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**00 CIV. 2426**

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Securities and Exchange Commission

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

- against -

THE OAKFORD CORPORATION,  
EDWARD J. MUEGER, INC.,  
MFS SECURITIES CORP.,  
OAKWOOD SECURITIES CORP.,  
D'ALESSIO SECURITIES, INC.,  
WILLIAM S. KILLEEN, THOMAS W. BOCK,  
THOMAS J. CAVALLINO, EDWARD J. MUEGER,  
MARK R. SAVARESE, JOHN J. SAVARESE  
and JOHN R. D'ALESSIO,

Defendants.  
-----X

00 Civ.

COMPLAINT

Mar 30 4 30 PM '00



Plaintiff Securities and Exchange Commission ("Commission"), for its Complaint against  
The Oakford Corporation ("Oakford"), Edward J. Mueger, Inc ("Mueger, Inc."), MFS Securities  
Corp. ("MFS"), Oakwood Securities Corp. ("Oakwood"), D'Alessio Securities, Inc. ("D'Alessio  
Securities"), William S. Killeen ("Killeen"), Thomas W. Bock ("Bock"), Thomas J. Cavallino  
("Cavallino"), Edward J. Mueger ("Mueger"), Mark R. Savarese ("M. Savarese"), John J.

Savarese ("J. Savarese") and John R. D'Alessio ("D'Alessio") (collectively "the Defendants") alleges as follows:

### **PRELIMINARY STATEMENT**

1. The Commission brings this action to reinstitute charges against certain floor brokers and others who engaged in a scheme of unlawful proprietary and discretionary securities trading from the floor of the New York Stock Exchange, Inc. ("NYSE"). From 1993 through 1998, the floor brokers improperly took advantage of information they obtained on the NYSE floor to make trades for designated accounts at Defendant Oakford, a registered broker-dealer at the time. Cavallino; Mueger; J. Savarese; M. Savarese; the Savareses' alter ego, MFS; and D'Alessio (together, the "Floor Brokers") exercised significant discretion over their Oakford accounts ("Oakford Accounts"), which were in fact the Floor Brokers' own accounts in that the Floor Brokers received 70% to 90% of the trading profits pursuant to oral agreements with Oakford and its principals, Bock and Killeen. By trading in their own accounts and accounts over which they exercised discretion, these Floor Brokers violated Section 11(a) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78k(a)], Rule 11a-1 thereunder [17 C.F.R. § 240.11a-1], and – in the case of most of the Floor Brokers – NYSE Rules 90(a), 95(a) and 111(a). Beyond that, Cavallino and his firm, Oakwood, J. Savarese and MFS, D'Alessio, and D'Alessio Securities unlawfully executed trades in their Oakford Accounts while holding unexecuted customer orders for the same securities, and, along with M. Savarese, filled customer orders with securities bought from or sold to their Oakford Accounts. As such, they "frontran" and "traded ahead" of customer orders in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)], Rule 10b-5 [17 C.F.R. § 240.10b-5], and Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C.

§ 77q(a)], and, in certain circumstances, violated NYSE Rules 91 and 92. Aided and abetted by other Defendants, Mueger, Inc., MFS, Oakwood, D'Alessio Securities, and Oakford made and kept false order tickets and billing invoices or filed false FOCUS reports to conceal the illegal trading, in violation of Section 17(a) of the Exchange Act [15 U.S.C. § 78q(a)], and Rules 17a-3 or 17a-5 thereunder [17 C.F.R. §§ 240.17a-3, 240.17a-5]. Bock and Killeen aided and abetted several of the violations.

2. The Commission initially charged these Defendants and others with this same illegal trading scheme in *SEC v. Oakford*, 98 Civ. 1366 (JSR) (Comp. filed Feb. 25, 1998, amended Comp. filed May 18, 1998) ("*Oakford I*"). In the summer of 1998, the Court dismissed the *Oakford I* complaint as to the Defendants without prejudice pending resolution of criminal charges brought against those Defendants and others by the United States Attorney's Office for the Southern District of New York ("USAO"). On May 20, 1999, Oakford and all of the individual Defendants pleaded guilty to criminal violations in connection with their unlawful trading, except for D'Alessio, against whom the USAO dropped its charges on December 9, 1999. The Court held an evidentiary hearing concerning issues associated with sentencing in October 1999 and – after issuing its decision concerning those issues (*U.S. v. Oakford*, 79 F. Supp. 2d 357, 362 (S.D.N.Y. 1999)) – handed down criminal sentences against the convicted Defendants on January 7, 2000.

