

UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION,

Plaintiff,

v.

RICHARD T. HAMMACK,

Defendant.

00C 7623

CIVIL ACTION
FILE NO.

JUDGE CASTILLO

MAGISTRATE JUDGE BOBRICK

FILED-EDS
DEC 5 AM 6:42

CLERK
U.S. DISTRICT COURT

PLAINTIFF SECURITIES AND EXCHANGE COMMISSION'S COMPLAINT
FOR PRELIMINARY AND PERMANENT INJUNCTION AND OTHER
ANCILLARY RELIEF

Plaintiff, the United States Securities and Exchange Commission ("SEC"), alleges
as follows:

1. From in or about January 1999 through at least October 2000, Defendant
Richard T. Hammack ("Hammack"), a registered representative at a securities brokerage
firm, misappropriated more than \$1,923,000 given to him by at least 56 of his customers
for reinvestment into their variable annuity accounts.

2. Hammack, directly and indirectly, has engaged in transactions, acts,
practices and courses of business which constitute violations of Section 17(a) of the
Securities Act of 1933 (the "Securities Act") [15 U.S.C. §77(q)(a)], Section 10(b) of the
Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. §§78j(b)] and Rule
10b-5 [17 C.F.R. §§240.10b-5] promulgated thereunder.

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3. The SEC brings this action to enjoin such transactions, acts, practices, and course of business pursuant to Section 20(b) of the Securities Act [15 U.S.C. §77t(b)] and Sections 21(d) and 21(e) of the Exchange Act [15 U.S.C. §§78u(d) and 78u(e)].

JURISDICTION AND VENUE

4. The Court has jurisdiction over this action pursuant to Section 22(a) of the Securities Act [15 U.S.C. §77v(a)], Section 27 of the Exchange Act [15 U.S.C. §78aa] and 28 U.S.C. §1331. Venue is proper in this Court pursuant to Section 27 of the Exchange Act [15 U.S.C. §78aa].

5. Hammack resides in Oakbrook, Illinois, located in the Northern District of Illinois. The transactions, acts, practices, and courses of business constituting the violations alleged herein have occurred within the jurisdiction of the United States District Court for the Northern District of Illinois and elsewhere.

6. Hammack, directly and indirectly, has made use of the means and instrumentalities of interstate commerce and of the mails in connection with the transactions, acts, practices, and courses of business alleged herein in the Northern District of Illinois and elsewhere.

7. There is a reasonable likelihood that Hammack will, unless enjoined, continue to engage in the transactions, acts, practices and courses of business set forth in this complaint, and transactions, acts, practices and courses of business of similar purport and object.

BACKGROUND

8. Defendant Hammack is 58 years of age and resides in Oakbrook, Illinois. Hammack passed his Series 7 examination in 1983. He has been employed as a

registered representative by several securities brokerage firms, including Prudential Securities, Inc., Smith Barney, Inc. and Lehman Brothers, Inc. Most recently, Hammack worked as a registered representative for Dreher & Associates, Inc. ("Dreher"). Dreher employed Hammack from December 1995 through November 9, 2000. Hammack is not currently employed.

9. Dreher is a broker-dealer registered with the SEC. Dreher's headquarters are located in Oakbrook Terrace, Illinois. It employs approximately 178 registered representatives and has 4 additional branch offices.

10. At all times relevant, Hammack was employed by Dreher as a registered representative in Dreher's headquarters located at One Oakbrook Terrace in Oakbrook Terrace, Illinois.

11. Dreher terminated Hammack's employment on November 9, 2000 because Hammack misappropriated customer funds, as alleged in this complaint.

THE FRAUDULENT SCHEME

12. From approximately January 1999 to at least October 2000, while an employee and associated person of Dreher, Hammack forged at least 56 of his customers' names on variable annuity distribution request forms, without the customers' knowledge or consent, and forwarded those requests to insurance companies maintaining the customers' variable annuity accounts. As a result, the insurance companies liquidated portions of the customers' interests in mutual funds underlying the variable annuities and mailed distribution checks to the customers.

13. In furtherance of his scheme, Hammack telephoned his customers and represented to them that they would soon be receiving variable annuity distribution

checks and that these checks were mistakenly issued by the insurance companies. During these telephone conversations, Hammack insisted that he personally pick up the checks from customers at their homes so that he could reinvest the funds for them in their variable annuity accounts, even though some customers offered to return the checks to the insurance companies directly.

14. Once at their homes, Hammack persuaded his customers to endorse the distribution checks "for deposit only," and also directed them to write their account numbers on the checks. Hammack's customers then gave him their distribution checks for reinvestment into their variable annuity accounts.

15. Hammack did not reinvest the distribution checks as promised. Instead, Hammack endorsed the checks and deposited them into an account under his control at the Northern Trust Bank in Oakbrook Terrace, Illinois.

