

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**JAY RICE,**

**Defendant.**

**Civil Action No.**

**COMPLAINT**

Plaintiff Securities and Exchange Commission (the "Commission") alleges the following against defendant Jay Rice:

**SUMMARY**

1. Defendant Rice carried out a fraudulent scheme involving the illegal purchase of stock in the initial public offering ("IPO") of NewAlliance Bancshares, Inc. ("NewAlliance" or the "bank"). In accordance with Connecticut banking regulations, NewAlliance gave priority in the IPO to bank depositors as of June 30, 2002, who were prohibited from entering into any agreements regarding the sale or transfer of NewAlliance Stock. Rice was not entitled to receive any stock in the IPO.

2. Rice, a former registered representative associated with a broker-dealer, entered into an illegal arrangement with a depositor of the New Haven Savings Bank ("NHSB") pursuant to which he used the depositor as a nominee to illegally purchase 66,000 shares of NewAlliance in the bank's IPO. As instructed by Rice, the nominee depositor sold the 66,000 of shares shortly after the IPO and Rice made an after-tax profit of \$158,947.

3. This arrangement was prohibited by the federal securities laws and the Connecticut banking regulations. Rice caused the nominee depositor to submit to the bank subscription documents that falsely and misleadingly represented that the depositor was the true purchaser of the stock and had not entered into any agreements relating to the sale or transfer of the stock.

4. Through the activities alleged in this Complaint, Rice violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Rule 10b-5 thereunder.

5. Accordingly, the Commission seeks: (a) the entry of a permanent injunction prohibiting Rice from further violations of the relevant provisions of the federal securities laws; (b) disgorgement of all ill-gotten gains, plus pre-judgment interest; and (c) the imposition of a civil penalty due to the egregious nature of his violation.

#### **JURISDICTION**

6. The Commission seeks a permanent injunction and disgorgement of ill-gotten gains pursuant to Section 21(d) of the Exchange Act [15 U.S.C. § 78u(d)]. The Commission further seeks the imposition of civil penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

7. This Court has jurisdiction over this action pursuant to Sections 21 and 27 of the Exchange Act [15 U.S.C. §§ 78u, 78aa]. The bank is based in this District; Rice and the depositor reside in this District; and many of the acts and transactions alleged in this Complaint occurred in this District.

8. In connection with the conduct described in this Complaint, the defendant directly or indirectly made use of the mails or the means or instrumentalities of interstate commerce or of the mails, or of the facilities of any national securities exchange.

### **DEFENDANT**

9. **Rice**, age 44, resides in Darien, Connecticut. Rice was a registered representative associated with various broker-dealers from 1993 until he retired in January 2003.

### **BACKGROUND OF THE IPO**

10. NewAlliance came into existence as a result of, among other things, the conversion of New Haven Savings Bank ("NHSB" or collectively with NewAlliance referred to as "the bank") from a mutual form of organization to a stock form of organization pursuant to the IPO. Connecticut state banking regulations required that, when offering stock to the public through the IPO, the bank give first priority to depositors as of a record date determined by the bank. The bank chose June 30, 2002 as the record date for these "first-tier" depositors.

11. Connecticut state banking regulations expressly prohibited any person from transferring subscription rights and/or entering into any agreement or understanding to transfer the legal or beneficial ownership of conversion subscription rights, or the underlying securities, to the account of another. See Conn. Agencies Regs. § 36-142m-12(b). Those regulations further expressly prohibit, prior to the completion of a conversion, any offer for any security of the converting bank issued in connection with the conversion. Id., § 36-142m-12(b), (c).

12. The bank sent by United States mail to all of its customers – including the nominee depositor – a stock order form and prospectus. The prospectus provided that those

seeking to purchase stock in the IPO could request up to 70,000 shares of stock at a price of \$10 per share.

13. The prospectus also set forth the order of preference for allocating the stock: Depositors having accounts at NHSB as of June 30, 2002, referred to as "first-tier depositors," were to have first preference in receiving stock.

14. The prospectus provided that anyone seeking to purchase stock must complete and sign the stock order form under penalty of perjury and remit full payment for the requested shares by mail or overnight delivery for receipt by NewAlliance prior to 10:00 a.m. on March 11, 2004.

15. The prospectus specifically provided that each person requesting stock was prohibited from entering into any agreement or understanding regarding the sale or transfer of the subscription rights or underlying stock:

Applicable regulations and the plan of conversion prohibit any person with subscription rights, including the eligible account holders . . . from transferring or entering into any agreement or understanding to transfer the legal or beneficial ownership of the subscription rights issued under the plan or conversion or the shares of common stock to be issued upon their exercise . . . . Each person exercising subscription rights will be required to certify that he or she is purchasing shares solely for his or her own account and that he or she has no agreement or understanding regarding the sale or transfer of such shares. The regulations also prohibit any person from offering . . . to purchase subscription rights or shares of common stock to be issued upon their exercise.

16. The stock order form required the person requesting stock to certify under penalty of perjury the following:

I am purchasing solely for my own account, and there is no agreement or understanding regarding the sale or transfer of the shares or the right to subscribe for the shares.

17. The offering was oversubscribed by first-tier depositors, who received all 102,493,750 shares issued by NewAlliance. As a result, the bank and its underwriter, Ryan Beck

& Company, allocated stock in accordance with a formula set forth in the prospectus based primarily upon the amount of money held in the depositor's account as of June 30, 2002. No person who was not a first-tier depositor received stock. In addition, certain first-tier depositors did not receive the full amount of stock they requested.

18. NewAlliance stock began trading publicly on April 2, 2004.

### **THE SCHEME**

#### **The Nominee Depositor Agreed to Purchase NewAlliance Stock for Rice**

19. In February 2004, Rice called the depositor to discuss the IPO. The depositor told Rice that she had requested only 4,000 shares (out of the 70,000 she could have requested).

