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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION, **Plaintiff,** **-against-** **JOSEPH SIMONE; ISLAND CAPITAL MANAGEMENT, INC.; JOSEPH LANDO; JOSEPH CARACCIOLO; ALFRED VARRICCHIO; ANTHONY PIANELLI; JILL PIANELLI; JAP JAP ENTERPRISES, LLC; PATRICK VERDI; G.P. INSTITUTIONAL SERVICES, INC.; BRIAN FABRIZZI; DONALD SORRENTINO; ANTHONY CARANNANTE, individually and d/b/a A&C MANAGEMENT; STEVEN DARONZIO, individually and d/b/a A&C MANAGEMENT; ROCHELLE ROMAN; SHAUN SARNICOLA; ANTHONY TANICO; ANDREA LANDO-TANICO; AJT LTD.; AJGT LTD.; MICHAEL McCORMACK; DONNA CENTOLA; DMAC SERVICES, INC.; ANDREW CACCIOPPOLI; THOMAS MACLI; DONNA MACLI; LUMAC CORP.; GARY MANFRE; RICHARD MANFRE; and RAM SOLUTIONS, INC.,** **Defendants.**	**Civil Action No.** **07-3928 (JG)(RML)** **AMENDED** **COMPLAINT**

Plaintiff Securities and Exchange Commission ("Commission"), for its complaint against defendants Joseph Simone ("Simone"); Island Capital Management, Inc. ("Island"); Joseph Lando ("J. Lando"); Joseph Caracciolo ("Caracciolo"); Alfred Varricchio ("Varricchio");

Anthony Pianelli ("A. Pianelli"); Jill Pianelli ("J. Pianelli"); JAP JAP Enterprises, LLC ("JJE"); Patrick Verdi ("Verdi"); G.P. Institutional Services, Inc. ("GP"); Brian Fabrizzi ("Fabrizzi"); Donald Sorrentino ("Sorrentino"); Anthony Carannante ("Carannante"), individually and d/b/a A&C Management ("A&C"); Steven Daronzio ("Daronzio"), individually and d/b/a A&C; Rochelle Roman ("Roman"); Shaun Sarnicola ("Sarnicola"); Anthony Tanico ("Tanico"); Andrea Lando-Tanico ("Lando-Tanico"); AJT Ltd. ("AJT"); AJGT Ltd. ("AJGT"); Michael McCormack ("McCormack"); Donna Centola ("Centola"); DMAC Services, Inc. ("DMAC"); Andrew Caccioppoli ("Caccioppoli"); Thomas Macli ("T. Macli"); Donna Macli ("D. Macli"); LUMAC Corp. ("LUMAC"); Gary Manfre ("G. Manfre"); Richard Manfre ("R. Manfre"); and RAM Solutions, Inc. ("RAM"); alleges as follows:

SUMMARY OF ALLEGATIONS

1. This action concerns widespread fraudulent conduct by twenty-two individuals and eight entities involved in the securities lending industry, colloquially known as the "stock loan" business. The defendants include thirteen current and former stock loan traders ("Traders") at several major Wall Street brokerage firms, including Van der Moolen Specialists USA, LLC ("VDM"), Janney Montgomery Scott, LLC ("Janney") and Nomura Securities International, Inc. ("Nomura"). From at least 1999 through early 2005, these Traders conspired in various schemes with seventeen purported stock loan "finders" ("Finders") to skim profits on stock loan transactions. The defendants made over $10 million from their unlawful schemes.

2. The Traders routinely defrauded brokerage firms by engaging in collusive loan transactions and causing sham finder fees to be paid to purported Finders that were in fact entities controlled by the Traders themselves or by their friends and relatives. Acting as fronts for the Traders, these entities received hefty finder fees on thousands of stock loan transactions even

though they did not provide any legitimate finding services and, in many cases, were simply shell companies that were not even involved in the stock loan business. The persons controlling the phony Finders included a mailman, a perfume salesman, and a dental receptionist. The Traders shared in the sham finder fees through secret kickback arrangements. Some defendants met monthly at New York City bars and restaurants to exchange thousands of dollars in cash, often wrapped in newspapers or stuffed into envelopes.

3. The defendants engaged in multiple schemes with overlapping participants, and many of the defendants participated in more than one scheme. The fraudulent schemes involved literally thousands of stock loan transactions in which the following purported Finders received sham finder fees: Island, GP, A&C, AJT, AJGT, DMAC, LUMAC, RAM, and JJE. The defendants' schemes and their respective roles are summarized below.

The Interrelated Schemes

4. While Simone was co-head of the stock loan trading desk at VDM, he engaged in several schemes to defraud VDM using Island, a shell company that he controlled. Simone caused VDM to pay several million dollars in sham finder fees to Island. The following Traders also colluded with Simone to increase his illegal profits through circular loan transactions known as "ring" and "run-through" deals: J. Lando, then head of sales for Janney's stock loan desk; Caracciolo at National Investor Services Corp. ("NISC"); Varricchio at A.G. Edwards & Sons, Inc. ("A.G. Edwards"), and A. Pianelli at Weiss, Peck & Greer, LLC ("Weiss Peck"). Simone paid monthly cash kickbacks to these Traders out of the sham finder fees paid to Island. Simone himself made approximately $3.6 million.

