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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

CV 98 7688

HON. J.  
POLLAK, M.J.  
1998 DEC 15 A 11:46  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

SCOTT ALEXANDER GRYSKIEWICZ,  
a/k/a SCOTT ALEXANDER  
and d/b/a PRIVATE AUTO PLACEMENT,

Defendant,

and

AMERICAN SECURITIES, INC.,

Relief Defendant.

98 Civ. \_\_\_\_\_

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission") for its Complaint against defendant Scott Alexander Gryskiewicz, a.k.a "Scott Alexander," individually and doing business as "Private Auto Placement" ("Gryskiewicz") and relief defendant American Securities, Inc. ("American (NJ)"), alleges as follows:

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## **INTRODUCTION**

1. Since approximately May 1998, Gryskiewicz has been unlawfully acting, and continues to act, as an unregistered broker, directly and through an office that he operates in Lodi, New Jersey ("Lodi Office"). In the course of his unlawful activity as an unregistered broker, Gryskiewicz has raised more than \$500,000 by offering and selling to at least 71 investors unregistered securities in the form of units consisting of common stock and warrants ("Units") issued by Pan American Securities, Inc. ("Pan American").

2. Gryskiewicz and others in the Lodi Office made telephonic "cold calls" and offered and sold the Pan American Units to investors by means of a variety of false and misleading representations, including false claims that: a) Pan American was about to make an initial public offering ("IPO"); b) the Pan American Units are freely tradable, when they are restricted; and c) the Pan American Units could be sold for a substantial profit after the purported IPO.

3. Pan American has disbursed approximately \$160,000 to Gryskiewicz and American Securities, Inc. ("American (NJ)"), a corporation owned and controlled by Gryskiewicz, in connection with the sale of Pan American Units through Gryskiewicz and the Lodi Office.

4. Gryskiewicz has also embarked on another fraudulent offering. Since at least October 1998, Gryskiewicz has been attempting to solicit investments in a purported private placement of unregistered common stock and warrants issued by Freetrade.com, Inc. ("Freetrade"). In the course of offering Freetrade securities, Gryskiewicz disseminated a private placement memorandum ("Freetrade PPM") that falsely represents that the offered

Freetrade securities are “immediately tradable,” when they are, in fact, restricted.

5. Gryskiewicz, directly or indirectly, has engaged, is engaging, and is about to engage, in violations of Section 17(a) of the Securities Act of 1933 (“Securities Act”), 15 U.S.C. §77q(a), and Sections 10(b), 15(a)(1) and 15(c)(1) of the Securities Exchange Act of 1934 (the “Exchange Act”), 15 U.S.C. §§78j(b), 78o(a)(1) and 78o(c)(1), and Rules 10b-3, 10b-5 and 15c1-2 thereunder, 17 C.F.R. §§240.10b-3, 240.10b-5 and 240.15c1-2. American (NJ) is liable as a relief defendant as, on behalf of Gryskiewicz, it received ill-gotten gains totaling at least \$66,000.

6. Unless temporarily, preliminarily, and permanently restrained and enjoined, Gryskiewicz will continue to engage in the transactions, acts, practices, and courses of business described below, and in similar acts, practices, and courses of business.

#### **JURISDICTION AND VENUE**

7. The Commission brings this action under Section 20(b) of the Securities Act, 15 U.S.C. §77t(b), and Section 21(d) of the Exchange Act, 15 U.S.C. §78(u)(d), seeking to temporarily restrain, and preliminarily and permanently enjoin, Gryskiewicz from engaging in the wrongful conduct alleged in this Complaint. The Commission also seeks a final judgment ordering Gryskiewicz and American (NJ) to disgorge their ill-gotten gains and to pay prejudgment interest thereon, and ordering Gryskiewicz to pay civil money 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). Finally, the Commission also seeks other equitable relief during the pendency of this action, including a freeze of Gryskiewicz’ and American (NJ)’s assets, an

accounting, and an order permitting expedited discovery and prohibiting the destruction of documents.

8. This Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act, 15 U.S.C. §77v(a), Sections 21(e) and 27 of the Exchange Act, 15 U.S.C. §§ 77u(e) and 78a(a), and the Judicial Improvement Act of 1990, 28 U.S.C. § 1367(a).