16. As of October 19, 2000, Hammack misappropriated more than \$1,923,000 from at least 56 of his Dreher customers.

THE COVER UP

17. In an effort conceal his fraudulent activities, Hammack drafted and mailed letters to customers falsely stating that the variable annuity distribution checks had been returned to the insurance companies. Hammack drafted these letters on either Dreher letterhead or fake insurance company stationary that he created to appear as though the insurance companies drafted and sent the letters.

HAMMACK GETS CAUGHT

18. On or about November 7, 2000, Dreher received a letter from one of Hammack's defrauded customers outlining Hammack's scheme. On the same date,

James Dreher, President of the firm, telephoned Hammack. Hammack did not have a discussion with Mr. Dreher, but referred Mr. Dreher to his attorney.

19. Next, Mr. Dreher telephoned Hammack's attorney, Mr. Michael Monaco. During this telephone conversation, Mr. Monaco indicated to Mr. Dreher that Hammack had misappropriated funds from Dreher customers. Mr. Monaco further indicated that he had not yet determined the names of the customers or the amounts misappropriated from them, but that he would forward a list to Mr. Dreher summarizing this information.

20. Dreher fired Hammack on November 9, 2000.

21. On or about November 17, 2000, Mr. Dreher received a list from Mr. Monaco. The list identified 55 of Hammack's customers and listed dollar figures for each customer.

22. On or about November 21, 2000, Mr. Dreher received a second, revised list from Mr. Monaco. This list was identical to the first except that it identified an additional investor, for a total of 56 customers. The November 21, 2000 list shows a total of \$1,923,157.77 at the bottom of the page.

COUNT I
Violations of Section 17(a)(1) of the Securities Act

23. Paragraphs 1 through 22 are realleged and incorporated by reference as if set forth fully herein.

24. From in or about January 1999 through at least October 2000, Hammack, in the offer and sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce and by the use of the mails, directly and indirectly, has employed devices, schemes and artifices to defraud.

25. Hammack knew or was reckless in not knowing of the activities described in paragraphs 23 and 24 above.

26. By reason of the activities described in paragraphs 23 through 25 above, Hammack has violated Section 17(a)(1) of the Securities Act [15 U.S.C. §77q(a)(1)].

COUNT II
Violations of Section 17(a)(2) and 17(a)(3) of the Securities Act

27. Paragraphs 1 through 22 are realleged and incorporated by reference as if set forth fully herein.

28. From in or about January 1999 through at least October 2000, Hammack, in the offer and sale of securities, by the use of the means and instruments of transportation and communication in interstate commerce and by the use of the mails, directly and indirectly, has obtained money and property by means of untrue statements of material fact or omissions to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, and has engaged in transactions, practices or courses of business which have operated as a fraud and deceit upon purchasers of securities.

29. By reason of the activities described in paragraphs 27 and 28 above, Hammack has violated Sections 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §77q(a)(2) and §77q(a)(3)].

COUNT III
**Violations of Section 10(b) of the
Exchange Act and Rule 10b-5 Promulgated Thereunder**

30. Paragraphs 1 through 22 are realleged and incorporated by reference as if set forth fully herein.

31. From in or about January 1999 through at least October 2000, Hammack, in connection with the purchase and sale of securities, directly and indirectly, by the use of the means and instrumentalities of interstate commerce and of the mails, has employed devices, schemes and artifices to defraud; has made untrue statements of material fact and has omitted to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and has engaged in acts, practices and courses of business which operated as a fraud and deceit upon the customers discussed in paragraphs 12 through 22, above.

32. Hammack knew or was reckless in not knowing of the activities described in paragraphs 30 and 31 above.

33. By reason of the activities described in paragraphs 30 through 32 above, Hammack has violated Section 10(b) of the Exchange Act [15 U.S.C. §§78j(b)] and Rule 10b-5 [17 C.F.R. §240.10b-5] promulgated thereunder.

PRAYER FOR RELIEF

WHEREFORE, the SEC requests that the Court:

I.

Find that Defendant Hammack committed the violations charged and alleged herein.

II.

Grant Orders of Preliminary and Permanent Injunction, in a form consistent with Rule 65(d) of the Federal Rules of Civil Procedure, permanently restraining and enjoining Defendant Hammack, his officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of the

Order, by personal service or otherwise, and each of them from, directly or indirectly, engaging in the transactions, acts, practices or courses of business described above, or in conduct of similar purport and object, in violation of Sections 17(a)(1), 17(a)(2) and 17(a)(3) of the Securities Act [15 U.S.C. §§77q(a)(1), 77q(a)(2), and 77q(a)(3)], Sections 10(b) of the Exchange Act [15 U.S.C. §§78j(b)] and Rules 10b-5 [17 C.F.R. §§240.10b-5] promulgated thereunder.