5. Verdi, a Trader who supervised the stock loan desk at Schonfeld Securities LLC ("Schonfeld"), schemed with Simone to defraud Schonfeld through the payment of sham finder

fees to GP, a shell company that Verdi controlled. Simone caused VDM to pay sham finder fees to GP on transactions in which Verdi had Schonfeld borrow stock from, or lend stock to, VDM at rates that favored VDM at Schonfeld's expense. Simone had VDM lend or borrow the stock in transactions with other firms at better rates, and GP's finder fees were paid out of VDM's artificial profits.

6. Fabrizzi, the other co-head of VDM's stock loan trading desk, also defrauded VDM through the payment of sham finder fees. Fabrizzi conspired with Carannante, a Finder doing business as A&C, and Sorrentino, a trader at Oppenheimer & Co., Inc. ("Oppenheimer"). Fabrizzi and Sorrentino colluded on "run-through" loans between VDM and Oppenheimer that enabled Fabrizzi to have VDM pay sham finder fees to A&C. Carannante kept a portion of the fees and funneled the rest back to Fabrizzi, who paid monthly cash kickbacks to Sorrentino.

7. Roman and Sarnicola, two Traders at Kellner Dileo & Co. ("Kellner"), conspired with Carannante and Daronzio, another A&C Finder, to cause Kellner to pay sham finder fees to A&C. Carannante and Daronzio kept a portion of the sham fees, and Carannante paid the balance in cash kickbacks to Roman and Sarnicola.

8. Roman also defrauded Kellner by causing it to pay sham finder fees to AJT and AJGT, two Finders run by relatives of J. Lando -- Tanico and Lando-Tanico, who is J. Lando's sister and Tanico's wife. Tanico paid Roman monthly cash kickbacks and kept the balance of the sham finder fees for himself and Lando-Tanico. J. Lando also caused Janney to pay sham fees to AJT and AJGT.

9. McCormack, while a Trader at A.G. Edwards, schemed with Centola (his wife), J. Lando and Roman to defraud A.G. Edwards through sham finder fees paid to DMAC, a shell company owned by Centola. McCormack arranged for J. Lando and Roman to have Janney and

Kellner borrow stock from A.G. Edwards at inferior rates and then lend the stock to other firms specified by McCormack at better rates. DMAC's sham finder fees were paid out of these artificial profits.

10. Caccioppoli, a Trader who supervised Janney's stock loan desk, schemed with his sister, D. Macli, and her husband, T. Macli, to defraud Janney by having the firm pay sham finder fees to LUMAC, a shell company owned by D. and T. Macli. T. Macli was a mailman, and D. Macli was a dental receptionist.

11. G. Manfre, a Trader at Nomura, schemed with his brother R. Manfre, Simone and J. Lando to defraud Nomura through sham finder fees paid to RAM, a shell company owned by R. Manfre, a perfume salesman. Simone and J. Lando had VDM and Janney pay sham fees to RAM after G. Manfre had Nomura lend stock to VDM and Janney at inferior interest rates. Simone and J. Lando loaned the same stock to other firms at better rates, and RAM's finder fees were paid out of these artificial profits.

12. A. Pianelli also schemed with J. Lando to defraud Weiss Peck and Janney by paying sham finder fees to JJE, a purported Finder owned by J. Pianelli, A. Pianelli's wife. J. Lando had Janney pay fees to JJE on loan transactions with Weiss Peck that were arranged entirely by A. Pianelli and J. Lando.

13. By virtue of the foregoing conduct, each of the defendants, directly or indirectly, singly or in concert, violated Section 17(a) of the Securities Act of 1933 ("Securities Act") [15 U.S.C. § 77q(a)], Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act") [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R § 240.10b-5]; and each of them, except Verdi and GP, is also liable in the alternative, pursuant to Section 20(e) of the Exchange Act [15 U.S.C. § 78t(e)], for aiding and abetting the 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] committed by those defendants with whom they schemed. Unless each of the defendants is permanently restrained and enjoined, they will again engage in the acts, practices, transactions and courses of business set forth in this complaint and in acts, practices, transactions and courses of business of similar type and object.

JURISDICTION AND VENUE

14. The Commission brings this action pursuant to the authority conferred by 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. § 78u(d)], and seeks to restrain and enjoin the defendants permanently from engaging in the acts, practices, transactions and courses of business alleged herein. The Commission also seeks a final judgment ordering the defendants to disgorge their ill-gotten gains and pay prejudgment interest thereon, and ordering the defendants 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)].

15. This Court has jurisdiction over this action, and venue lies in this District, pursuant to Sections 20(d) and 22(a) of the Securities Act [15 U.S.C. §§ 77t(d) and 77v(a)] and Sections 21(d) and 27 of the Exchange Act [15 U.S.C. §§ 78u(d) and 78aa]. The defendants, directly and indirectly, have made use of the means or instrumentalities of, or the means or instruments of transportation or communication in, interstate commerce, or 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. Some of these transactions, acts, practices and courses of business occurred in the Eastern District of New York, where many of the defendants reside or transact business.

