OFFICE OF THE ATTORNEY GENERAL
BUREAU OF SECURITIES
STATE OF NEW JERSEY
153 HALSEY STREET
P.O. BOX 47029
NEWARK, NEW JERSEY 07101
TEL. NO. (973) 504-3600

IN THE MATTER OF CANARY CAPITAL PARTNERS, LLC, CANARY INVESTMENT MANAGEMENT , LLC, CANARY CAPITAL PARTNERS, LTD, and EDWARD J. STERN	: : : : : :	**CONSENT ORDER**

Pursuant to the authority granted to the Chief ("Bureau Chief) of the New Jersey Bureau of Securities (the "Bureau") by the Uniform Securities Law (1997), N.J.S.A. 49:3-47 et seq. (The Securities Law"), and after investigation and review and due consideration of the facts set forth below, the Bureau Chief has determined a compensatory payment shall be made to the Bureau to administer the provisions of the Securities Law and to investigate violations and to enforce the prohibitions of the Securities Law to protect the public. The compensatory payment shall be deposited in the Securities Enforcement Fund pursuant to N.J.S.A. 49:3-66.1. The Bureau shall be reimbursed for the costs of investigation. Edward J. Stern ("Stern"), Canary Capital Partners, LLC, Canary Investment Management, LLC, Canary Capital Partners, Ltd. (collectively, "Canary"), through counsel (William E. Goydan, Esq. of Wolff & Samson, P.C., and

Gary Naftalis, Esq. of Kramer Levin Naftalis & Frankel, LLP, appearing), now desire to resolve this matter, without recourse to formal Court proceedings, and consent to the form and entry of this Consent Order.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Bureau Chief makes the following findings of fact and conclusions of law against Stern and Canary related to the trading of mutual fund shares and variable annuity subaccounts between January 1, 1998 and July 31, 2003:

1. Canary Capital Partners, LLC, is a hedge fund that operated from Secaucus, New Jersey at all relevant times.

2. Canary Investment Management, LLC, is an investment company that operated out of Secaucus, New Jersey at all relevant times.

3. Canary Capital Partners, Ltd. is an off-shore entity formed in Bermuda with an office in Secaucus, New Jersey.

4. Stern was, at all relevant times, the managing principal of Canary Capital Partners, LLC and Canary Capital Partners, Ltd., and the managing member of Canary Investment Management, LLC;

5. Canary engaged in "late trading" by improperly buying and selling mutual fund shares after the close of the market, that were priced as of the close;

6. Canary engaged in "market timing" of mutual funds and mutual fund sub-accounts of variable annuity products, through the frequent short-term trading of the funds by employing schemes and devices, directly and through others, to conceal and otherwise disguise its trading.

7. Canary paid employees of mutual funds and brokerage firms, through various forms of compensation, for the opportunity to late trade and/or market time mutual funds, and for the benefit of disclosure of the non-public mutual fund portfolio holdings;

8. Canary's late trading and market timing had a deleterious and detrimental effect on the long term shareholders invested in the same funds in which Canary traded; and

9. Canary's engagement, directly and through others, in the conduct described above, constituted violations of N.J.S.A. 49:3-52(a) and (c).

WHEREAS, Canary, Stern and the Bureau are desirous of resolving the issues raised as a result of the investigation

without the expense and delay that other proceedings would involve; and

WHEREAS, Canary and Stern admit the jurisdiction of the Bureau, neither admit nor deny the Bureau's allegations, and, solely for the purposes of this proceeding, prior to a hearing without an adjudication of any issue of law or fact, consent to the entry of this Consent Order and voluntarily waive the following rights for the purposes of this proceeding only:

a. To be afforded an opportunity for hearing after reasonable notice within the meaning of N.J.S.A. 49:3-58(c)(2); and

b. To seek judicial review of, or otherwise challenge or contest, the matters described herein, including the validity of this Consent Order; and

WHEREAS, N.J.S.A. 49:3-67 authorizes the Bureau Chief from time to time to issue such orders as are reasonably necessary to carry out the provisions of the Securities Law; and

WHEREAS, Canary and Stern agree that for purposes of this matter, or any future proceedings before the Bureau to enforce this agreement, this Consent Order shall have the same effect as if proved and ordered after a full hearing held pursuant to N.J.S.A. 52:14~~8~~B-1 *et seq.*; and

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WHEREAS, this Consent Order concludes the investigation by the Bureau and the Department of Law and Public Safety (the "Department") and constitutes a settlement of all civil claims that the Bureau and the Department could commence against Stern, Stern's Family,[1] Canary, Hartz Trading, Inc., Plaza Drive Associates LLC, and their employees relating to the trading of mutual fund shares or variable annuity subaccounts and related actions from January 1, 1998 until July 31, 2003.

IT IS on this 13th day of January, 2006,

ORDERED and AGREED that:

10. Canary and Stern are: (1) not to invest or trade in mutual funds on their own behalf or on behalf of others, provided, however, that Stern may purchase

[1]The "Stern Family" for the purpose of this Consent Order shall mean Stern, Stern's parents (including step-parents), Stern's siblings and their children, Stern's spouse and his children, and the Leonard N. Stern Trust.

mutual fund shares on his own behalf and must hold such shares for at least one year; and (2) during the next thirteen years from the entry of this Consent Order, not to manage or invest the funds of any third parties in securities, other than on behalf of: (a) members of the Stern Family as previously defined; or (b) any corporations or entities 100% owned by members of the Stern Family as previously defined; or (c) retirement accounts, deferred compensation plans and/or profit sharing plans for full time employees of corporations or entities 100% owned by members of the Stern Family.

