

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
February 5, 2007

ADMINISTRATIVE PROCEEDING
File No. 3-12559

In the Matter of

**TRAUTMAN WASSERMAN &
COMPANY, INC.,
GREGORY O. TRAUTMAN,
SAMUEL M. WASSERMAN,
MARK BARBERA,
JAMES A. WILSON, JR.,
JEROME SNYDER, AND
FORDE H. PRIGOT,**

Respondents.

**ORDER INSTITUTING
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT
TO SECTION 8A OF THE SECURITIES
ACT OF 1933, SECTIONS 15(b) AND 21C
OF THE SECURITIES EXCHANGE ACT
OF 1934, SECTIONS 9(b) AND 9(f) OF
THE INVESTMENT COMPANY ACT
OF 1940, AND SECTIONS 203(f) AND
203(k) OF THE INVESTMENT
ADVISERS ACT OF 1940**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”), Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”), Sections 9(b) and 9(f) of the Investment Company Act of 1940 (“Investment Company Act”), and Sections 203(f) and 203(k) of the Investment Advisers Act of 1940 (“Advisers Act”) against Trautman Wasserman & Company, Inc. (“TWCO”), Gregory O. Trautman (“Trautman”), Samuel M. Wasserman (“Wasserman”), Mark Barbera (“Barbera”), James A. Wilson, Jr. (“Wilson”), Jerome Snyder (“Snyder”), and Forde H. Prigot (“Prigot”) (“Respondents”).

II.

After an investigation, the Division of Enforcement alleges that:

Overview

1. This matter concerns a scheme to defraud mutual funds through late trading and deceptive market timing of mutual funds through TWCO, a registered broker-dealer. Between January 2001 and September 2003, TWCO accepted thousands of orders from its hedge fund customers to trade mutual funds after 4:00 p.m. ET, but executed the trades as though they had

been received prior to 4:00 p.m. ET. In addition, TWCO employed deceptive tactics to evade mutual funds' efforts to restrict TWCO's hedge fund customers' market timing of mutual funds. This illegal conduct generated significant revenues for TWCO and harmed mutual fund investors by diluting the value of their investment.

2. TWCO's mutual fund trading department consisted principally of two registered representatives ("RRs"), Wilson and Scott A. Christian ("Christian"). Wilson, who supervised Christian, directed the late trading and market timing schemes, and he personally entered and processed customers' late trading orders. Christian handled day-to-day communications with customers, and he regularly accepted and entered late trades. In carrying out the fraudulent late trading scheme, Wilson and Christian created records falsely indicating that customers had placed trades before 4 p.m. Further, numerous mutual funds notified Wilson, Christian, and others at TWCO that frequent trading by TWCO's customers violated prohibitions in the mutual funds' prospectuses, and the mutual funds instructed TWCO to stop permitting its customers to trade those funds. Christian and others, acting at Wilson's direction, then employed deceptive tactics to continue trading the mutual funds that had requested TWCO's customers to stop.

3. TWCO's senior management participated in or was otherwise aware of the late trading scheme. Indeed, Trautman, TWCO's chief executive officer ("CEO"), variably referred to the ability to trade late as TWCO's "elixir," "magic potion," or "special juice."

4. Trautman, Wasserman, TWCO's chairman, and Barbera, TWCO's chief financial officer ("CFO"), participated in various discussions concerning late trading at TWCO. Trautman, with Barbera's assistance, also arranged for late trading for one of his customers. In addition, TWCO had a proprietary trading account that bought and sold shares of mutual funds. TWCO officers and employees, including Trautman and Barbera, placed late trades for TWCO's proprietary account on the basis of news and market conditions after the market close, but those trades were priced at that day's net asset value (NAV).

5. TWCO's former chief administrative officer, Snyder, and its former chief compliance officer, Prigot, also participated in TWCO's fraudulent market timing. Snyder and Prigot each took steps to deceive mutual fund companies about TWCO's customers' market timing to evade the mutual fund companies' efforts to curtail the practice.

Respondents

6. **TWCO**, based in New York, New York, was at all relevant times a broker-dealer registered with the Commission.