THE DEFENDANTS

16. **Simone**, age 65, resides in Staten Island, New York. From June 1997 until January 2005, he was a stock loan trader and a registered representative associated with VDM. Simone was co-head of VDM's stock loan desk and was known in the industry as "The Chief Inspector."

17. **Island** is a New York corporation with a business address in Bethpage, New York. Simone controlled Island, which purported to provide stock loan finding services.

18. **J. Lando**, age 34, resides in Milestone, New Jersey. From May 1997 to July 2005, J. Lando was a stock loan trader employed by Janney and head of sales for its stock loan trading desk. J. Lando was then known in the industry as "Joe Janney." He is currently employed as a securities lending representative at Penson Financial Services, Inc. ("Penson"), a registered broker-dealer.

19. **Caracciolo**, age 33, resides in Staten Island, New York. From in or about June 2000 through July 2005, he was a stock loan trader and registered representative employed by NISC and was known in the industry as "Stock Loan Joe."

20. **Varricchio**, age 48, resides in Lynbrook, New York. From October 1979 through October 2006, he was a stock loan trader employed by A.G. Edwards.

21. **A. Pianelli**, age 53, resides in Middletown, New Jersey. From February 1983 through May 2004, A. Pianelli was a stock loan trader employed by Weiss Peck. From June 2004 through December 2004, he was affiliated with JJE, a purported Finder.

22. **J. Pianelli**, age 51, resides in Middletown, New Jersey. She is married to A. Pianelli. J. Pianelli is the sole shareholder and officer of JJE. She has never been associated with a broker-dealer or otherwise employed in the securities industry.

23. **JJE** is a New Jersey limited liability company formed in or about February 2004. A. and J. Pianelli controlled JJE, which purported to provide stock loan finding services. JJE's initial business address was the Pianelli residence in Middletown, New Jersey, but was later changed to an office in Red Bank, New Jersey.

24. **Verdi,** age 65, currently maintains residences in Cary, North Carolina and Naples, Florida. From August 1997 to December 2003, he was a stock loan trader employed by Schonfeld and supervised Schonfeld's securities lending desk.

25. **GP** is a New York corporation with a business address in New York, New York. GP is controlled by Verdi.

26. **Fabrizzi**, age 63, resides in Edison, New Jersey. From May 1997 to February 2005, he was a stock loan trader employed by VDM and co-head of its stock loan trading desk.

27. **Sorrentino**, age 61, resides in Valley Stream, New York. From June 2002 to February 2005, he was a stock loan trader employed by Oppenheimer.

28. **Carannante**, age 63, resides in Brick, New Jersey. Since 1993, he has operated a Finder business under the name A&C out of his home.

29. **Daronzio**, age 47, resides in Hazlet, New Jersey. From April 2003 through December 2004, he was employed by A&C purportedly as a Finder. From May 1999 to March 2003, he was a stock loan trader employed by a registered broker-dealer.

30. **Roman**, age 39, resides in Hazlet, New Jersey. From October 1997 to January 2005, she was a stock loan trader employed by Kellner.

31. **Sarnicola**, age 29, resides in Brooklyn, New York. From May 1998 through September 2006, he was a stock loan trader employed by Kellner.

32. **Tanico**, age 39, resides in Manalapan, New Jersey. From 2000 to December 2004, he purportedly worked as a Finder through AJT and then AJGT. Tanico formed AJT in or about 2000 and installed his mother as the sole officer. From 1994 to 1999, he was a registered representative associated with various broker-dealers located in Staten Island, New York. In December 1999, he consented to an NASD order barring him from association with any NASD member firm as a result of charges that he had an impostor take the Series 7 and 63 exams for him.

33. **Lando-Tanico**, age 36, resides in Manalapan, New Jersey. She is married to Tanico and is the sister of J. Lando. From April 1997 to February 2002, she was a stock loan trader employed by Southwest Securities Inc. ("Southwest"). After leaving Southwest, she began working as a Finder through AJT. In or about January 2003, she formed AJGT and continued working as a Finder. From April 2005 to June 2005, she was employed by Janney as a stock loan trader.

34. **AJT** is a New York corporation with a business address in Staten Island, New York. Even though Tanico's mother is the only person identified in the corporation's records, AJT was controlled by Tanico. AJT purported to provide stock loan finding services.

35. **AJGT** is a New Jersey corporation with a business address in Morganville, New Jersey. Lando-Tanico is the sole officer and shareholder of AJGT, which purported to provide stock loan finding services.

36. **McCormack**, age 32, resides in Staten Island, New York. From April 1994 to March 2005, he was employed as a stock loan trader by A.G. Edwards and was known in the industry as "Mikey Irish."

37. **Centola**, age 31, resides in Staten Island, New York. She has been married to McCormack since in or about September 2002, although they separated in or about April 2004. From March 2001 through April 2004, Centola purportedly worked as a Finder through DMAC. Before forming DMAC, she was a stock loan trader employed by a registered broker-dealer.