3. As more fully set forth below, the Commission seeks against the Defendants judgment: (a) permanently enjoining the Defendants from future violations of the applicable federal securities laws and NYSE Rules, and from aiding and abetting such violations; (b) ordering the Defendants to disgorge their ill-gotten gains plus prejudgment interest thereon; (c) ordering the Defendants to pay civil penalties pursuant Section 21(d)(3) of the Exchange Act [15

U.S.C. § 78u(d)(3)]; (d) requiring the Defendants to account for their ill-gotten gains; and (e) for such other and further relief as the Court may deem just and proper. The Defendants directly or indirectly, have engaged in transactions, acts, practices and courses of business that constitute or would constitute violations of the Securities Act, the Exchange Act, and NYSE Rules, as set forth herein. Unless they are permanently restrained and enjoined, the Defendants will continue to engage in the transactions, acts, practices and courses of business set forth in this Complaint and in transactions, acts, practices and courses of business of similar type and object.

### **JURISDICTION**

4. The Commission brings this action pursuant to the authority conferred upon it by Sections 21(d), (e) and (f) of the Exchange Act, 15 U.S.C. §§ 78u(d), (e) and (f).

5. This Court has jurisdiction over this action pursuant to Sections 21(e) and 27 of the Exchange Act, 15 U.S.C. §§ 78u(e) and 78aa.

6. Defendants, directly and indirectly, have made use of the means and instrumentalities of, or the means or instruments of transportation or communication in, interstate commerce, or of the mails, or the facilities of a national securities exchange in connection with the transactions, acts, practices and courses of business alleged herein. Certain of these transactions, acts, practices and courses of business occurred in the Southern District of New York, including the execution of trades on the floor of the NYSE.

## **DEFENDANTS**

7. **Oakford** is a broker-dealer registered with the Commission from October 15, 1991 to September 22, 1998, when its registration was cancelled. Oakford was a wholly owned subsidiary of The Oakford Management Corporation, which was owned by Killeen and Bock. At all relevant times, Oakford's primary business was trading for its own proprietary accounts and, in addition, from time to time it executed securities trades for a small number of retail customers.

8. **Mueger, Inc.** was a broker-dealer registered with the Commission from November 1989 until cancellation on July 15, 1998. Edward J. Mueger, Inc. was the name under which Mueger conducted an independent floor brokerage business on the NYSE. At all relevant times, Edward J. Mueger, Inc. was a NYSE member organization.

9. **MFS** has been a broker dealer registered with the Commission since August 1980. MFS was the name under which M. Savarese and J. Savarese conducted an independent floor brokerage business on the NYSE. At all relevant times, MFS was a NYSE member organization. MFS is owned by Marco Savarese, the father of M. Savarese and J. Savarese. MFS was summarily suspended from the floor in February 1998.

10. **Oakwood** is a broker-dealer registered with the Commission since 1987. Oakwood was the name under which Cavallino conducted an independent floor brokerage business on the NYSE. At all relevant times, Oakwood was a member organization of the NYSE. Oakwood was summarily suspended from the floor of the NYSE in February 1998, and has since been permanently barred by the NYSE.

11. **D'Alessio Securities** is a broker-dealer registered with the Commission since February 1983. D'Alessio Securities was the name under which D'Alessio conducted an independent floor brokerage business on the NYSE. At all relevant times, D'Alessio Securities was a member organization of the NYSE. D'Alessio Securities was summarily suspended from the floor in February 1998. That suspension was upheld after an evidentiary hearing by a NYSE hearing officer on March 20, 2000.

12. **Killeen**, age 39, was Oakford's Chief Executive Officer since October 1991, when he and Bock founded the firm.

13. **Bock**, age 47, has been Oakford's Chief Financial Officer since October 1991.

14. **Cavallino**, age 43, was, at all relevant times, a floor broker on the NYSE for Oakwood Securities, Inc. At all relevant times, Cavallino was a member of the NYSE.

15. **Mueger**, age 65, was, at all relevant times, an independent floor broker on the NYSE doing business as Mueger, Inc. At all relevant times, Mueger was a member of the NYSE.

16. **M. Savarese**, age 38, was, at all relevant times, a floor broker on the NYSE for MFS. At all relevant times, M. Savarese was a NYSE member.

17. **J. Savarese**, age 41, was, at all relevant times, a floor broker on the NYSE for MFS. At all relevant times, J. Savarese was a NYSE member. J. Savarese is the brother of M. Savarese.

18. **D'Alessio**, age 46, was, at all relevant times, an independent floor broker on the NYSE doing business as D'Alessio Securities. At all relevant times, D'Alessio was a NYSE member.

## **FACTS**

19. An independent floor broker is a NYSE member who executes orders for other broker-dealers on the floor of the exchange on an agency basis. Independent floor brokers are generally compensated in the form of a commission which is based on the number of shares traded. While a floor broker and a broker-dealer are free to negotiate the amount of the commission to be paid to the floor broker for executing trades, the broker-dealer typically pays a commission for each trade of about \$1.00 to \$3.00 per 100 shares. Brokers working on the floor of the NYSE occupy a unique position in the nation's securities markets. From their position, they have access to short-term trading information and trading opportunities that are denied to the general public. Accordingly, floor brokers are subject to unique laws designed to minimize their ability to profit unfairly at the expense of other market participants.