7. **Trautman**, age 39, is a resident of New York, New York. Trautman is the co-founder and CEO of TWCO. At all relevant times, Trautman was associated with TWCO. He holds Series 4, 7, 24, 27, 55, and 63 licenses.

8. **Wasserman**, age 70, is a resident of Riverdale, New York. Wasserman is the co-founder and chairman of TWCO. At all relevant times, Wasserman was associated with TWCO.

Wasserman was also president of Trautman Wasserman Capital Advisers, Inc. and Trautman Wasserman Capitol Advisers, Inc., which were registered with the Commission as investment advisers from December 2000 through April 2001 and from January 2002 through June 2002, respectively. Wasserman holds or has held Series 00, 1, 3, 4, 5, 15, 63, and 65 licenses.

9. **Wilson**, age 36, is a resident of New York, New York. At all relevant times, Wilson was a RR associated with TWCO. Wilson holds Series 7 and 63 licenses.

10. **Barbera**, age 49, is a resident of Bronxville, NY. Barbera has been CFO of TWCO since 1993. At all relevant times, Barbera was associated with TWCO. Barbera holds or has held Series 3, 4, 7, 24, 27 and 63 licenses.

11. **Snyder**, age 66, is a resident of Lakewood, NJ. Snyder was chief administrative officer of TWCO from 1999 until December 31, 2002, and he has served as a consultant to TWCO between May 14, 2004 and the present. During 2002, Snyder was the de facto chief compliance officer of TWCO. At all relevant times, Snyder was associated with TWCO. Snyder holds or has held Series 1, 3,4, 5, 7, 8, 12, 15, 24, 40, 53, 55, 63, and 65 licenses.

12. **Prigot**, age 64, is a resident of Park Ridge, NJ. Prigot was a compliance officer of TWCO beginning in January 2002. Prigot was the chief compliance officer of TWCO from February 2003 to October 2005. At all relevant times, Prigot was associated with TWCO. Prigot holds or has held Series 4, 7, 24, 27, 55, 63, and 66 licenses.

Market Timing and Late Trading

13. Market timing includes (a) frequent buying and selling of shares of the same mutual fund or (b) buying or selling mutual fund shares in order to exploit inefficiencies in mutual fund pricing. Market timing, while not illegal per se, can harm other mutual fund shareholders because it can dilute the value of their shares. Market timing can also disrupt the management of the mutual fund's investment portfolio and cause the targeted mutual fund to incur costs borne by other shareholders to accommodate frequent buying and selling of shares by the market timer.

14. Rule 22c-1(a) under the Investment Company Act requires investment companies issuing redeemable securities, their principal underwriters and dealers, and any person designated in the fund's prospectus as authorized to consummate transactions in securities issued by the fund to sell and redeem fund shares at a price based on the current net asset value ("NAV") next computed after receipt of an order to buy or redeem. Mutual funds generally determine the daily price of their mutual fund shares as of 4:00 p.m. ET. In these circumstances, orders received before 4:00 p.m. ET must be executed at the price determined as of 4:00 p.m. ET that day. Orders received after 4:00 p.m. ET must be executed at the price determined as of 4:00 p.m. ET the next trading day.

15. "Late trading" refers to the practice of placing orders to buy or sell mutual fund shares after the time as of which a mutual fund has calculated its NAV (usually as of the close of trading at 4:00 p.m. ET), but receiving the price based on the prior NAV already determined as

of 4:00 p.m. ET. Late trading enables the trader to profit from market events that occur after 4:00 p.m. ET but that are not reflected in that day's price. In particular, the late trader obtains an advantage – at the expense of the other shareholders of the mutual fund – when he learns of market moving information and is able to purchase (or sell) mutual fund shares at prices set *before* the market moving information was released. Late trading violates Rule 22c-1(a) under the Investment Company Act. Late trading also harms shareholders, for instance, when late trading dilutes the value of their shares.