38. **DMAC** is a New York corporation with a business address in Brooklyn, New York. Centola is the sole officer and shareholder of DMAC, which purported to provide stock loan finding services.

39. **Caccioppoli,** age 47, resides in Mahopac, New York. From December 1991 to July 2005, he was a stock loan trader employed by Janney and supervised Janney's securities lending desk. Caccioppoli is currently employed by Penson as a stock loan trader.

40. **D. Macli,** age 44, resides in Cortlandt Manor, New York. She is Caccioppoli's sister and has been employed as a dental receptionist for the past 20 years.

41. **T. Macli**, age 51, resides in Cortlandt Manor, New York. He is married to D. Macli and has been employed as a letter carrier for the past 23 years.

42. **LUMAC** is a New York corporation with business addresses in Cortlandt Manor, New York and Jefferson Valley, New York, which is the address of an apartment that Caccioppoli's brother was living in during the relevant period. D. Macli and T. Macli are the sole officers and shareholders of LUMAC, which purports to provide stock loan finding services.

43. **G. Manfre**, age 44, resides in Metuchen, New Jersey. From July 1998 through February 2006, he was a stock loan trader and a registered representative associated with Nomura.

44. **R. Manfre**, age 38, resides in Bethpage, New York. He is the brother of G. Manfre and has been employed as a perfume salesperson since 1992.

45. **RAM** is a New York corporation whose business address is R. Manfre's home in Bethpage, New York. R. Manfre is the sole officer and shareholder of RAM, which purported to provide stock loan finding services.

RELEVANT ENTITIES

46. **VDM** is registered with the Commission as a broker-dealer and maintains its principal place of business in New York, New York. VDM is a subsidiary of Van der Moolen Holding N.V., which is based in Amsterdam, The Netherlands. VDM closed its stock loan department in or about February 2005.

47. **Janney** is registered with the Commission as a broker-dealer and maintains its principal place of business in Philadelphia, Pennsylvania.

48. **NISC** was registered with the Commission as a broker-dealer and maintained its principal place of business in New York, New York during the relevant period. In or about January 2006, NISC was acquired by Ameritrade Holding Corporation and ceased operating an independent securities lending desk several months later.

49. **Nomura** is registered with the Commission as a broker-dealer and maintains its principal place of business in New York, New York.

50. **A.G. Edwards** is registered with the Commission as a broker-dealer and maintains its principal place of business in St. Louis, Missouri.

51. **Schonfeld** is registered with the Commission as a broker-dealer and maintains its principal place of business in Jericho, New York.

52. **Oppenheimer** is registered with the Commission as a broker-dealer and maintains its principal place of business in New York, New York.

53. **Kellner** is registered with the Commission as a broker-dealer and maintains its principal place of business in New York, New York.

54. **Weiss Peck** was registered with the Commission as a broker-dealer and maintained its principal place of business in New York, New York during the relevant period. In 2003, Weiss Peck merged with Robeco USA.

BACKGROUND

Typical Stock Loan Transactions

55. A securities loan is a collateralized, temporary exchange of securities. The collateral is usually cash or other securities. Generally, broker-dealers borrow securities to cover short sales and lend securities to gain short-term access to cash. If the security is liquid (*i.e.* readily available and thus called "easy-to-borrow"), the broker-dealer borrowing the security also receives interest for the duration of the loan on the cash collateral it makes available to the lender. The interest payment is called a "rebate." If the security is in limited supply (*i.e.* "hard-to-borrow"), the borrower generally pays interest to the lender for the right to borrow the security. This interest payment is called a "negative rebate." The rebates and negative rebates are a percentage of the total market value of the securities and are quoted as annual percentage rates. Stock loan transactions may stay open for as little as one trading day or as long as several months or even a year.

Roles Of Securities Lending Firms

56. There are generally three types of securities lending firms, referred to in the industry as "retail" firms, "prime broker" firms and "conduit" firms. The retail firms, which have a large retail customer base, are primarily in the securities lending business to lend securities from their inventory, or "box," to gain short-term access to cash for financing needs. By lending

easy-to-borrow securities from their box, retail firms can obtain cash at a more favorable interest rate (*i.e.* the rebate) than they could obtain from a bank or similar lending institution. When retail firms lend hard-to-borrow securities at negative rebates, they make a profit from the interest they receive. Prime broker firms typically have large institutional and hedge-fund clients, and they often need to borrow significant blocks of securities to cover their customers' short sales. Because prime broker firms have the greatest demand for securities, their loan transactions significantly influence the rates for borrowing those securities. Conduit firms typically borrow securities at low rates, generally from retail firms, and then lend them at higher rates, generally to prime broker firms. The conduit firms profit on the spread between the rates.

Role And Compensation Of Finders

57. During the relevant period, most prime broker firms and retail firms, such as NISC, Nomura and Oppenheimer, had policies prohibiting payments to Finders. Many of the conduit firms, such as VDM, Janney and Kellner, did not prohibit payments to Finders and were the primary source of compensation for Finders.