20. Specifically, floor brokers may not effect transactions for their own accounts except in limited circumstances provided by Section 11(a) of the Exchange Act and Rule 11a-1 promulgated thereunder. Nor may they effect transactions in accounts in which they have an interest while holding an unexecuted customer order to buy or sell the same security. Similarly, floor brokers are not permitted to fill a customer order by buying securities from or selling securities to that customer for an account in which the floor broker has an interest. Here, the Defendants entered into illegal arrangements designed to circumvent these laws and to profit from trading opportunities the floor broker defendants learned about as a result of their unique positions.

### **Bock And Killeen Conspire With The Floor Brokers**

21. Beginning in or around October 1993, Bock and Killeen approached the Floor Brokers and offered to set up accounts for each of the Floor Brokers at Oakford. Through the Oakford Accounts, Floor Brokers could initiate and effect securities trades on the floor of the NYSE. Bock and Killeen offered to split the profits and losses in these accounts with the Floor Brokers according to a predetermined percentage.

22. The Floor Brokers agreed to participate in Bock and Killeen's scheme and Bock and Killeen opened an account for each Floor Broker at Oakford through Oakford's clearing agent Spear, Leeds, & Kellogg ("SLK"). For each respective Floor Broker, Bock and Killeen opened the following Oakford Accounts, which Oakford funded through SLK:

<i>Broker</i>	<i>Account Number</i>
Cavallino	41 WK 1509 41 WK 1209
Mueger	41 WK 2709
The Savarese and MFS	41 WN 1209 41 WN 1409
D'Alessio	41 WK 2209

23. Thereafter, from 1993 through 1998, each of the Floor Brokers initiated, effected and executed, or caused to be executed, numerous securities transactions on the floor of the NYSE for their respective accounts at Oakford. The Floor Brokers selected what securities to purchase or sell, the number of shares, the time of execution and the price at which the transaction was executed. The Floor Brokers did not receive volume-based payments or other agent commissions for their trading. They received 70% or 90% of the



trading profits in their respective Oakford Accounts and were responsible for 70% or 90% of the trading losses incurred in their respective Oakford Accounts.

24. By initiating, effecting and executing, or causing to be executed, transactions in this manner, the Floor Brokers took unfair advantage of trading opportunities which they learned about through their unique position on the floor of the NYSE.

25. In order to conceal the Floor Brokers' discretion and control over the Oakford Accounts, certain Floor Brokers made telephone calls, either before or after a given trade was executed, to a lower level clerk at Oakford with instructions as to how to fill out the necessary order ticket to make it look as if Oakford had authorized the trade in advance.

26. In order to conceal the Floor Brokers' discretion and control over their Oakford accounts, certain Floor Brokers, and Bock and Killeen, often created false order tickets. Bock, Killeen and various Oakford clerks under the direction of Bock and Killeen, time stamped numerous blank Oakford order tickets before the market opened and throughout the trading day. The time stamp on Oakford's order tickets purportedly reflected the time at which Oakford gave its orders to the Floor Brokers.

27. Before the Floor Brokers initiated, effected and executed, or caused to be executed, a transaction for an Oakford Account, the Floor Brokers often time stamped an order ticket on the floor of the NYSE. The time stamp purportedly reflected the time that the Floor Brokers had received an order from Oakford. After the trade was completed, the Floor Broker called or met with Bock, Killeen or an Oakford clerk to provide them with the details of each transaction, including the name of the security, the number of shares purchased or sold, the price and the time of execution. Bock, Killeen, or an Oakford clerk then looked through the

blank Oakford order tickets and selected a ticket that had been time stamped prior to the time at which the Floor Broker had time stamped his order ticket. Bock and Killeen, or an Oakford clerk under their direction, then filled in the details of the trade as reported by the Floor Broker. This conduct created the false appearance that each trade executed in the Floor Brokers' accounts was done to effect an order previously received from Oakford for one of its proprietary accounts.

### **Trading Ahead of and Frontrunning Customer Orders**

28. As agents, floor brokers owe a duty to each of their customers to act in the customer's best interest and to disclose all material information relating to the execution of the customer's order. A floor broker breaches his duty to his customer when he executes his own trade before the customer's trade. When a floor broker executes his own trade before his customer's trade, the floor broker runs the risk that the price obtained for the customer's order may not be as favorable as it would have been had the customer's order been executed first. Moreover, a large customer order to buy or sell a security will often result in an increase or decrease, respectively, in the price of that security following execution of the order. With this knowledge, a floor broker could receive a large customer order and, before executing the customer order, purchase or sell shares of the same security for his own account, thereby benefiting from the price movement that follows execution of the customer's order. A floor broker breaches his duty to his customer when, without disclosure, he purchases or sells a security for his own account before executing a previously received customer order for the same security. This practice is prohibited by the antifraud provisions of the federal securities laws and NYSE Rule 92.

29. Cavallino, J. Savarese, Oakwood, MFS, D'Alessio and D'Alessio Securities engaged in a pattern of initiating and executing transactions in the Oakford Accounts while holding unexecuted customer orders for the same securities.

