

1982

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INVESTOR PROTECTION AND SECURITIES

Under authority specifically given him by New York State's Martin Act, the Attorney General has broad powers to protect New Yorkers from securities and investment fraud by brokers, dealers, salespeople, investment advisors and the principals of their firms. The federal Commodity Futures Trade Commission Act also empowers the State Attorney General to bring federal court actions seeking to prevent fraudulent practices in the sale of commodities. The Attorney General's responsibility of regulating securities transactions in New York is shared with federal regulatory agencies.

Among the significant matters brought or resolved by the Attorney General's Investor Protection and Securities Bureau during 1982 were:

1. New York State v. Paul Curcio, Jr. a/k/a Dominick Bellini

The defendant induced investors to give him sums of money to invest in bulk fabrics which never existed. The defendant swindled a number of investors for a total sum of approximately \$20,000 by falsely representing to them that he was buying bulk denim and corduroy to be used to manufacture jeans. The defendant claimed he had bought the fabric from some of the top mills in the country, such as Cone Mills, Dan River Mills, Crompton Mills, Burlington Mills and J.P. Stevens Co. All such claims were false. The defendant also threatened bodily harm to

one of the investors who had complained to the Attorney General's office.

The defendant pleaded guilty and was sentenced to 60 days in prison, and four years and ten months probation. He was also ordered to make restitution.

This case resulted in the expansion of the definition of a security under New York law to include an investment in bulk fabrics and other goods in which people are induced by a promoter to invest in with expectation of making a profit.

2. New York State v. Bruce Bressman

A diamond broker stole money from investors and investment grade diamonds from suppliers and other investors. The defendant stole \$300,000 worth of diamonds from investors and suppliers who had given him the stones for sale. One of the victims was a California-based church which had purchased the diamonds for investment purposes. The church's loss exceeded \$115,000.

On December 10, 1982, defendant was sentenced to eight weeks in prison, four years and ten months probation and restitution.

This was the first criminal prosecution of a diamond broker selling investment grade diamonds, which are securities under New York law.

3. New York State v. Gilbert Puentes, Jr. Spring Lake Stables Syndicates

This case involves a criminal prosecution for grand larceny, criminal contempt and securities fraud arising from a referral by the New York State Racing Board. The defendant, Gil Puentes, Jr., son of one of the leading horse racing trainers in New York State, has been selling securities in the nature of investment

interests in horse racing syndicates to some 30 investors for approximately \$150,000 without registering pursuant to the Martin Act. In addition, he has employed unregistered salesmen as part of his operations. The defendant is subject to a previously issued permanent injunction which bars him from engaging in securities transactions in New York. The defendant has failed to account for approximately \$25,000 of investors' monies. A search warrant was executed on the defendant's office and his cash box was seized. It was found to be empty.

A successful prosecution of this case will bring race horse syndicates within the definition of a security under New York Law and subject this type of syndication to the Attorney General's regulation under the Martin Act, which has criminal sanctions, in addition to the present regulations by the N.Y.S. Racing Board, which have no criminal sanctions.

4. People v. Mineral Resources Corporation et. al.  
(31 defendants)

Mineral Resources Corporation, its president, and 29 employees operated a boiler room from two New York City locations. They fraudulently sold tantalum as an investment to the public. In approximately 4 months they allegedly stole \$1.3 million from 148 investors. To accomplish this, they used a carefully orchestrated series of deceptions called the "take away sale." The misrepresentations included: that tantalum came from Russia; that there was a ready market for the tantalum when the investor was ready to sell and that the price of tantalum was going up during the period in question.

In addition to the two New York City locations, Mineral Resources Corp. was expanding into Florida, Connecticut and New Jersey.

As of the end of 1982, the Attorney General obtained seven felony pleas and one misdemeanor plea before trial. Sixteen convictions for fraud and conspiracy were obtained by jury verdict. An additional six misdemeanor pleas were obtained after trial.

This was the first time a major effort was made to prosecute boiler room salesmen. This effort was undertaken to break the traditional pattern of salesmen who move from boiler room to boiler room with impunity because salesmen are never prosecuted. This prosecution has had a chilling effect on boiler room activity in New York.

#### 5. People v. Am Pro Marketing

This nationwide pyramid scheme marketing Mix-I-Go gas additives grossed over \$16 million in 1½ years of operation. The matter was litigated in various forums by three law firms before the Attorney General's final victory. The company was the nations' top pyramid scheme company. The Attorney General's action was commenced by a General Business Law § 354 order, and testimony was taken over the course of 4½ months. A criminal complaint was filed in Criminal Court of the City of New York, County of Queens, against Am Pro Marketing, Glenn Beadle, Steve Spaulding and Thino Cacciolo, Jr. on March 19, 1982: A permanent injunction was served on the defendants December 9, 1982, enjoining them from engaging in pyramid sales, deceptive acts and

practices. The order contained an agreement providing for \$27,000 in penalties and \$8,000 in costs, restitution to former participants, prohibitions on advertising and demonstration of recruitment incentives.

This company is the largest pyramid company in the U.S. Its structure was devised by Glenn Beadle, former president of Glen Turner Enterprises. This matter was litigated in various forums by three law firms for over 1 1/2 years before resolution. This State was the first and only State, until several months ago, to take any action whatsoever against this company.

6. State of New York v. Ashton Springer

The complaint against Ashton Springer arose from his role as producer of the Broadway show "Eubie." The Attorney General's office alleged that Springer used the investor's monies prior to his raising the minimum capitalization; that Springer failed to amend the offering literature even though he was exceeding his budget; that he formed a touring company of "Eubie" without the investors' consent; that he failed to disclose his prior criminal record in the offering literature; and that he failed to file the required financial statements for "Eubie," "Daddy Goodness" and "whoopee."

In settlement of the proposed civil lawsuit, Springer consented to a permanent injunction whereby he was enjoined from using fraudulent practices in regard to a theatrical production and from violating article 26-A of the General Business Law.

The consent injunction also required Springer to offer restitution to all investors who did not sign a waiver; file

certified financial statements for "Whoopee" and "Daddy Goodness," and to pay \$2,000.00 in court costs.

7. People v. Min-Fu Hung, a/k/a Frank Hung

The defendant, a registered salesman for Allen Rogers & Co., which executes its orders through Shearson/Amex, ordered a check for \$4,200 to be issued to a customer, knowing the customer was out of the country. Instead of forwarding the check, he forged the customer's signature, deposited the check into his own bank account, and traded in the customer's account to try to cover up, and perhaps earn back, the money stolen. The defendant confessed after his surrender, pleaded guilty and will be sentenced in January 1983.