

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

EUGENE McCLOSKEY and  
CHARLES MEIZOSO,

Defendants.

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98 Civ.

COMPLAINT

Plaintiff Securities and Exchange Commission alleges:

SUMMARY

1. From 1984 through late 1994, Defendants Eugene McCloskey and Charles Meizoso, then senior managers of the brokerage firm Gruntal & Co., Incorporated ("Gruntal"), participated in two fraudulent schemes designed to divert securities and funds totaling approximately \$11 million from customer accounts, unclaimed dividends, stale and outstanding customer and vendor checks, and other sources at Gruntal. In the first scheme, Defendants McCloskey and Meizoso and others used approximately \$5 million of the diverted assets to inflate Gruntal's income fraudulently. In the second scheme, beginning in 1987, Defendants McCloskey and Meizoso and one other Gruntal employee (now deceased) embezzled approximately \$6 million of diverted assets.

2. To conceal these schemes, Defendants McCloskey and Meizoso created fictitious customer accounts and knowingly falsified the books and records of Gruntal and its immediate corporate parent, Gruntal Financial Corp. ("Gruntal Financial"). Defendants

McCloskey and Meizoso also intentionally circumvented the internal accounting controls of Gruntal Financial.

3. During 1986 and 1987, while in possession of material, nonpublic information about the first fraudulent scheme, Defendants McCloskey and Meizoso each sold Gruntal Financial common stock, thereby avoiding substantial losses.

4. As described more fully below, Defendants McCloskey and Meizoso violated the federal securities laws by engaging in the two fraudulent schemes and by selling Gruntal Financial securities while in possession of material nonpublic information. Unless enjoined, Defendants McCloskey and Meizoso are likely to commit such violations in the future.

### **JURISDICTION**

5. This Court has jurisdiction over this action pursuant to Sections 20(b) and 22(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. §§ 77t(b) and 77v(a)] and Sections 21(d), 21(e), and 27 of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. §§ 78u(d), 78u(e), and 78aa].

6. Defendants McCloskey and Meizoso, directly or indirectly, used the means and instrumentalities of interstate commerce, of the mails, or of the facilities of a national securities exchange in connection with the transactions, acts, practices, and courses of business alleged herein.

### **THE DEFENDANTS**

7. McCloskey was employed by Gruntal from March 1981 through November 1994. From approximately 1983 to November 1994, McCloskey was Manager of Gruntal's Internal Audit Department. He is no longer employed by Gruntal.

8. Meizoso was employed by Gruntal from October 1974 through November 1994. From October 1984 to November 1994, Meizoso was a Senior Vice President and Director of Operations at Gruntal. He is no longer employed by Gruntal.

### **THE ISSUER**

9. At all times relevant, Gruntal Financial was a Delaware corporation with its principal place of business in New York City. Gruntal Financial engaged in the operation of a full-service brokerage business through its wholly-owned subsidiary, Gruntal. Until it was acquired by The Home Group, Inc. in August 1987, Gruntal Financial's securities were registered with the Commission pursuant to Section 12(b) of the Exchange Act [15 U.S.C. § 78l(b)] and traded on the New York Stock Exchange.

### **OTHER RELEVANT ENTITY**

10. At all times relevant, Gruntal was a broker-dealer registered with the Commission pursuant to Section 15(b) of the Exchange Act [15 U.S.C. § 78o(b)].

### **FACTS**

#### **THE FRAUDULENT DIVERSIONS OF FUNDS**

##### **Diversions of Checks, Dividends, and Other Assets**

11. Defendants McCloskey and Meizoso engaged in two schemes whereby \$11 million of assets of Gruntal customers and other third parties were fraudulently diverted.