30. In numerous instances, Cavallino, J. Savarese, Oakwood, D'Alessio, D'Alessio Securities, and MFS, received a customer order and, before executing the customer's order, purchased or sold shares of the same security in their respective Oakford Accounts. Often, the trades in the Oakford Accounts were executed at better prices than the customers' orders and resulted in profits to the floor brokers. Instances of such unlawful trading engaged in by each of these defendants include, but are not limited to, the following:

a. On January 22, 1996, at 10:52, Cavallino, through Oakwood, received a customer limit order from Credit Suisse First Boston to buy 75,000 shares of International Business Machines ("IBM") at \$102 per share. A limit order is an order to buy or sell a security at a specific price or a better price. Cavallino executed this customer order from 10:55 to 11:29. However, at 11:04, Cavallino time stamped an order ticket to buy 5,000 shares of IBM in his Oakford Account. Cavallino executed his own transaction to buy 5,000 shares of IBM from 11:10 to 11:12, before completing execution of his customer's order. Cavallino purchased some of these shares in his Oakford Account for \$101.75, a better price than he received for part of his customer's order.

b. On October 16, 1996, at 10:16, J. Savarese, through MFS, received a customer limit order from Bear Stearns Securities Corp. to sell 15,000 shares of Micron Technology, Inc. ("MU") at \$30.875 per share. J. Savarese executed this customer order from 10:41 to 10:53. However, at 10:29, J. Savarese time stamped an order ticket to sell 10,000

shares of MU from his Oakford Account. J. Savarese executed his own order at 10:30, before beginning execution of his customer's order. J. Savarese sold these shares from his Oakford Account for \$31 per share, a better price than he received for his customer's order.

c. On June 20, 1997 at 2:34, D'Alessio received an order to buy 50,000 shares of Dollar General Corporation ("DG") from Donaldson, Lufkin & Jenrette ("DLJ"). Immediately thereafter, at 2:36, D'Alessio directed Oakford to create an order ticket for his Oakford Account to buy 10,000 shares of DG. As he executed the DLJ order, the price of DG increased by \$0.125 to \$38.25. During the course of executing his DLJ order, D'Alessio filled half of his Oakford order at the same price DLJ was getting, \$38.25. D'Alessio continued to fill the DLJ order as the price increased another \$0.125 to \$38.50. Then, at 2:43, while still executing the DLJ buy order, D'Alessio directed Oakford to prepare an order ticket for his Oakford Account to sell 5,000 shares of DG. D'Alessio waited until 3:36 to execute this sell order into the DLJ order. By that time, the price of DG had increased another \$0.125, to \$38.375. Thus, when D'Alessio sold his Oakford shares of DG, he made a \$0.125 profit per share, or \$625.

d. Cavallino, J. Savarese, Oakwood, D'Alessio, D'Alessio Securities, and MFS, failed to disclose to their customers that they were executing securities trades for their respective Oakford Accounts before completing execution of their customers' orders in the same securities.

### **Trading Into Their Customers' Orders**

31. As agents for their customers, floor brokers are prohibited from filling a customer order by purchasing securities from, or selling securities to, that customer for the

floor broker's own account. Such a practice would place the floor broker in the capacity of a principal, a position inconsistent with the duty owed by floor brokers as agents of their customers. With limited exceptions, none of which are applicable to this case, NYSE Rule 91 prohibits this practice.

32. On several occasions, Cavallino, J. Savarese, M. Savarese, Oakwood, and MFS, filled customer orders by purchasing securities from, and selling securities to, their customers in their respective Oakford Accounts. Instances of such unlawful trading engaged in by each of these defendants include, but are not limited to, the following:

a. On September 5, 1995, Cavallino, through Oakwood, received a customer market order to buy 10,000 shares of IBM. Cavallino filled part of this order by selling to his customer 5,000 shares of IBM from his Oakford Account.

b. M. Savarese, through MFS, received a customer limit order to sell 10,000 shares of Compaq Computer Corp. ("CPQ") at a price of \$76 per share. M. Savarese filled this order by purchasing from his customer the 10,000 shares for his Oakford Account.

c. On October 16, 1996, J. Savarese, through MFS, received a customer limit order to buy 40,000 shares of MU at a price of \$31 per share. J. Savarese filled part of this order by selling to his customer 10,000 shares of MU from his Oakford Account.

#### **Concealing The Scheme**

33. At the end of each month, Bock and Killeen determined the profit and loss that had been generated in each of the Oakford Accounts through the Floor Brokers' trading. Oakford paid Cavallino and D'Alessio approximately 70% of the profits they had generated in

their Oakford Accounts. Oakford paid Mueger and the Savarese approximately 90% of the profits generated in their Oakford Accounts.

34. In any month when a loss occurred in the Oakford Accounts of Cavallino and D'Alessio, 70% of the loss was carried forward and deducted from the profits for the next profitable month. For Mueger and the Savarese, 90% of the loss was carried forward and deducted from the profits for their next profitable month.