Late Trading At TWCO

16. In 2000, Wasserman began attempting to set up a mutual fund trading operation at TWCO. Wasserman recruited Wilson and Christian, who were at that time working at another broker-dealer. While interviewing for their positions at TWCO, Wilson and Christian learned that TWCO's clearing broker, Banc of America Securities, LLC ("B of A"), offered a mutual fund trading system that could be used to enter mutual fund trade orders until 8:30 p.m. ET. Wasserman, who managed TWCO's relationship with B of A, arranged meetings between Wilson, Christian, and B of A representatives so that they could discuss the mutual fund trading platform. After these meetings, Wilson and Christian realized that they could directly enter mutual fund trades into this system, thereby bypassing the B of A mutual fund desk.

17. Wasserman then hired Wilson and Christian, and they began working at TWCO.

18. Soon after Wilson and Christian started working at TWCO in December 2000, TWCO retained a computer consultant to develop software for entering orders into the B of A trading system effectively on a large scale.

19. Although the B of A system allowed orders to be entered and processed as late as 8:30 p.m. ET, Wilson and Christian were aware that they were supposed to receive orders from customers by 4:00 p.m. ET in order to execute them at that day's price. For example, B of A's "Mutual Funds Processing" manual that B of A provided to TWCO required that: "All orders should be received and time stamped by the close of the NYSE, 4 PM EST."

20. Wilson and Christian then contacted their former market timing customers as well as other prospective customers to pitch the advantages of the market timing and late trading system that they were developing at TWCO. In return, Wilson extracted extra compensation for providing late trading. For example, on April 9, 2001, the manager of a hedge fund, Hedge Fund A, that was interested in late trading sent an e-mail to Wilson complaining that TWCO was "earning double what everyone else takes home on this business," and that "[y]ou currently earn 2% p.a. [per annum]." Further, the manager of Hedge Fund A complained that "[y]our facility for late trading is not the only one we have," and that "[i]n all other cases we pay 1% p.a." On April 11, 2001, Wilson sent an e-mail to Hedge Fund A's manager indicating that "**we are the only place to trade late past 530**" (emphasis in original), and "thus you have to pay more." On May 1, 2001, the hedge fund manager notified Wilson by e-mail that Hedge Fund A was sending funds to begin trading. The hedge fund manager described how the late trading would work as follows:

In essence, most of it will be done by you within certain parameters that we will give you each day. In the majority of cases, your decision point will be 5:30pm NY time. In a few cases, your decision point will be 6:30pm – I know, slave labor...whatever will you do working that late!

21. Wilson supervised Christian and directed the daily operations of their late trading and market timing business. At Wilson's direction, Christian and another TWCO employee entered tens of thousands of late trades for Wilson's customers. Moreover, Wilson directed Christian and the other employee to create false records, "for compliance reasons," intended to show that TWCO had received the customer's trading orders prior to 4:00 p.m. ET.

22. On a daily basis, customers sent tentative instructions to trade mutual fund shares to TWCO during the day, beginning at approximately 12 noon E.T. TWCO treated these trading instructions as order tickets. As the trading instructions came in, Christian would collect them, but he would not enter the orders or time stamp the order tickets. Rather, Christian waited until shortly before 4:00 p.m. ET to time stamp the order tickets.

23. Christian sometimes forgot to time stamp the order tickets before 4:00 p.m. ET, resulting in some order tickets that were stamped after 4:00 p.m. ET. Wilson eventually gave Christian an alarm clock, which Christian set to go off shortly before 4:00 p.m. ET to remind him to stamp the order tickets. When the alarm went off, Christian and the other TWCO employee would time stamp the trading instructions. This practice made it appear as if TWCO received the instructions shortly before 4:00 p.m. ET.

24. However, Christian and the other employee did not enter the orders into the B of A mutual fund trading system when they time stamped the orders. Instead, between 4:00 p.m. ET and 6:30 p.m. ET, Wilson, Christian, or the other employee spoke with customers to get their final trading decisions.

25. Sometimes customers gave final trading instructions that were "cancellations" or partial cancellations of the tentative orders placed earlier in the day. Often, customers submitted wholly new orders that were not part of the tentative instructions they had submitted earlier in the day. Only then did Christian or the other employee enter the trading orders, without creating a new or modified order ticket reflecting the actual order or with the correct time stamp on the ticket.