58. In the past, Traders typically employed the services of Finders to locate hard-to-borrow stock. In today's securities market, however, Traders rarely need the services of Finders. Technological advances and other improvements have made it easier and faster for Traders to locate hard-to-borrow securities on their own. On April 29, 2005, the New York Stock Exchange ("NYSE") issued an advisory opinion cautioning all member firms about continuing to do business with Finders and stating as follows: "We have seen only limited instances where a finder is actually providing services that an effective stock loan department could not provide."

59. The Finder's fee would typically be negotiated by the lender and borrower as part of the terms of the loan and, like the rebate rate, expressed in basis points as a percentage of the

total market value of the stock. In order to be paid, some Finders submitted an invoice to the broker-dealer that typically included representations to the effect that the Finder performed the services for which the firm was being invoiced.

60. Although the rebate rates and corresponding finder fees on any particular stock loan transaction may not be large, Traders generally engage in dozens, if not hundreds, of stock loan transactions each day. The rebates and finder fees are calculated and paid on a daily basis, and the brokerage firms and Finders continue to receive payments until the borrowed stock is returned or recalled. Accordingly, loans that remain open for extended periods generate substantial profits for both brokerage firms and Finders even if the rates and spreads are small.

THE DEFENDANTS' FRAUDULENT CONDUCT

Simone's Multiple Schemes Using Island

61. From at least 1999 through early 2005, Simone used his position as co-head of VDM's stock loan trading department to misappropriate several million dollars in trading profits from VDM and other brokerage firms. Simone took control of Island after the death of its owner, who had operated Island as a Finder, and installed a relative as the sole officer and shareholder. After Simone took over Island, it functioned as a depository for the proceeds of Simone's fraud.

62. During this period, Simone employed multiple schemes, some involving other Traders, to divert stock lending profits to Island in the form of finder fees on transactions in which neither Island nor anyone else performed finding services. Simone and the Traders that facilitated his schemes defrauded VDM and other brokerage firms out of several million dollars in sham finder fees paid to Island in connection with thousands of stock loan transactions. Simone used a portion of the sham finder fees to pay cash kickbacks to the other Traders and

diverted the balance to himself and his family. Simone made approximately $3.6 million from all of his schemes.

63. When Simone acted alone, he simply placed Island as the finder on order tickets for otherwise legitimate stock loan transactions between VDM and other broker-dealers when, in fact, Island performed no services on those transactions. In doing so, Simone falsely represented to VDM that Island had performed bona fide finding services for those transactions. Simone had the discretion to determine Island's "fee," and he often paid Island the majority of the profit generated by a VDM loan, *i.e.* Island (that is Simone) made more money than VDM did from the transaction.

64. When the profit margin on an available loan -- the difference between the rebate rates to be paid and received by VDM -- was too narrow, Simone colluded with Traders at other firms to arrange otherwise unnecessary intermediate, or "run-through," loans at inferior rates to generate a larger spread for VDM. By colluding with other Traders, Simone was able to increase the volume of profitable deals and the amount of money he could funnel to Island while still recording a profit for VDM. Simone paid cash kickbacks to these Traders to secure their participation in the scheme.

65. Simone engaged in this kickback scheme with J. Lando, Caracciolo, Varricchio and A. Pianelli. In addition to scheming with Simone to defraud VDM, these Traders also defrauded their own firms by causing them to lend or borrow stock at rates that were inferior to other rates available in the marketplace. The rates were dictated by Simone and were chosen solely to facilitate the fraud. J. Lando, Caracciolo, Varricchio and A. Pianelli colluded with Simone in exchange for secret, undisclosed cash kickbacks that Simone personally handed out to them each month at restaurants and bars in envelopes or wrapped in newspapers. The cash

kickbacks that Simone paid to these Traders equaled approximately 20 to 30 percent of the sham finder fees that Island received on the deals in which they participated.

66. Simone did not disclose, and in fact concealed from VDM, that he was causing VDM to pay sham finder fees to Island and was also paying cash kickbacks to the Traders that colluded with him on these transactions. Simone falsely marked, and caused others at VDM to falsely mark, the order tickets for the relevant loans to reflect that Island provided bona fide finding services for the transactions. J. Lando, Caracciolo, Varricchio and A. Pianelli did not disclose to their respective firms that they were receiving payments from Simone.

67. Simone's kickback schemes with J. Lando, Caracciolo, Varricchio and A. Pianelli are described more fully below, along with illustrative examples of transactions in which VDM paid sham finder fees to Island and on which Simone paid the other Traders cash kickbacks.

"Run Through" Deals With J. Lando

68. In or about January 2003, Simone and J. Lando agreed that in exchange for cash kickbacks from Simone, J. Lando would cause Janney to lend securities to VDM at inferior rates than were otherwise available in the marketplace. From in or about January 2003 through November 2004, Simone and J. Lando caused VDM and Janney to engage in a series of loans that were purposely structured to enable Simone to siphon profits from VDM. These transactions were known as "run-through" deals because VDM was simply acting as an intermediary between Janney and the broker-dealer, usually a prime broker firm needing to cover short-sales, that was actually going to borrow the stock at the better rate than Janney was charging VDM.

