, suspension or revocation of registration; and
 - iv the Bureau Chief shall, after providing Myers with an opportunity to be heard on the application, and in his or her sole discretion, have approved such forgiveness;

but in no event shall the initial payment of \$82,000 required under (b) above, be eligible;

- (e) if the Bureau Chief determines that Myers has, since the date on which the Initial Decision became final, come within any of the provisions of §52(a)(2), the entire remaining amount not forgiven becomes immediately due and payable;
the Bureau Chief may make such determination at any time - - whether incident to reviewing any application Myers may make for forgiveness of an installment under (d) above, or otherwise - - after providing Myers with an opportunity to be heard on the matter, in his or her sole discretion;
- (f) with respect to Myers' failing to make payment of \$82,000, required under (b) above, there shall become immediately due and payable the additional \$82,000 required under (c) above; and the provisions of (d) above, regarding potential forgiveness shall become inoperative;
the result of such failure is, therefore, that the entire penalty of \$2000 per violation - - \$164,000 in total - - shall then be due and payable with no possibility of forgiveness; if Myers fails to make any of the installment payments required under (c) above, which have not been forgiven under the provisions of (d), any remaining installments shall become immediately due and payable.

This grant of the Motion for Summary Decision assessing penalties, taken together with this tribunal's July 2, 2001 Order granting Partial Summary Decision which the Chief of the Bureau of Securities adopted in his August 7, 2001 Final Decision and Order, fully disposes of the case and therefore under *N.J.A.C. 1:1-12.5(c)* shall be treated as an initial decision under *N.J.A.C. 1:1-18*.

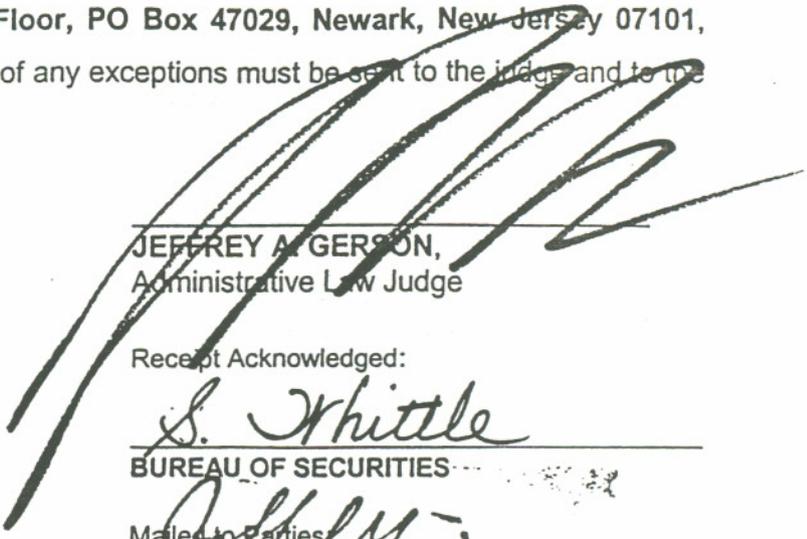
I hereby **FILE** my initial decision with the **CHIEF OF THE BUREAU OF SECURITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **CHIEF OF THE BUREAU OF SECURITIES**, who by law is authorized to make a final decision in this matter. If the Chief of the Bureau of Securities does not adopt, modify or reject this decision within forty-five (45) days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with *N.J.S.A. 52:14B-10*.

Within thirteen (13) days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **CHIEF OF THE BUREAU OF SECURITIES, 153 Halsey Street, 6th Floor, PO Box 47029, Newark, New Jersey 07101**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

DATE

1/09/02


JEFFREY A. GERSON,
Administrative Law Judge

Receipt Acknowledged:

DATE

1/18/02

S. Whittle
BUREAU OF SECURITIES

Mailed to Parties

DATE

JAN 18 2002

J. J. Mani
ACTING DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE
OFFICE OF ADMINISTRATIVE LAW

/g



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Composite Information

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Individual CRD#: 2116791 Individual Name: MYERS, PALMER J

Composite Information

Full Legal Name:	MYERS, PALMER JAMES
Social Security #:	004-82-5231
Date Of Birth:	12/23/1967
Residential Address	3014 BLOOMINGDALE DRIVE HILLSBOROUGH TWP, NJ 08876
Reportable Disclosures?	Y
Statutory Disqualification Status	Clear
System Archive:	None Found

Personal Information

Employment History

Other Business

Registrations

Registrations Summary

Registrations with Current Employers

Registrations with Prior Employers

Disclosures

Deficiencies

Exam Information

Continuing

Education

Fingerprint Cards

Prior Firm(s):

Registrations Summary With Prior Employers

Individual CRD#: 2116791 Individual Name: MYERS, PALMER J

Firm Name	Firm CRD	Start Date	End Date	SFG Member
FAIRCHILD FINANCIAL GROUP, INC.	21404	08/1998	01/1999	N
IAR SECURITIES CORP.	5155	02/1997	08/1998	N
AMERICORP SECURITIES, INC.	30405	07/1996	02/1997	N
VTR CAPITAL, INC.	21404	11/1995	07/1996	N
L.C. WEGARD & CO., INC.	3722	08/1992	11/1995	N
HIBBARD BROWN & CO., INC.	18246	12/1990	08/1992	N