26. TWCO routinely accepted mutual fund trading instructions for Hedge Fund A, as well as for two other hedge funds, Hedge Fund B and Hedge Fund C, well past 4:00 p.m. ET and often as late as between 5:00 and 6:45 p.m. ET. For these customers, virtually all the trading in mutual funds at TWCO consisted of late trading.

27. Wilson also personally took customers' mutual fund orders to engage in late trading. For example, tape recordings made at Hedge Fund B of telephone calls indicate that Wilson accepted mutual fund orders at 4:41 p.m. ET on February 14, 2003, at 5:17 p.m. ET on September 27, 2001, and at 6:08 p.m. ET on December 18, 2001. After receiving these orders, Wilson then entered the trades so they could be executed at the same day's NAV.

28. Further, Wilson was fully aware of the procedures that Christian and the other employee routinely used for executing late trades. For example, on February 14, 2003, at 4:41 p.m. ET, a trader at Hedge Fund B telephoned TWCO and said, “Hey, Jim, it’s [a representative of Hedge Fund B]. . . . You got Scott or [the other employee] there to take some trades?” Wilson replied, “I can help you,” and proceeded to accept Hedge Fund B’s late trading decisions. Wilson then said, “Let me just read this back to you, I haven’t done this in a while, I’m in an embarrassing situation.” On September 27, 2001 at 5:17 p.m. ET, the same representative of Hedge Fund B telephoned TWCO and asked for Christian. Wilson said that Christian had just stepped away, offered to take the order, and said he would “grab the sheets” off Christian’s desk, referring to the trading instructions sent by Hedge Fund B and time stamped by TWCO before 4:00 p.m. ET. Wilson proceeded to accept Hedge Fund B’s instructions as to which trades on the trading instructions it wished to confirm, cancel, or modify. Wilson concluded by telling Hedge Fund B’s representative that he could call with additional trading decisions until 5:30 p.m. ET.

29. Further, as evident from his April 11, 2001 email to Hedge Fund A quoted above (demanding higher fees because of the value of late trading), Wilson knew that TWCO’s hedge fund customers benefited from the ability to late trade. Wilson knew that customers factored into their trading decisions after-hours news announcements and market conditions. For example, he knew from e-mails with Hedge Fund A that the hedge fund based its trading instructions on parameters for after-hours index futures prices that Hedge Fund A provided to TWCO.

30. At Wilson’s direction, Christian and the other TWCO employee regularly helped customers follow calendars of corporate earnings announcements and relayed to customers information regarding notable developments after the market close. Further, Christian frequently provided customers shortly after 4:00 p.m. ET with newly-calculated mutual fund NAVs reflecting the current day’s pricing. This allowed customers to compare the NAVs of mutual funds against after hours trading in stocks in those funds, and thereby compute with some degree of precision the actual trading profit they would make on a given late trade.

TWCO Partners Approved and/or Participated in Late Trading

31. An executive committee consisting of the firm’s principals, including Trautman, Wasserman, and Barbera, managed TWCO. The executive committee held regular weekly meetings and other ad hoc meetings to discuss the business of the firm and to engage in planning and decision-making. Trautman, Wasserman, and Barbera were well aware of Wilson’s and Christian’s illegal late trading.

TWCO Gave False Assurances About the Legality of Late Trading

32. In June 2002, a principal of Hedge Fund C developed concerns about the legality of late trading and requested to meet with TWCO’s principals. The principal and another Hedge Fund C representative then met with Trautman, Wasserman, Wilson, and Christian at TWCO’s offices. Trautman informed the Hedge Fund C representatives that outside counsel and internal compliance had reviewed the practice and considered it to be legal.

33. Trautman's representation concerning consultation with outside counsel was false. In fact, TWCO had not consulted with outside counsel concerning the legality of late trading.

34. Following this meeting, Hedge Fund C continued to late trade through TWCO. At a subsequent meeting with Wasserman, Wilson, and Christian on or about March 11, 2003, the Hedge Fund C principal explained how late trading allowed him to profit by making trading decisions on the basis of news after 4:00 p.m. ET and stated that he therefore wanted to "ramp up" his investments with TWCO.

35. Subsequently, in or about early April 2003, Hedge Fund C invested an additional \$25,000,000 through TWCO for the purpose of mutual fund trading.