III.

Issue an Order requiring Defendant Hammack to disgorge the ill-gotten gains that he received as a result of his wrongful conduct, including prejudgment interest.

IV.

With regard to the Defendant Hammack's violative acts, practices and courses of business set forth herein issue an Order imposing upon him appropriate civil penalties pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. §§78u(d)(3)].

V.

Grant an Order for any other relief this Court deems appropriate.

VI.

Retain jurisdiction of this action in accordance with the principals of equity and the Federal Rules of Civil Procedure in order to implement and carry out the terms of all orders and decrees that may be entered or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court.

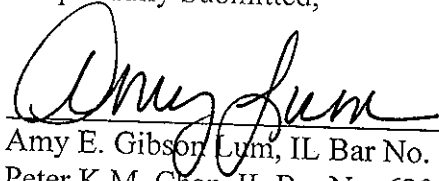
VII.

Grant appropriate emergency relief to prevent further secretion or dissipation of assets purchased with investor funds.

VIII.

Grant Orders for such further relief as the Court may deem appropriate.

Respectfully Submitted,



Amy E. Gibson Lum, IL Bar No. 6237158

Peter K.M. Chan, IL Bar No. 6206718

Attorneys for Plaintiff

U. S. Securities and Exchange Commission

500 West Madison Street Suite 1400

Chicago, Illinois 60601-2511

(312) 353-0512

Dated: December 5, 2000

JS 44
(Rev. 12/96)

Cat 3

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

JUDGE CASTILLO

00C 7623

I. (a) PLAINTIFFS

U.S. SECURITIES & EXCHANGE COMMISSION

DEFENDANTS

Richard T. Hammack
MAGISTRATE JUDGE BOBRICK

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)
Peter K.M. Chan, Amy E. Gibson Lum
U.S. Securities & Exchange Commission
500 West Madison Street, Suite 1400
Chicago, IL 60661-2511 312/353-7390

ATTORNEYS (IF KNOWN)
DOCKETED
DEC 06 2000
210 10:12

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input checked="" type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice Act <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 990 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

VI. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)
 15 U.S.C. §77q(a)(1), 77q(a)(2) and 77q(a)(3); 15 U.S.C. §78j(b) and 17 C.F.R. 240.10b-5; and 15 U.S.C. §78o(b)(7) and 17 C.F.R. 240.15b7-1

VII. REQUESTED IN COMPLAINT

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** _____ **CHECK YES only if demanded in complaint:**
JURY DEMAND: YES NO

VIII. This case is not a refiling of a previously dismissed action.
 is a refiling of case number _____, previously dismissed by Judge _____

DATE: 12/4/00 SIGNATURE OF ATTORNEY OF RECORD: *Amy E. Gibson Lum*

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

In the Matter of

Richard T. Hammack

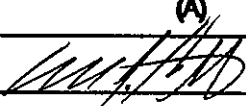
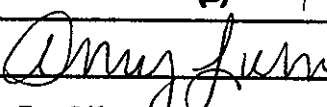
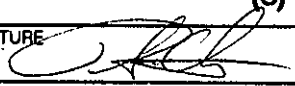
00C 7623

Case Number:

JUDGE CASTILLO

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

United States Securities and Exchange Commission **MAGISTRATE JUDGE BOBRICK**

(A)		(B)	
SIGNATURE 	SIGNATURE 	FILED DEC 15 AM 8:15 CLERK U.S. DISTRICT COURT	
NAME Charles J. Kerstetter	NAME Amy E. Gibson Lum		
FIRM Securities & Exchange Commission	FIRM Securities & Exchange Commission		
STREET ADDRESS 500 W. Madison Street, Ste. 1400	STREET ADDRESS 500 W. Madison Street, Ste. 1400		
CITY/STATE/ZIP Chicago, IL 60661	CITY/STATE/ZIP Chicago, IL 60661		
TELEPHONE NUMBER 312/353-7390	TELEPHONE NUMBER (312) 353-7390		
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6237158		
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>		
	DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		
(C)		(D)	
SIGNATURE 	SIGNATURE		
NAME Peter K.M. Chan	NAME		
FIRM Securities & Exchange Commission	FIRM		
STREET ADDRESS 500 W. Madison Street, Ste. 1400	STREET ADDRESS		
CITY/STATE/ZIP Chicago, IL 60661	CITY/STATE/ZIP		
TELEPHONE NUMBER (312) 353-7390	TELEPHONE NUMBER		
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 6206718	IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)		
MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	MEMBER OF TRIAL BAR? YES <input type="checkbox"/> NO <input type="checkbox"/>		
TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>		
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		

PLEASE COMPLETE IN ACCORDANCE WITH INSTRUCTIONS ON REVERSE.

1-3