35. Bock and Killeen instructed the Floor Brokers to submit false monthly invoices for the trading in their respective accounts. Bock and Killeen told the Floor Brokers that the false invoices should reflect a per share or per ticket commission, rather than a percentage of the profits from the trading activity. By creating and submitting false invoices in this fashion, the Defendants created the appearance that the Floor Brokers were merely providing legitimate floor brokerage services to Oakford. The false invoices also made it appear that the monthly payments that the Floor Brokers were receiving from Oakford were commissions rather than a percentage of the profits in the Oakford Accounts.

36. Bock and Killeen paid the Floor Brokers their share of the monthly profits by instructing SLK to write a check to each Floor Broker or by directing payment through the National Securities Clearing Corp. ("NSCC"). The NSCC is a registered clearing agency that clears and settles approximately 99% of all stock and bond trading in the United States. SLK followed the instructions given by Bock and Killeen and sent checks to the Floor Brokers as directed. NSCC also made payments to the Floor Brokers when instructed to do so.

37. The Floor Brokers and Oakford received several million in illegal profits as a result of their profitable trading in the Oakford Accounts.

38. Bock and Killeen personally received a portion of Oakford's profits and the remaining profits were used to pay various expenses associated with Oakford's business.

39. During the time that this conduct was ongoing, Oakford, Mueger, Inc., MFS, Oakwood and D'Alessio Securities were required to file Part IIA of Form X-17A-5 ("FOCUS Report") which disclosed the broker-dealers' financial condition on a quarterly basis.

40. In its FOCUS Reports, Oakford incorrectly recognized all of the profits earned in the Oakford Accounts as revenue and incorrectly characterized the amounts paid to the Floor Brokers and MFS as commissions. Oakford should have reported only its portion of the profits as revenue.

41. Mueger, Inc., MFS, Oakwood and D'Alessio Securities, aided and abetted by D'Alessio, each incorrectly identified the amounts they received from Oakford as commissions. Since these amounts were based on the net profit and loss from the Floor Brokers' trading activity, these payments should have been classified as "gains or losses on firm securities trading accounts."

### **FIRST CLAIM FOR RELIEF**

#### **The Floor Brokers Violated Section 11(a) of the Exchange Act, and Rule 11a-1 Thereunder**

42. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 41 by reference, as if fully set forth herein.

43. As more fully set forth above, the Floor Brokers effected transactions on a national securities exchange for their own accounts, the account of an associated person, or an account with respect to which they exercised investment discretion. In addition, the Floor Brokers, while on the floor of a national securities exchange, initiated, directly or indirectly

transactions in securities admitted to trading on such exchange, for accounts in which the Floor Brokers had an interest, and for accounts with respect to which the Floor Brokers had discretion as to the time of execution, the choice of security to be bought or sold, or whether the transaction was one of purchase or sale.

44. By reason of the foregoing, the Floor Brokers have violated, and unless enjoined are reasonably likely in the future to violate, Section 11(a) of the Exchange Act, 15 U.S.C. § 78k(a), and Rule 11a-1 thereunder, 17 C.F.R. § 240.11a-1.

### **SECOND CLAIM FOR RELIEF**

#### **Cavallino, Mueger, J. Savarese and M. Savarese Violated NYSE Rules 90(a), 95(a) and 111(a) and MFS Violated Rule 90(a)**

45. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 44 by reference, as if fully set forth herein.

46. As more fully set forth above, Cavallino, Mueger, J. Savarese, and M. Savarese effected transactions in securities on the NYSE for their accounts, the accounts of associated persons or accounts with respect to which Cavallino, Mueger, J. Savarese, and M. Savarese exercised investment discretion. Also, Cavallino, Mueger, J. Savarese, and M. Savarese, while on the floor of the NYSE, executed or caused to be executed on the exchange transactions for the purchase and sale of stocks with respect to which transactions Cavallino, Mueger, J. Savarese, and M. Savarese were vested with discretion as to: 1) the choice of security to be bought or sold, 2) the total amount of any security to be bought or sold, or 3) whether any such transaction shall be one of purchase or sale. In addition, Cavallino, Mueger, J. Savarese, and M. Savarese initiated transactions, while on the floor of the NYSE, for accounts in which they had an interest without being registered as Competitive Traders with



the NYSE. In addition, MFS effected transactions in securities on the NYSE for its accounts, the accounts of associated persons, or accounts with respect to which MFS exercised investment discretion.

47. By reason of the foregoing, Cavallino, Mueger, J. Savarese, and M. Savarese have violated, and unless enjoined are reasonably likely in the future to violate, NYSE Rules 90(a), 95(a) and 111(a), and MFS has violated, and unless enjoined is reasonably likely in the future to violate, Rule 90(a).

### **THIRD CLAIM FOR RELIEF**

#### **Killeen and Bock Aided and Abetted the Floor Brokers' Violations of Section 11(a) of the Exchange Act, and Rule 11a-1 Thereunder**

48. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 47 by reference, as if fully set forth herein.