9. Gryskiewicz, directly and indirectly, singly and in concert, has made use of the means and instrumentalities of transportation or communication in, or the instrumentalities of, interstate commerce, or of the mails, in connection with the transactions, acts, practices and courses of business alleged in this Complaint. Certain of the transactions, acts, practices and courses of business occurred within the Eastern District of New York, including the use of interstate telephone lines to offer and sell Pan American Units

#### **DEFENDANT AND RELIEF DEFENDANT**

10. Gryskiewicz, age 27, resides in Nutley, New Jersey and, as of September 1, 1998, purportedly serves as president of Pan American, a Delaware Corporation that maintains its principal office in Palm Harbor, Florida. During the time of the transactions and events alleged in this Complaint, Gryskiewicz was not registered with the Commission as a broker. Gryskiewicz purportedly is currently associated in an unregistered capacity with AC Financial, Inc. ("AC Financial"), a registered broker-dealer that is wholly-owned by Pan American and whose only registered office is located at the same address as Pan American's office in Palm Harbor, Florida. At no time in 1998, however, had Gryskiewicz obtained the necessary regulatory approval to sell securities. "Private Auto Placement" ("Private Auto") is a D.B.A. name for Gryskiewicz.

11. American (NJ) is a New Jersey Corporation which was incorporated by Gryskiewicz on May 28, 1998. Gryskiewicz is the principal of American (NJ), which is located at the same address as the Lodi Office.

**FRAUDULENT OFFERING OF UNREGISTERED PAN AMERICAN SECURITIES**

12. Since approximately May 1998, Gryskiewicz has been offering and selling unregistered Pan American Units through a purported private placement offering.

13. Gryskiewicz principally solicited Pan American investors through telephonic cold calls and follow-up calls. Gryskiewicz induced investors to purchase Pan American Units by making false and misleading representations concerning Pan American's plans for the future, the tradability of the Pan American Units, and the future value of those securities. Specifically, in offering and selling Pan American Units, Gryskiewicz made one or more of the following, and other, material misrepresentations: a) Pan American would engage in an IPO shortly after the investor purchased the Pan American Units through the private placement; b) the Pan American Units are freely tradable or will become freely tradable soon after an IPO; and c) the Pan American Units could be sold at a substantial profit once the IPO had occurred.

14. These representations to investors were materially false and misleading because: a) there is no evidence Pan American was about to engage in an IPO; b) the Pan American Units were not, and are not, freely tradable and would not become freely tradable soon after the IPO; c) there is no basis in fact for the predictions that the Pan American Units will greatly increase in price following the IPO as, among other things, Pan American Units were not freely tradable and Pan American has a very limited operating history.

15. At the time he made the material misrepresentations alleged in paragraph 13, Gryskiewicz knew, was reckless in not knowing, or had reasonable grounds to believe that such statements were untrue or misleading.

16. Between May 1998 and September 1998, Gryskiewicz and the Lodi Office sold Pan American Units to approximately 71 investors who paid more than \$500,000 to purchase Pan American Units.

17. In connection with Gryskiewicz' and the Lodi office's offer and sale of Pan American securities, Pan American paid approximately \$160,000 to Gryskiewicz and American (NJ).

#### **FRAUDULENT OFFERING OF UNREGISTERED FREETRADE SECURITIES**

18. Since approximately October, 1998, Gryskiewicz, directly and through other individuals in the Lodi Office, has been offering to investors unregistered Freetrade securities pursuant to a purported private placement.

19. Gryskiewicz disseminated to prospective investors the Freetrade PPM that contains materially false and misleading information concerning the Freetrade securities. For example, the Freetrade PPM represents that the offered Freetrade securities "may be purchased together or separately, and shall be separately tradable immediately thereafter" (emphasis added).

20. That representation in the Freetrade PPM was false and misleading as the Freetrade securities are unregistered securities and thus not freely tradable.

21. At the time he made the material misrepresentations alleged in paragraph 19,

Gryskiewicz knew, was reckless in not knowing, or had reasonable grounds to believe that such statements were untrue or misleading.

**GRYSKIEWICZ OPERATED AS A BROKER WITHOUT BEING REGISTERED**

22. Since May 1998, Gryskiewicz has been acting as an unregistered broker directly and through others at the Lodi Office. Among other things, during the period from May 1998 through September 1998, Gryskiewicz and the Lodi Office have sold more than \$500,000 of Pan American Units to approximately 71 investors throughout the United States, including to approximately 5 investors in the Eastern District of New York. Since approximately October 1998, Gryskiewicz and others at the Lodi Office have also offered for sale Freetrade securities to at least two prospective investors.