Trautman Engaged in Late Trading for One of His Customers

36. Trautman offered late trading to at least one of his customers ("Customer 89001"). With Barbera present, Trautman explained to Customer 89001 that when deciding to purchase shares of mutual funds, for instance, TWCO would use a "trigger." The trigger was when the price of stock futures contracts rose by 1.5% in after-hours (post-4:00 p.m. ET) trading. Trautman told Customer 89001, and Barbera confirmed to Customer 89001, that Trautman had made money on 13 of 15 trades using this system. Customer 89001 then invested with TWCO. TWCO placed Customer 89001's funds in a TWCO brokerage account. Subsequently, Trautman placed late trades for Customer 89001's account.

Trautman, Wasserman, and Barbera Sought to Obtain Timing Capacity as Part of the Late Trading Scheme

37. The TWCO partners actively participated in the mutual fund business by seeking timing capacity from fund companies. In particular, Trautman used a personal friendship with a fund manager at one fund complex to obtain large amounts of capacity. Further, Wasserman used his long-standing contacts at another fund complex to increase TWCO's capacity in those funds. Neither Trautman nor Wasserman disclosed to the fund complexes that TWCO would use the capacity for late trading.

38. Barbera also engaged in efforts to obtain capacity. At various times in 2002 and 2003, Barbera sought timing capacity from other entities that could be used for mutual fund trading on behalf of TWCO's customers.

39. Barbera participated in making arrangements for Hedge Fund C to obtain a loan to be used in mutual fund trading.

40. In September 2002, Barbera also helped negotiate and drafted a letter agreement setting forth the fee arrangement for a \$5 million discretionary account established by one customer, which Trautman, Wasserman, Barbera, Wilson, and Christian knew would be used for late trading. Barbera knew that late trading would be used for this account and that Trautman

planned to lie to the holders of the account by claiming that TWCO would simply use a “black box” trading system.

41. Also in the spring of 2003, Barbera and Christian sought to develop a relationship with a data processing firm for the purpose of enabling TWCO to engage in late trading apart from the B of A system.

Late Trading in TWCO’s Proprietary Accounts

42. Wilson also persuaded TWCO’s partners to establish a proprietary account with the firm’s money to serve as the basis for a TWCO managed hedge fund. In late 2001, TWCO opened a mutual fund trading account, and TWCO ultimately deposited approximately \$500,000 into the account. Initially, the TWCO proprietary account copied the market timing trades of a TWCO customer. When the account started losing money, Trautman took charge of trading in the account. Trautman then began to make trading decisions in the account based on news developments that occurred after 4:00 p.m. ET.

43. Subsequently, Trautman often went to Wilson’s and Christian’s office at TWCO after the market close to decide whether to place mutual fund trades in the TWCO account based on news and market conditions after 4:00 p.m. ET. Trautman occasionally referred to the ability to trade late on news or post-4:00 p.m. ET futures market conditions as the firm’s “elixir,” “magic potion,” or “special juice.”

44. Barbera monitored the TWCO proprietary account for risk-management purposes. Barbera was also aware that Trautman, Wilson, and Christian were making trading decisions based on post-4:00 p.m. ET news and market activity. Additionally, on one or more occasions Barbera made trading decisions for the TWCO proprietary account after 4:00 p.m. ET.

Wilson Directed TWCO’s Deception of Mutual Funds That Sought To Curtail Market Timing

45. In March 2001, as TWCO began large-scale market timing for its customers, mutual fund complexes began notifying TWCO that the funds restricted or prohibited such transactions. For example, on March 16, 2001, a fund complex wrote Christian to warn him about excessive trading by customer accounts in one of the complex’s mutual funds. The letter explained that excessive trading could hurt the mutual fund’s performance and that the fund’s prospectus therefore reserved to the fund complex the right to refuse an exchange request if there were more than two exchanges from the same fund in any three-month period. The letter notified Christian that “exchange activities in your client’s account have become excessive and we are writing you in an effort to have you and your clients adhere to the guidelines stated in our Prospectus,” and warned that further excessive trading would result in a trading freeze in the accounts.

46. In total, during the period March 2001 through April 2003, TWCO, Wilson, and Christian received 307 “kick out” letters from 40 mutual fund families that addressed trading activity in 113 accounts.