49. As more fully set forth above, the Floor Brokers violated Section 11(a) of the Exchange Act, and Rule 11a-1 thereunder.

50. As more fully set forth above, Bock and Killeen aided and abetted the Floor Brokers' violations of Section 11(a) of the Exchange Act, and Rule 11a-1 thereunder. Bock and Killeen knew of these defendants' violations and both Bock and Killeen substantially assisted in the commission of these violations. For example, Bock and Killeen opened the Oakford Accounts, caused inaccurate order tickets to be created by the Floor Brokers and Oakford, and instructed the Floor Brokers to submit false invoices to Oakford.

#### **FOURTH CLAIM FOR RELIEF**

##### **M. Savarese and J. Savarese Aided and Abetted MFS's Violations of Section 11(a) of the Exchange Act and Rule 11a-1 Thereunder**

51. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 50 by reference, as if fully set forth herein.

52. As more fully set forth above, MFS violated Section 11(a) of the Exchange Act and Rule 11a-1 thereunder.

53. As more fully set forth above, M. Savarese and J. Savarese aided and abetted MFS's violations of Section 11(a) of the Exchange Act and Rule 11a-1 thereunder. M. Savarese and J. Savarese knew of MFS's violations and both M. Savarese and J. Savarese substantially assisted in the commission of these violations. For example, M. Savarese and J. Savarese initiated, effected and executed, or caused to be executed, transactions in securities on the NYSE for an account in which MFS had an interest and over which M. Savarese and J. Savarese, associated persons of MFS, exercised investment discretion.

#### **FIFTH CLAIM FOR RELIEF**

##### **Cavallino, D'Alessio, J. Savarese, Oakwood, D'Alessio Securities, and MFS Violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 Thereunder**

54. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 53 by reference, as if fully set forth herein.

55. Cavallino, D'Alessio, J. Savarese, Oakwood, D'Alessio Securities, and MFS directly and indirectly, singly or in concert, in the offer or sale, or in connection with the purchase or sale of securities by use of the means or instruments of transportation or communication, or the means or instrumentalities of interstate commerce, or of the mails, or of

the facilities of a national securities exchange, have: (a) employed devices, schemes and artifices to defraud; (b) have obtained money or property by means of, or otherwise have made, untrue statements of material fact, or have omitted to state facts necessary in order to make statements made, in light of the circumstances under which they were made, not misleading; and (c) engaged in transactions, acts, practices and courses of business which have or would have operated as a fraud or deceit upon purchasers of securities and upon other persons.

56. As part of and in furtherance of the violative conduct, and as more fully described above, Cavallino, D'Alessio, J. Savarese, Oakwood, D'Alessio Securities, and MFS, received customer orders and, before completing the execution of such orders, purchased and sold securities in their respective Oakford Accounts, as set forth in paragraphs 28 to 30 above.

57. As part of and in furtherance of the violative conduct, Cavallino, D'Alessio, J. Savarese, Oakwood, D'Alessio Securities, and MFS, made material omissions by failing to disclose to their customers their interest in the Oakford Accounts and that they purchased and sold securities in their respective Oakford Accounts before completing execution of their customers' orders.

58. Cavallino, D'Alessio, J. Savarese, Oakwood, D'Alessio Securities, and MFS, made the above-described omissions knowingly or with reckless disregard for the truth.

59. The above-described omissions by Cavallino, D'Alessio, J. Savarese, Oakwood, D'Alessio Securities, and MFS, were material.

60. By reason of the foregoing, Cavallino, D'Alessio, J. Savarese, Oakwood, D'Alessio Securities, and MFS, have violated, and unless enjoined are reasonably likely in the future to violate, Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), and Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5.

### **SIXTH CLAIM FOR RELIEF**

#### **Cavallino, J. Savarese, Oakwood, and MFS Violated NYSE Rule 92**

61. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 60 by reference as if fully set forth herein.

62. Cavallino, J. Savarese, Oakwood, and MFS each personally bought or initiated the purchase of securities on the NYSE for their own account or an account in which they, their member organization or any other member was directly or indirectly interested, while they held or had knowledge that their member organization held unexecuted market orders to buy such securities, and personally sold or initiated the sale of securities on the NYSE for such an account while they personally held or had knowledge that their member organization held unexecuted market orders to sell such securities.

63. By reason of the foregoing, Cavallino, J. Savarese, Oakwood, and MFS violated, and unless enjoined are reasonably likely in the future to violate, NYSE Rule 92(a).

64. Cavallino, J. Savarese, Oakwood, and MFS, each personally bought or initiated the purchase of securities on the NYSE for their own account or an account in which they, their member organization or any other member was directly or indirectly interested, at or below the price at which they personally held or had knowledge that their member organization held unexecuted limited price orders to buy such securities, and personally sold or initiated the

sale of securities on the NYSE for such an account, at or above the price at which they personally held or had knowledge that their member organization, held unexecuted limited price orders to sell such security.

65. By reason of the foregoing, Cavallino, J. Savarese, Oakwood, and MFS, each violated, and unless enjoined are reasonably likely in the future to violate, NYSE Rule 92(b).