23. At the time he effected, or attempted to effect, the above-referenced securities transactions, Gryskiewicz was not registered with the Commission as a broker and he had not obtained the necessary regulatory approval to sell securities as a properly licensed associated person of a registered broker-dealer.

24. Pan American paid monies to Gryskiewicz and American (NJ) in connection with Gryskiewicz' activity as an unregistered broker-dealer.

**FIRST CLAIM FOR RELIEF**

**VIOLATIONS OF 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, 17 C.F.R. § 240.10b-5**

**(Against Gryskiewicz)  
(Violations of General Antifraud Provisions)**

25. The Commission realleges and incorporates by reference the allegations contained in paragraphs 1 through 24 above by reference as if fully set forth herein.

26. Gryskiewicz directly or indirectly, singly or in concert, by use of the means or instruments of transportation or communication in, or the means or instrumentalities of, interstate commerce, or of the mails, in the offer or sale, and in connection with the purchase or sale, of Pan American securities, and in the offer of Freetrade Securities: (a) has employed and is employing devices, schemes and artifices to defraud; (b) has obtained and is obtaining money or property by means of, or otherwise has made and is making, untrue statements of material fact or omissions to state material facts necessary to make the statements made, in the light of the circumstances under which they were made, not misleading; and (c) has engaged and is engaging in transactions, acts, practices and courses of business which operated as a fraud or deceit upon other persons, including purchasers of Pan American Units and offerees of Freetrade securities.

27. As part of and in furtherance of this violative conduct, Gryskiewicz offered and/or sold Pan American Units and Freetrade securities by making the misrepresentations and omissions set forth in paragraphs 2, 4, 13, 14, 19 and 20 herein.

28. The misrepresentations and omissions set forth in paragraphs 2, 4, 13, 14, 19 and



20 herein were material.

29. Gryskiewicz knew, was reckless in not knowing, or had reasonable grounds to believe that the representations or omissions set forth in paragraphs 2, 4, 13, 14, 19 and 20 herein were false or misleading.

30. By reason of the foregoing, Gryskiewicz violated and, unless restrained and enjoined, will again 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, 17 C.F.R. §240.10b-5.

### **SECOND CLAIM FOR RELIEF**

#### **VIOLATIONS OF SECTION 15(c)(1) OF THE EXCHANGE ACT, 15 U.S.C. §78o(c)(1), AND RULES 10b-3 AND 15c2-1, 17 C.F.R. §§240.10b-3 AND 240.15c2-1**

(Against Gryskiewicz)  
(Violations of Antifraud Provisions by Brokers)

31. The Commission realleges and incorporates paragraphs 1 through 30 above by reference as if fully set forth herein.

32. Gryskiewicz has engaged and is engaging in the business of effecting transactions in securities for the accounts of others, and therefore was and is a broker within the meaning of Section 3(a)(4) of the Exchange Act, 15 U.S.C. §78c(a)(4).

33. Gryskiewicz, while a broker, directly or indirectly, by use of the mails or the means or instrumentalities of interstate commerce, has effected and is effecting transactions in, and has induced and attempted to induce and is attempting to induce the purchase or sale of, securities by means of manipulative, deceptive, or other fraudulent devices or contrivances,

including: (a) acts, practices, and courses of business that operated or would have operated as a fraud or deceit upon any person, including persons to whom Gryskiewicz offered and/or sold Pan American and Freetrade securities; and (b) making untrue statements of material fact and omissions to state a material fact necessary, in order to make the statements made, in light of the circumstances under which they were made, not misleading with knowledge or reasonable grounds to believe that such statements are untrue or misleading.

34. As part of and in furtherance of this violative conduct, Gryskiewicz offered and/or sold Pan American Units and Freetrade securities by making the misrepresentations and omissions set forth in paragraphs 2, 4, 13, 14, 19 and 20 herein.

35. The misrepresentations and omitted facts alleged in paragraphs 2, 4, 13, 14, 19 and 20 herein were material.

36. Gryskiewicz knew, was reckless in not knowing, or had reasonable grounds to believe that the representations or omissions set forth in paragraphs 2, 4, 13, 14, 19 and 20 herein were false or misleading.