12. Beginning in at least 1984 and continuing through late 1994, at the direction of Edward E. Bao, a director and Executive Vice President of both Gruntal and Gruntal Financial, Defendants McCloskey and Meizoso knowingly diverted stale customer and vendor checks, balances and securities from dormant customer accounts, and unclaimed

dividends for the purpose of inflating Gruntal's income and reducing its expenses. As part of the scheme, Defendants McCloskey and Meizoso and others established fictitious customer accounts at Gruntal. Assets totaling approximately \$5 million were diverted through the fictitious customer accounts and into Gruntal profit and loss accounts or used to fund off-books cash payments of certain Gruntal expenses.

13. Beginning in at least 1987 and continuing through late 1994, Defendants McCloskey and Meizoso and one other Gruntal employee (now deceased) knowingly diverted an additional \$6 million of stale customer and vendor checks, balances and securities from dormant customer accounts, and unclaimed dividends out of Gruntal accounts and into bank accounts under the control of McCloskey and Meizoso and the additional employee.

**Falsification of Books and Records and  
Circumvention of Internal Accounting Controls**

14. To conceal the diversions described in Paragraphs 12 and 13 above, Defendants McCloskey and Meizoso knowingly altered or falsified various Gruntal books and records. In furtherance of the two diversion schemes, Defendants McCloskey and Meizoso, or others acting at their direction, created false records, including false dividend claim forms, debit and credit advices, debit and credit memos, bookkeeping journal entries, account opening documents, account statements, and account statement entries. Defendants McCloskey and Meizoso created these false records, or caused these false records to be created, to conceal the fraudulent nature of the transactions.

15. As a consequence of the diversion of assets to Gruntal profit and loss accounts or using the diverted assets to make off-books payments of Gruntal expenses, Gruntal overstated its revenues, understated its expenses, and, consequently, overstated its income.

16. Because Gruntal Financial was a holding company that conducted its business through Gruntal, Defendants McCloskey's and Meizoso's knowing falsification of Gruntal's books and records thereby falsified Gruntal Financial's books, records, and accounts, ensuring that those books, records, and accounts did not accurately and fairly reflect the transactions or dispositions of the assets of Gruntal Financial. Moreover, because Defendants McCloskey and Meizoso succeeded in inflating Gruntal's income, they also correspondingly inflated Gruntal Financial's income.

17. In order to perpetrate the fraudulent schemes, Defendants McCloskey and Meizoso and others knowingly circumvented Gruntal Financial's internal accounting controls.

#### **THE DEFENDANTS' ILLEGAL TRADING**

18. At various times during 1986 and 1987, Defendants McCloskey and Meizoso each sold shares of Gruntal Financial common stock. During that time, Defendant McCloskey sold a total of approximately 3,850 shares of Gruntal Financial common stock, resulting in total proceeds of approximately \$34,000; Defendant Meizoso sold a total of approximately 10,500 shares of Gruntal Financial common stock, resulting in total proceeds of approximately \$92,000.

19. When Defendants McCloskey and Meizoso sold Gruntal Financial stock, each of them was in possession of material nonpublic information concerning the diversion

scheme described in Paragraph 12 above. By selling Gruntal Financial stock without disclosing that material nonpublic information, Defendants McCloskey and Meizoso each breached a duty owed to Gruntal Financial shareholders.

20. By selling Gruntal Financial stock without disclosing that material nonpublic information, Defendants McCloskey and Meizoso each avoided substantial losses.

### **FIRST CLAIM**

**Violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act, and Rule 10b-5 Thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5] in Connection with the Fraudulent Diversion Schemes**

21. The Commission realleges and incorporates by reference Paragraphs 1 through 13 above.

22. By reason of the foregoing, Defendants McCloskey and Meizoso violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5].

### **SECOND CLAIM**

**Violations of Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act, and Rule 10b-5 Thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5] in Connection with the Defendants' Sales of Gruntal Financial Stock**

23. The Commission realleges and incorporates by reference Paragraphs 1 through 20 above.

24. By reason of the foregoing, Defendants McCloskey and Meizoso violated Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder [15 U.S.C. § 78j(b) and 17 C.F.R. § 240.10b-5].