69. For example, on April 8, 2004, J. Lando caused Janney to loan 24,000 shares of Leapfrog (LF) to VDM at a flat rate (*i.e.* a 0% rebate, meaning neither party was paying interest).

Later that same day, Simone caused VDM to loan 24,000 shares of LF to Lehman Brothers in an arms-length transaction at a better rate of negative 3.25% (*i.e.* Lehman was paying interest to VDM). VDM's artificially inflated profit margin on this transaction was therefore a full 3.25%. At the same time, Simone caused VDM to pay Island a 3% finder fee even though Island did not do anything with respect to that transaction, leaving VDM with a nominal profit of 0.25%. This loan remained open for eight days, and VDM paid Island a total of $344, which Simone and J. Lando later divided among themselves according to their agreed split of the illegal profits.

70. A recorded telephone conversation between J. Lando and Simone on April 8, 2004, shows that J. Lando and Simone orchestrated both sides of the transaction to facilitate Simone's fraud and confirms that no Finder was involved. In this conversation, J. Lando tells Simone that Janney is going to lend the stock to VDM at an inferior rate so that Simone can then lend the same stock to another firm at a better rate, as follows: "I'm sending you . . . Got my early pushes . . . Leapfrog. You can move it at a good negative . . . twenty-four thousand [shares] . . . [a]t a zero." There is no discussion of why J. Lando was willing, contrary to Janney's interests, to loan the stock to Simone at a flat rate when he knows that other firms are willing to pay "a good negative."

71. In this instance, J. Lando took further advantage of the transaction to cause Janney also to pay a sham finder fee to Lando-Tanico, his sister. J. Lando had obtained the LF shares earlier that day at a positive rebate rate of 1.05% (*i.e.* Janney received interest at that rate) from his other sister, a Trader at Nomura who conducted Nomura's limited conduit stock loan business. The exceptionally favorable rate that Janney received from Nomura allowed J. Lando to pay a sham finder fee to Lando-Tanico on Janney's loan to VDM -- the very same loan on

which VDM paid Island its sham finder fee. J. Lando's frequent payment of sham finder fees to Lando-Tanico and Tanico, her husband, is described more fully in paragraphs 113-115 below.

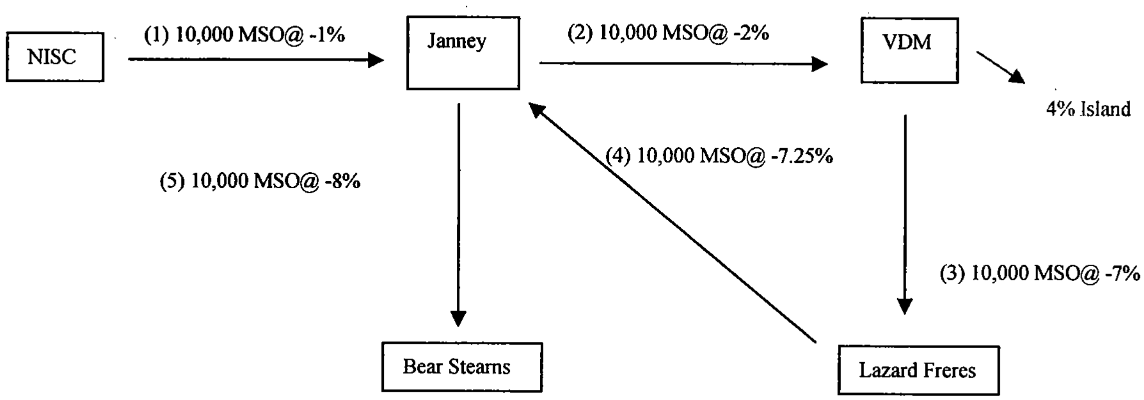
72. The April 8, 2004, telephone conversation and other recorded conversations between Simone and J. Lando make it clear that their run-through transactions were the product of collusion, not arms-length negotiations, and were purposely structured to generate, at Janney's or another firm's expense, an inflated profit for VDM that Simone could then divert to Island. Simone paid J. Lando monthly cash kickbacks for a period of approximately 23 months, totaling approximately $100,000 or more.

73. J. Lando did not disclose, and in fact concealed from Janney, that he was receiving cash kickbacks from Simone and colluding with Simone on stock loan transactions that were disadvantageous to Janney and designed to generate a sham finder fee for J. Lando's and Simone's benefit.

"Ring" Deals With J. Lando And Caracciolo

74. Simone also engaged in a series of more complicated collusive transactions, called "ring" deals, with J. Lando and Caracciolo at NISC. Simone and J. Lando alternately refer to these deals in recorded telephone conversations as "ringing," "swinging" or "working" the stock. In or about September 2003, J. Lando arranged a meeting with Simone and Caracciolo. At the meeting, Caracciolo agreed to provide Simone with hard-to-borrow stock from NISC's inventory at favorable rates in exchange for undisclosed cash kickbacks from Simone. Because NISC was not authorized at that time to lend stock directly to VDM, J. Lando agreed to allow Caracciolo to run the transactions through Janney. As in the foregoing scheme, Simone then caused VDM to lend the stock to another firm at a much better rate and pay a sham finder fee to Island out of the profits.