37. By reason of the foregoing, Gryskiewicz violated, and, unless restrained and enjoined, will again violate Section 15(c)(1) of the Exchange Act, 15 U.S.C. §78o(c)(1), and Rules 10b-3 and 15c1-2, 17 C.F.R. §§240.10b-3 and 240.15c2-1.

**THIRD CLAIM FOR RELIEF**

**VIOLATIONS OF SECTION 15(a)  
OF THE EXCHANGE ACT,  
15 U.S.C. §78o(a)**

**(Against Gryskiewicz)  
(Violations of Registration Provisions By Brokers)**

38. The Commission realleges and incorporates paragraphs 1 through 37 above by reference as if fully set forth herein.

39. Gryskiewicz, when he was neither registered with the Commission as a broker nor a properly licensed associated person of a registered broker-dealer, made use of the mails or means and instrumentalities of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of securities, including Pan American Units and Freetrade securities.

40. During the time of the transactions and events alleged in this Complaint, Gryskiewicz was neither registered with the Commission as a broker nor properly licensed to sell securities as an associated person of any registered broker-dealer.

41. By reason of the foregoing, Gryskiewicz violated and, unless restrained and enjoined, will again violate Section 15(a)(1) of the Exchange Act, 15 U.S.C. §78o(a)(1).

**FOURTH CLAIM FOR RELIEF**

**UNJUST ENRICHMENT**

**(Against American (NJ))**

42. The Commission realleges and incorporates paragraphs 1 through 41 above by reference as if fully set forth herein.

43. As a result of Gryskiewicz's unlawful activity as an unregistered broker and in connection with his fraudulent offer and sale of Pan American securities, Pan American paid monies to American (NJ) for Gryskiewicz's benefit.

44. American (NJ) provided Pan American with no lawful consideration for the monies it received from Pan American.

45. American (NJ) has obtained funds alleged above as part of and in furtherance of the violations alleged in paragraphs 1 through 41 and under circumstances in which it is not just, equitable, or conscionable for American (NJ) or Gryskiewicz to retain the funds. As a consequence of the foregoing, American (NJ) has been unjustly enriched. In the alternative, American (NJ) holds whatever monies or other consideration Pan American gave to American (NJ) for the benefit of Gryskiewicz in constructive trust for defrauded public purchasers of Pan American securities.

### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff Commission respectfully requests that this Court grant:

#### **I.**

Orders temporarily and preliminarily, and a Final Judgment permanently, restraining and enjoining Gryskiewicz, his agents, servants, employees, attorneys in-fact, and all persons in active concert or participation with them who receive actual notice of the injunction by personal service or otherwise, and each of them, from future violations of Section 17(a) of the Securities Act, 15 U.S.C. §77q(a), and Sections 10(b), 15(a)(1) and 15(c)(1) of the Exchange Act, 15 U.S.C. §§78j(b), 78o(a)(1) and 78o(c)(1) and Rules 10b-3, 10b-5 and 15c1-2, 17 C.F.R.

§§240.10b-3, 240.10b-5 and 240.15c1-2.

**II.**

An Order directing that the assets of Gryskiewicz and American (NJ) be frozen.

**III.**

An Order directing Gryskiewicz to file with this Court and serve upon plaintiff Commission, within five business days, or within such extension of time as the Commission agrees in writing, a verified written accounting, signed by him under penalty of perjury.

**IV.**

An Order enjoining and restraining Gryskiewicz, and any person or entity acting at his direction or on his behalf from destroying, altering, concealing, or otherwise interfering with the access of the plaintiff Commission to relevant documents, books and records.

**V.**

An Order permitting expedited discovery.

**VI.**

A Final Judgment requiring Gryskiewicz and American (NJ) to disgorge their unjust enrichment from the fraudulent conduct alleged in this Complaint, and to pay prejudgment interest thereon.

**VII.**

A Final Judgment imposing against Gyskiewicz civil monetary 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), for the violations alleged herein.

**VIII.**

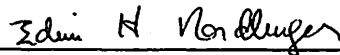
Such other and further relief as the Court deems appropriate.

Dated: December 15, 1998

New York, New York

Respectfully submitted,

CARMEN J. LAWRENCE  
REGIONAL DIRECTOR



By: EDWIN H. NORDLINGER (EN-6258)  
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