11. Canary and Stern, directly or indirectly, through any agent, employee, officer, director or any other person, shall cease and desist from:

a. employing any device, scheme or artifice to defraud in connection with the offer, sale or purchase of any security;

b. making any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not

misleading, in connection with the offer, sale, or purchase of any security; and

c. engaging in any act, practice or course of business which operated or would operate as a fraud or deceit upon any person, in connection with the offer, sale, or purchase of any security;

12. a. Canary and Stern shall fully and promptly cooperate with the Bureau and the Office of the Attorney General, with regard to the investigation of others relating to trading of mutual fund shares or variable annuity sub-accounts and related actions, or court or administrative proceedings. Canary and Stern will use their best efforts to ensure that all officers, directors, agents, and employees of Canary and any entities in which Canary or Stern has an ownership interest or management role, are available for interviews, to give testimony and provide documents when requested by the Bureau or Office of the Attorney General, with regard to its investigation of others relating to trading of mutual fund shares or variable annuity sub-accounts and related actions or proceedings.

b. Canary and Stern will bear the costs of producing documents, information, and/or witnesses requested by either the Bureau or the Office of the Attorney General.

13. With regard to paragraph 12 of this Consent Order, cooperation shall include without limitation and without subpoena:

a. Voluntary and prompt production of all documents, telephone recordings, or other tangible evidence requested and any compilations or summaries of information or data that the Bureau or Office of the Attorney General request or that has already been produced to other state and/or federal regulators, as to Stern, and any officers, directors, agents and employees of Canary and any entities in which Canary or Stern has an ownership interest or management role.

b. Voluntary and prompt attendance at all proceedings at which the presence of any such persons is requested by the Bureau or Office of the Attorney General as to Stern, and any officers, directors, agents and employees of Canary and any entities in

which Canary or Stern has an ownership interest or management role.

c. Voluntary, prompt, forthright and complete responses to all inquiries from the Bureau or Office of the Attorney General directed to Stern, and any officers, directors, agents and employees of Canary and any entities in which Canary or Stern has an ownership interest or management role.

d. Voluntary and prompt attendance at interviews, whether or not on-the-record, of Stern, and any officers, directors, agents and employees of Canary and any entities in which Canary or Stern has an ownership interest or management role before the Bureau and Office of the Attorney General. At any such interview, Stern, and any officers, directors, agents and employees of Canary and any entities in which Canary or Stern has an ownership interest or management role shall give voluntary forthright and complete responses to all questions from the Bureau or Office of the Attorney General.

14. Canary shall make a compensatory payment in the amount of $10,000,000.00 (the "settlement funds"), in civil

settlement of all claims against Stern, Stern's Family, Canary, Hartz Trading, Inc., Plaza Drive Associates LLC, and their employees by the Bureau and the Department relating to the trading of mutual fund shares or variable annuity subaccounts and related actions from January 1, 1998 until July 31, 2003. The settlement funds shall be used to administer and comply with the provisions of the Uniform Securities Law, P.L. 1997, c.276, N.J.S.A. 49:3-47 et seq. ("Law"), prosecutorial expenses, investigative costs, and Bureau initiatives.

Upon the entry of this Consent Order by the Bureau Chief, Canary shall immediately deposit the settlement funds into counsel for Canary's interest-bearing trust account. Said settlement funds, with all accrued interest, shall be payable to the "State of New Jersey, Bureau of Securities" at the direction of the Bureau Chief and no later than 45 days following the execution of this Order. The settlement funds shall be deposited in the Securities Enforcement Fund pursuant to N.J.S.A. 49:3-66.1.

15. 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.

16. The parties to this Consent Order represent that an authorized representative of each has signed this Consent Order with full knowledge, understanding and acceptance of its terms, and that each person has done so with authority to legally bind the respective party.

17. This Consent Order constitutes the entire agreement among the parties with respect to its subject matter. Any addition, deletion or change to this Consent Order must be in writing and signed by all parties in order to be binding.

18. Any action commenced by the Bureau or Office of the Attorney General to enforce this Consent Order shall be brought in Superior Court, Chancery Division in accordance with R. 1:6-3 of the New Jersey Rules of Court governing civil practice. Canary and Stern agree to and do hereby waive all jurisdictional defenses to any action by the Bureau or the Office of

the Attorney General. Canary and Stern designate and authorize William E. Goydan, Esq. of Wolff & Samson P.C. to accept service of process and to execute an Acknowledgment of Service form.

Consent to the form
and entry of this order:

OFFICE OF THE ATTORNEY GENERAL
FOR THE STATE OF NEW JERSEY
BUREAU OF SECURITIES

By: Franklin L. Widmann
Franklin L. Widmann
Bureau Chief

Dated: January 13, 2006

OFFICE OF THE ATTORNEY GENERAL
FOR THE STATE OF NEW JERSEY
DIVISION OF LAW

By: _____
Anna M. Lascurain, Deputy Attorney General, Division of Law
Section Chief, Securities Fraud Prosecutions Section

Dated: January 13, 2006

WOLFF AND SAMSON, P.C.
Counsel for Canary and Stern

By: _____
William E. Goydan, Esq.

Dated: JANUARY 13, 2006

Of Counsel:

KRAMER LEVIN NAFTALIS & FRANKEL LLP
Counsel for Canary and Stern