#### **SEVENTH CLAIM FOR RELIEF**

##### **Cavallino, J. Savarese, M. Savarese, Oakwood, and MFS Violated NYSE Rule 91**

66. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 65 by reference, as if fully set forth herein.

67. Cavallino, J. Savarese, M. Savarese, Oakwood, and MFS, each accepted for execution, personally or through their member organization, orders for the purchase of securities and filled such orders by selling such securities for an account in which they, or their member organization had a direct or indirect interest when they knew or should have known that the sales were for such an account and, having accepted orders for the sale of securities, filled such orders by buying such securities for such an account.

68. By reason of the foregoing, Cavallino, J. Savarese, M. Savarese, Oakwood, and MFS, each violated, and unless enjoined are reasonably likely in the future to violate, NYSE Rule 91.

#### **EIGHTH CLAIM FOR RELIEF**

##### **Oakford, Mueger, Inc., MFS, Oakwood and D'Alessio Securities Violated Section 17(a) of the Exchange Act, and Rule 17a-3(a)(7) Thereunder**

69. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 68 by reference, as if fully set forth herein.

70. As more fully set forth above, Oakford, Mueger, Inc., MFS, Oakwood and D'Alessio Securities made or kept inaccurate books and records in furtherance of the unlawful scheme described above. Oakford employees, including Bock and Killeen, created order tickets which improperly indicated that orders had been placed by Oakford with the Floor Brokers. Mueger, Inc., MFS, Oakwood, and D'Alessio Securities, through Mueger, M. and J. Savarese, Cavallino and D'Alessio, respectively, also created inaccurate order tickets.

71. By reason of the foregoing, Oakford, Mueger, Inc., MFS, Oakwood and D'Alessio Securities violated, and unless enjoined are reasonably likely in the future to violate, Section 17(a) of the Exchange Act, 15 U.S.C. § 78q(a), and Rule 17a-3(a)(7) thereunder, 17 C.F.R. § 240.17a-3(a)(7).

#### **NINTH CLAIM FOR RELIEF**

#### **Oakford, Mueger, Inc., MFS, Oakwood and D'Alessio Securities Violated Section 17(a) of the Exchange Act and Rule 17a-5 Thereunder, and D'Alessio Aided and Abetted D'Alessio Securities' Violations of Rule 17a-5**

72. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 71 by reference, as if fully set forth herein.

73. As more fully set forth above, Section 17(a) of the Exchange Act and Rule 17a-5 thereunder required Oakford, Mueger, Inc., MFS, Oakwood and D'Alessio Securities to file FOCUS Reports with the NYSE which disclosed their financial condition. The FOCUS Reports of Oakford, Mueger, Inc., MFS, Oakwood and D'Alessio Securities were inaccurate in that Oakford incorrectly recognized all of the profits earned in the Oakford Accounts as revenue and incorrectly characterized the amount it paid to the Floor Brokers as commissions.

Also, Mueger, Inc., MFS, Oakwood and D'Alessio Securities each incorrectly identified the amounts they received from Oakford as commissions.

74. By reason of the foregoing, Oakford, Mueger, Inc., MFS, Oakwood and D'Alessio Securities aided and abetted by D'Alessio, violated, and unless enjoined are reasonably likely in the future to violate, Section 17(a) of the Exchange Act, 15 U.S.C. § 78q(a), and Rule 17a-5 thereunder, 17 C.F.R. § 240.17a-5.

**TENTH CLAIM FOR RELIEF**

**Bock, Killeen, Mueger, Cavallino, M. Savarese,  
J. Savarese, and D'Alessio Aided and Abetted Violations  
of Section 17(a) of the Exchange Act,  
and Rule 17a-3(a)(7) Thereunder**

75. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 74 by reference, as if fully set forth herein.

76. As more fully set forth above, Oakford made or kept inaccurate order tickets in violation of Section 17(a) of the Exchange Act and Rule 17a-3(a)(7) thereunder. Bock, Killeen, Mueger, Cavallino, M. Savarese, J. Savarese and D'Alessio knew of these violations and substantially assisted in the commission of the violations. For example, Mueger, Cavallino, M. Savarese, J. Savarese and D'Alessio communicated the time at which they had executed transactions in the Oakford Accounts to Bock and Killeen, and Bock and Killeen then prepared Oakford order tickets to create the appearance that the orders had originated with Oakford.

77. As more fully set forth above, Mueger, Inc., MFS, Oakwood and D'Alessio Securities, made or kept inaccurate order tickets in violation of Section 17(a) of the Exchange Act and Rule 17a-3(a)(7) thereunder. Mueger, M. Savarese, J. Savarese, Cavallino and

D'Alessio respectively, knew of these violations and substantially assisted in the commission of the violations. For example, Mueger, M. Savarese, J. Savarese, Cavallino and D'Alessio placed a time stamp on their order tickets purportedly showing the time such orders were received from Oakford, when, in fact, the orders did not originate with Oakford.