20. Rice then asked the depositor whether she would be willing to purchase NewAlliance stock for him. Rice explained that, because he was not a first-tier depositor, it was unlikely he would receive any shares on his own.

21. The depositor told Rice that he would have to meet with her and her husband, and then she would make a decision.

22. In late February and early March 2004, Rice visited the depositor and her husband multiple times to further discuss his interest in using the depositor as his nominee to purchase 66,000 shares of NewAlliance stock for him.

23. When the depositor and her husband expressed concerns about the quantity of stock Rice wanted, Rice assured them that there was nothing wrong with the transaction.

24. The depositor and her husband also raised the issue of capital gains taxes on the 66,000 shares. Rice assured the depositor that he would provide her funds to cover capital gains taxes, which he believed would be 37 percent of any gains upon sale of the stock.

25. Relying on Rice's representation that the transaction was legal and his promise to pay capital gains taxes, the depositor and her husband agreed to purchase 66,000 shares for him.

26. At Rice's request, on February 27, 2004, the depositor and her husband signed a purported loan agreement in the amount of \$660,000 for one year at 12% interest.

27. Rice told the depositor and her husband that the purpose of the loan agreement was to enable him to obtain the money from their estate in case they died before the shares were sold.

28. Rice told the depositor and her husband that he would return the loan agreement to them once he obtained the proceeds from the sale of his 66,000 shares minus capital gains taxes.

29. On February 27, 2004, the depositor and her husband executed the loan agreement.

30. In a letter dated March 5, 2004, Rice instructed his broker to wire-transfer \$660,000 from his brokerage account to the depositor's bank account. The money was wired three days later.

31. On March 8, 2004, the depositor completed and signed the stock order form in Rice's presence requesting the additional 66,000 shares. Rice reviewed the form.

32. On or about March 8, 2004, the depositor sent the stock order form, together with a cashier's check she obtained from her bank in the amount of \$660,000, by overnight delivery to NHSB.

**The Nominee Depositor Sold the Stock and Distributed the Proceeds**

33. In late March 2004, at Rice's suggestion, the depositor attempted to open a joint brokerage account at a brokerage firm in her name and Rice's name to deposit his 66,000 shares of NewAlliance stock upon receipt. The brokerage firm declined to open the account because the depositor and Rice had separate addresses.

34. The depositor then opened an account in her name alone at the brokerage firm and subsequently deposited the 66,000 shares of NewAlliance stock.

35. From April 8 through April 21, 2004, at Rice's instructions, the depositor sold Rice's 66,000 shares for a total of \$932,776. After brokerage commissions were deducted, the proceeds totaled \$928,129.

36. Pursuant to Rice's further instructions, the depositor wired \$660,028 to Rice's brokerage account as a re-payment of the funds he had provided her to purchase the 66,000 shares and sent Rice a check for \$158,919 as his after-tax profit from the sale of these shares (gross profit minus commissions and taxes).

37. Pursuant to their agreement, the depositor retained approximately \$110,000 to cover capital gains taxes, and made no profit from the arrangement.

**CLAIM FOR RELIEF**

**Violations of Section 10(b) of the Exchange Act and Rule 10b-5)**

38. The allegations in paragraphs 1 through 37 above are incorporated herein by reference.

39. In connection with the purchase or sale of NewAlliance securities, defendant Rice, directly or indirectly, intentionally, knowingly or recklessly, used the means or instrumentalities of interstate commerce or the mails, directly or indirectly: (1) to employ a device, scheme, or

artifice to defraud; (2) to make 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 were made, not misleading; or (3) to engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in violation of §10(b) of the Exchange Act [15 U.S. C. § 78j(b)] and Rule 10b-5 [17 C.F.R. § 240.10b-5] thereunder.

40. The conduct of defendant Rice involved fraud, deceit, or deliberate or reckless disregard of regulatory requirements, and resulted in substantial loss or significant risk of substantial loss to other persons, within the meaning of Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)].

#### **PRAYER FOR RELIEF**

WHEREFORE, the Commission requests that this Court:

- A. Enter a permanent injunction restraining Rice, and each of his agents, servants, employees and attorneys and those persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, including facsimile transmission or overnight delivery service, from directly or indirectly engaging in violations of 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].
- B. Order Rice to disgorge his ill-gotten gains, plus pre-judgment interest;
- C. Order Rice to pay a civil penalty pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)];



D. Retain jurisdiction over this action to implement and carry out the terms of all orders and decrees that may be entered; and

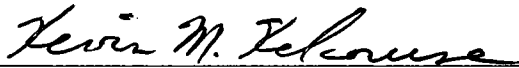
E. Award such other and further relief as the Court deems just and proper.

Respectfully submitted,



---

Carlos Costa-Rodrigues  
Senior Counsel  
Connecticut Federal Bar No. phv0064



---

Kevin M. Kelcourse  
Senior Counsel  
Connecticut Federal Bar No. phv0063

Frank C. Huntington  
Senior Trial Counsel  
Connecticut Federal Bar No. ct01850

Attorneys for Plaintiff  
**SECURITIES AND EXCHANGE COMMISSION**  
73 Tremont Street, 6th Floor  
Boston, Massachusetts 02108  
(617) 573-8962 (Direct dial: Kelcourse)  
(617) 424-5940 (Facsimile)

Local Counsel:  
John B. Hughes  
Connecticut Federal Bar No. ct05289  
Assistant United States Attorney  
Chief, Civil Division  
United States Attorney's Office  
Connecticut Financial Center  
157 Church Street, 23<sup>rd</sup> Floor  
New Haven, CT 06510  
(203) 821-3700  
(203) 773-5373 (Facsimile)

Dated: May 31, 2006