75. For example, on March 22, 2004, Caracciolo caused NISC to loan 10,000 shares of Martha Stewart Living Omnimedia, Inc. stock (MSO) to Janney at a low negative rebate of 1%. J. Lando then caused Janney to loan 10,000 shares of MSO to VDM at a somewhat higher negative rebate of 2%. Simone then caused VDM to loan 10,000 MSO shares to Lazard Freres ("Lazard") at a much higher negative rebate of 7%, and Simone also caused VDM to pay Island a sham finder fee of 4% -- that is, 80% of the profit. As usual, Simone effected the payment to Island by falsely indicating on the order ticket that Island performed finding services. J. Lando then caused Janney to borrow 10,000 shares of MSO from Lazard at a negative rebate of 7.25% and lend 10,000 MSO shares to Bear Stearns at a negative rebate of 8%. All of these loans occurred on the same day. The loan from Janney to VDM stayed open for 49 days, and VDM paid a total of $563.89 to Island, which Simone shared with Caracciolo. The following chart shows each leg of this ring deal:



76. Recorded telephone conversations between Simone and J. Lando confirm that this and other ring transactions that they arranged were not the product of arms-length negotiations and did not involve a Finder. For example, J. Lando and Simone agreed up front in a telephone conversation on March 22, 2004, that in the above transaction VDM would pay a negative rebate of 2% and then lend the stock to Lazard at a negative rebate of 7%. As with the conversation described above in paragraph 70, there is no discussion of why J. Lando was willing, contrary to

Janney's interests, to loan the stock to VDM for 5% less than what J. Lando knew Lazard was willing to pay at the time.

77. Other recorded conversations show that Simone, J. Lando and Caracciolo orchestrated numerous other collusive ring deals. The three generally spoke each trading day to find out what hard-to-borrow stocks Caracciolo had available for Janney to "ring," and Simone and J. Lando then prearranged the other legs of the transaction.

78. Simone paid monthly cash kickbacks to Caracciolo from the loan profits that Simone diverted to Island. This scheme lasted until about November 2004, and Simone paid Caracciolo several thousand dollars per month over the course of approximately 15 months. J. Lando benefited from these ring deals by marking up the rates on Janney's loans to VDM for a risk-free profit that increased his compensation from Janney. In some cases, J. Lando had also arranged for Janney to get the stock back from the firm that borrowed it from VDM and re-lend the stock to yet another firm at an even higher rate.

79. Caracciolo did not disclose, and in fact concealed from NISC, that he was receiving cash kickbacks from Simone and colluding with Simone and J. Lando on stock loan transactions that were disadvantageous to NISC and designed to generate a sham finder fee for Simone's benefit. Even if a particular brokerage firm did not necessarily require its Traders to obtain the *best* rate for certain securities, Traders at each relevant firm were required to investigate and negotiate favorable rates in arms-length transactions. By lending stock to VDM at rates designed to further Simone's scheme in exchange for undisclosed cash kickbacks, Caracciolo breached his duties to his firm. Similarly, J. Lando did not disclose, and in fact concealed from Janney, that he was colluding with Simone and Caracciolo on stock loan transactions that were designed to generate a sham finder fee for Simone's benefit.

80. From in or about January 2003 through early 2005, Simone caused VDM to pay Island over $500,000 in sham finder fees on over two thousand stock loan transactions involving Janney. In some of these transactions, Simone acted alone, where the available profit margin was already sufficient to accommodate a sham payment to Island. In others, Simone colluded with J. Lando on run-through deals and with Caracciolo and J. Lando on ring deals to inflate the profit margin in the manner described above.

"Run-Through" Deals With Varricchio

81. From in or about September 2003 through November 2004, Simone also schemed with Varricchio to obtain stock for VDM at inferior rates from A.G. Edwards. Varricchio agreed to collude with Simone in a fraudulent run-through scheme whereby Varricchio would cause A.G. Edwards to lend stock to VDM at inferior rates than were otherwise available in the marketplace in exchange for cash kickbacks from Simone. As in the other run-through schemes described above, Varricchio caused A.G. Edwards to lend stock from its inventory to VDM at inferior rates to enrich himself and Simone, thereby defrauding A.G. Edwards. Simone then caused VDM to loan the same securities to other firms at better rates, while paying Island a sham finder fee out of the inflated profits.

82. For example, on November 4, 2004, Varricchio caused A.G. Edwards to loan 4,700 shares of Northfield Laboratories stock (NL) to VDM at an inferior positive rebate rate of 1.25%. Later that day, Simone caused VDM to loan the same 4,700 shares of NL to Credit Suisse First Boston at a better rate of negative 12% and to pay Island a sham finder fee of 11.5%. The payment to Island was possible because Varricchio loaned the stock to VDM at an inferior rate, thereby creating a 13.25% spread between VDM's borrowing and lending rates and enabling Simone to divert most of that inflated profit to Island yet still record a 1.75% profit for VDM.

This loan remained open for 25 days, and VDM paid Island a total of $560.40, a portion of which Simone later kicked back to Varricchio. Recorded telephone conversations between Varricchio and Simone show that Varricchio was generally aware of the better rates for the securities that he caused A.G. Edwards to loan to VDM.