78. By reason of the foregoing, Bock, Killeen, Mueger, M. Savarese, J. Savarese, Cavallino and D'Alessio aided and abetted violations of Section 17(a) of the Exchange Act and Rule 17a-3(a)(7) thereunder, and unless enjoined are reasonably likely in the future to violate, Section 17(a) of the Exchange Act and Rule 17a-3(7) thereunder.

#### **ELEVENTH CLAIM FOR RELIEF**

##### **Oakford Violated Section 17(a) of the Exchange Act and Rule 17a-3(a)(9) Thereunder**

79. The Commission repeats and realleges each and every allegation contained in paragraphs 1 through 78 by reference, as if fully set forth herein.

80. As more fully set forth above, Oakford made or kept inaccurate books and records in furtherance of the unlawful scheme described above. Oakford created records with respect to the Oakford Accounts which inaccurately indicated the name and address of the beneficial owners of the Oakford Accounts. Oakford falsely indicated that it alone was the beneficial owner of the Oakford Accounts. In fact, the Floor Brokers were the majority beneficial owners of the accounts.

81. By reason of the foregoing, Oakford violated, and unless enjoined is reasonably likely in the future to violate, Section 17(a) of the Exchange Act, 15 U.S.C. § 78q(a), and Rule 17a-3(a)(9) thereunder, 17 C.F.R. §§ 240.17a-3(a)(9).



### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Securities and Exchange Commission respectfully requests that this Court:

#### **I.**

Enter a final judgment permanently restraining and enjoining: (i) the Floor Broker Defendants from, directly or indirectly, singly or in concert, violating Section 11(a) of the Exchange Act, 15 U.S.C. § 78k(a), and Rule 11a-1 thereunder, 17 C.F.R. § 240.11a-1; (ii) Cavallino, Mueger, J. Savarese, and M. Savarese, from, directly or indirectly, singly or in concert, violating NYSE Rules 90(a), 95(a) and 111(a); and (iii) MFS from directly or indirectly violating NYSE Rule 90(a).

#### **II.**

Enter a final judgment permanently restraining and enjoining: (i) Cavallino, J. Savarese, Oakwood, MFS, D'Alessio and D'Alessio Securities from, directly or indirectly, singly or in concert, violating Section 17(a) of the Securities Act, 15 U.S.C. § 77q(a), Section 10(b) of the Exchange Act, 15 U.S.C. § 78j(b), and Rule 10b-5 thereunder, 17 C.F.R. § 240.10b-5; and (ii) Cavallino, J. Savarese, Oakwood, and MFS from, directly or indirectly, singly or in concert, violating NYSE Rules 91 and 92.

#### **III.**

Enter a final judgment permanently restraining and enjoining M. Savarese from violating NYSE Rule 91.

#### **IV.**

Enter a final judgment permanently restraining and enjoining Bock, Killeen, M. Savarese and J. Savarese from, directly or indirectly, singly or in concert, aiding and abetting violations of Section 11(a) of the Exchange Act, 15 U.S.C. § 78k(a), and Rule 11a-1 thereunder, 17 C.F.R. § 240.11a-1.

#### **V.**

Enter a final judgment permanently restraining and enjoining Oakford, Mueger, Inc., MFS, Oakwood and D'Alessio Securities from, directly or indirectly, singly or in concert, violating Section 17(a) of the Exchange Act, 15 U.S.C. § 78q(a), and Rule 17a-3 thereunder, 17 C.F.R. § 240.17a-3.

#### **VI.**

Enter a final judgment permanently restraining and enjoining Bock, Killeen, Mueger, Cavallino, M. Savarese, J. Savarese and D'Alessio from, directly or indirectly, singly or in concert, aiding and abetting violations of Section 17(a) of the Exchange Act, 15 U.S.C. § 78q(a), and Rule 17a-3 thereunder, 17 C.F.R. § 240.17a-3.

#### **VII.**

Enter a final judgment permanently restraining and enjoining Oakford, Mueger, Inc., MFS, Oakwood and D'Alessio Securities, from, directly or indirectly, singly or in concert, violating Section 17(a) of the Exchange Act, 15 U.S.C. § 78q(a), and Rule 17a-5 thereunder, 17 C.F.R. § 240.17a-5 and permanently restraining and enjoining D'Alessio from aiding and abetting violations of Section 17(a) of the Exchange Act, 15 U.S.C. § 78q(a), and Rule 17a-5 thereunder, 17 C.F.R. § 240.17a-5.

**VIII.**

Issue an order directing the Defendants to disgorge all funds and benefits they obtained as a result of the violations alleged herein, and to pay prejudgment interest thereon.

**IX.**

Issue an order imposing civil money penalties against the Defendants pursuant to Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

**X.**

Issue an order requiring the defendants to account for their ill-gotten gains, assets, income, expenses and liabilities since January 1, 1994.

**XI.**

Grant such other and further relief as this Court may deem just and proper.

Dated: March 30, 2000  
New York, New York

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