### **THIRD CLAIM**

**Aiding and Abetting Gruntal's Violations of Section 17(a)  
of the Exchange Act and Rules 17a-3 and 17a-4  
Thereunder [15 U.S.C. § 78q(a) and 17 C.F.R. §§ 240.17a-3 and 240.17a-4]  
in Connection with the Falsification of Gruntal's Books and Records**

25. The Commission realleges and incorporates by reference Paragraphs 1 through 15 above.

26. As a result of Defendants McCloskey's and Meizoso's falsifications of Gruntal's books and records as described in Paragraphs 2 and 14 through 15 above, Gruntal failed to make and keep accurately certain books and records as required by Section 17(a) of the Exchange Act and Rules 17a-3 and 17a-4 thereunder. By reason of the foregoing, Gruntal violated Section 17(a) of the Exchange Act and Rules 17a-3 and 17a-4 thereunder.

27. Defendants McCloskey and Meizoso knowingly provided substantial assistance to Gruntal's violations of the aforementioned provisions by falsifying Gruntal's books and records.

28. By reason of the foregoing, Defendants McCloskey and Meizoso aided and abetted Gruntal's violations of Section 17(a) of the Exchange Act [15 U.S.C. § 78q(a)] and Rules 17a-3 and 17a-4 promulgated thereunder [17 C.F.R. §§ 240.17a-3 and 240.17a-4].

### **FOURTH CLAIM**

**Violations of Section 13(b)(5) of the Exchange Act and Rule 13b2-1  
Thereunder [15 U.S.C. § 78m(b)(5) and 17 C.F.R. § 240.13b2-1]  
in Connection with the Falsification of Gruntal Financial's Books and Records and  
the Circumvention of Gruntal Financial's Internal Accounting Controls**

29. The Commission realleges and incorporates by reference Paragraphs 1 through 17 above.

30. By reason of the foregoing acts and practices, Defendants McCloskey and Meizoso violated Section 13(b)(5) of the Exchange Act and Rule 13b2-1 promulgated thereunder [15 U.S.C. § 78m(b)(5) and 17 C.F.R. § 240.13b2-1].

### PRAYER

WHEREFORE, the Commission respectfully requests that this Court:

#### I.

Permanently enjoin Defendants McCloskey and Meizoso from violating Section 17(a) of the Securities Act [15 U.S.C. § 77q(a)], Sections 10(b) and 13(b)(5) of the Exchange Act [15 U.S.C. §§ 78j(b) and 78m(b)(5)], and Rules 10b-5 and 13b2-1 promulgated thereunder [17 C.F.R. §§ 240.10b-5 and 240.13b2-1];

#### II.

Permanently enjoin Defendants McCloskey and Meizoso from aiding and abetting violations of Section 17(a) of the Exchange Act [15 U.S.C. § 78q(a)] and Rules 17a-3 and 17a-4 promulgated thereunder [17 C.F.R. §§ 240.17a-3 and 240.17a-4];

#### III.

Order Defendants McCloskey and Meizoso to disgorge all illegal profits and avoided losses resulting from their violations of the federal securities laws as detailed above, together with prejudgment interest thereon;

#### IV.

Order Defendants McCloskey and Meizoso to pay civil penalties pursuant to Section 20(d) of the Securities Act [15 U.S.C. § 77t(d)] and Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)];



V.

Enter an Order, pursuant to Section 20(e) of the Securities Act [15 U.S.C. § 77t(e)] and Section 21(d)(2) of the Exchange Act [15 U.S.C. § 78u(d)(2)], permanently barring Defendant Meizoso from acting as an officer or director of any issuer that has a class of securities registered pursuant to Section 12 of the Exchange Act [15 U.S.C. § 78l] or that is required to file reports pursuant to Section 15(d) of the Exchange Act [15 U.S.C. § 78o(d)]; and

VI.

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

Respectfully submitted,

Dated: June 4, 1998



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