83. Each month, Simone paid Varricchio a cash kickback approximately equal to between 20 and 30 percent of the sham finder fees received by Island on transactions that Varricchio facilitated. Simone paid Varricchio cash kickbacks over a period of approximately 15 months.

84. Varricchio did not disclose, and in fact concealed from A.G. Edwards, that he was receiving cash kickbacks from Simone and colluding with him on stock loan transactions that were disadvantageous to A.G. Edwards and designed to generate a sham finder fee for Simone's benefit.

85. From in or about September 2003 through early 2005, Simone caused VDM to pay Island over $500,000 in sham finder fees in connection with over two thousand stock loan transactions involving A.G. Edwards and VDM. The vast majority of these transactions, occurred because Varricchio colluded with Simone to cause A.G. Edwards to loan securities to VDM at artificially low rates in exchange for cash kickbacks. In the remaining transactions, Simone acted alone and simply placed Island on the order tickets for the loans.

"Run-Through" Deals With A. Pianelli

86. Simone also engaged in a similar kickback scheme with A. Pianelli at Weiss Peck. From in or around at least 2000 through February 2004, A. Pianelli colluded with Simone in a fraudulent run-through scheme whereby A. Pianelli would cause Weiss Peck to borrow stock from VDM at inferior rates, in exchange for cash kickbacks from Simone. As in the other run-

through schemes described above, the rates at which A. Pianelli caused Weiss Peck to borrow stock from VDM were not the result of an arms-length negotiation, but were instead designed to enrich himself and Simone, thereby defrauding Weiss Peck. Simone first caused VDM to borrow the securities it would lend to Weiss Peck from another firm at a better rate, and then Simone caused VDM to pay Island a sham finder fee out of the inflated profit that VDM made on the loan to Weiss Peck. Simone caused VDM to pay Island a total of over $200,000 in sham finder fees in connection with hundreds of stock loan transactions involving Weiss Peck and VDM.

87. For example, on December 8, 2003, Simone caused VDM to borrow 166,200 shares of NASDAQ 100 (QQQ) stock from another broker-dealer, where A. Pianelli's son was employed as a Trader, at a positive rebate rate of 0.1%, *i.e.* the stock was easy-to-borrow and the lender paid interest to VDM. Later that day, A. Pianelli caused Weiss Peck to borrow the same number of shares of QQQ stock from VDM at a negative rebate of 0.1%, *i.e.* this time the borrower (Weiss Peck) paid interest to the lender (VDM). Out of the total of 0.2% in interest that VDM received on these two loans, Simone caused VDM to pay a sham finder fee of 0.1% to Island and VDM kept the remaining 0.1% as a risk-free profit. This transaction remained open until January 6, 2004, and Island received a total of $193 in sham finder fees from VDM, some of which Simone later kicked back to A. Pianelli in cash.

88. Several recorded telephone conversations on December 8, 2003, between Simone and A. Pianelli show that they arranged the above transaction without any Finder's involvement, and that A. Pianelli could have readily obtained the QQQ shares for Weiss Peck from his son's firm at a better interest rate than the rate he received from Simone. After Simone called A. Pianelli to find out what stocks Weiss Peck was interested in that day, A. Pianelli told Simone

that Weiss Peck needed 166,200 shares of QQQ and Simone should borrow the shares from A. Pianelli's son. When Simone asked what rate he should get from A. Pianelli's son, A. Pianelli told Simone not to "worry about it." When Simone was unable to reach A. Pianelli's son, A. Pianelli told Simone that A. Pianelli himself would talk to his son about it and "take care of" arranging the loan from his son's firm to VDM.

89. There is no discussion of why A. Pianelli was willing, contrary to Weiss Peck's interests, to borrow the QQQ stock from VDM and *pay* 0.1% when he knew that he could instead just borrow the stock directly from his son's firm and *receive* 0.1%. There was no legitimate business reason for A. Pianelli to engage in a run-through transaction with VDM, as Weiss Peck and the broker-dealer for which A. Pianelli's son was a Trader were authorized at the time to engage in stock loan transactions directly with each other.

90. Each month, Simone paid cash kickbacks to A. Pianelli in an amount approximately equal to 25% of the sham finder fees that Island received on the transactions that A. Pianelli facilitated, resulting in an approximate total of over $100,000 in kickbacks. A. Pianelli did not disclose, and in fact concealed from Weiss Peck, that he was receiving monthly cash kickbacks from Simone and colluding with him on stock loan transactions that were disadvantageous to Weiss Peck and designed to generate a sham finder fee for Simone's benefit.

91. As alleged in paragraphs 139-145 below, A. Pianelli ended his kickback arrangement with Simone in or about February 2004 in order to conduct a fraudulent scheme with J. Lando and JJE, a sham Finder owned by A. Pianelli's wife.

<u>Verdi's Scheme With Simone</u>

92. While supervising Schonfeld's stock loan desk, Verdi schemed with Simone to defraud Schonfeld through payments of sham finder fees to GP, a company controlled by Verdi.