47. In response, Wilson and Christian attempted to deceive mutual fund companies and evade their restrictions. Wilson had learned many of these techniques from his hedge fund customers while Wilson was working at other broker-dealers. Wilson explained these techniques to Christian, and directed him to employ them.

48. Based on Wilson's instructions, Christian opened multiple accounts for TWCO's market timing customers and entered transactions using one of numerous RR numbers. Christian did this because he understood that mutual fund companies would be less likely to detect market timing by a customer if the customer's trades occurred in numerous accounts with different account numbers, account names, or RR identification numbers.

49. More specifically, TWCO "cloned" accounts to evade mutual funds' restrictions. For example, a fund complex sent a letter to TWCO on February 22, 2002 concerning account number 70087, an account that TWCO maintained for Hedge Fund A, warning that the account was approaching the limit on exchanges. On March 4, 2002, Christian opened two new accounts, each with a new account number (70089 and 70110), for the same entity, and two days later entered a market timing trade in one of the mutual fund complex's mutual funds. Similarly, on June 4, 2002, the same fund complex sent to TWCO a letter imposing restrictions on trading by account number 70104, an account that TWCO maintained for Hedge Fund B. On June 7, 2002, Christian opened a new account for the same entity with a new account number (70139), and less than three weeks later began trading the fund complex's mutual funds using the new account.

50. Consistent with this deceptive practice, TWCO opened a total of 140 accounts for eleven institutional customers. These included 68 accounts for its customer Hedge Fund A; 35 accounts for Hedge Fund B; nine accounts for Hedge Fund C; 15 accounts for Hedge Fund D; and five accounts for Hedge Fund E. Christian prepared the new account forms, which he then submitted to Snyder or Prigot for approval and signature.

51. Christian, assisted by Snyder and/or Prigot, also established 16 different RR identification numbers at TWCO for use in mutual fund trading, as a means of evading restrictions imposed by mutual funds that tracked excessive trading through RR numbers.

52. Beginning in early 2002, a subordinate informed Wasserman that mutual funds frequently sought to curtail TWCO's market timing activities and that Christian established multiple RR identification numbers for the purpose of evading restrictions by mutual funds. Wasserman did not object to, or otherwise stop, this conduct.

Snyder Facilitated Fraudulent Market Timing

53. Snyder supervised Wilson and Christian during much of the time period that TWCO engaged in deceptive market timing. Snyder received numerous warning or kick out letters from mutual funds. Snyder received a number of these letters from funds during the approximately seven-month period that he acted as chief compliance officer in addition to serving as chief

administrative officer. Despite receiving these letters, Snyder failed to act to stop Wilson and Christian from market timing as the funds requested.

54. During the period he was chief administrative officer, Snyder was responsible for obtaining RR identification numbers for TWCO RRs by calling B of A and getting numbers assigned. Snyder obtained numerous RR ID numbers for Wilson and Christian, which they then used to engage in deceptive market timing.

55. Snyder also signed numerous account opening forms as the firm's principal, including during the period he was serving as TWCO's chief compliance officer. This enabled TWCO to create duplicate accounts for customers and continue to market time mutual funds without the funds' knowledge. For instance, between June 25 and June 29, 2001, Snyder signed new account forms to create four accounts for Hedge Fund A, and on August 30, 2001, he signed new account forms to create an additional five accounts for Hedge Fund A.

56. Further, on at least one occasion Snyder misrepresented the purpose of mutual fund trades to a representative of a mutual fund complex. The representative of the mutual fund complex asked Snyder if he knew who were the TWCO RRs attached to accounts that had recently made fourteen mutual fund trades worth \$500,000 each. Snyder responded that it was probably a "house account." When the representative asked who handled those accounts, Snyder responded that he did. In fact, Snyder knew that the RRs attached to the trades were Wilson and Christian, who were using a so-called "house account" to conceal their identities and thus to evade the mutual fund complex's restrictions on trading. The representative of the mutual fund complex then informed Snyder that there was a potential problem with the accounts because they appeared to be set up for market timing. Although Snyder knew that all of Wilson's and Christian's business related to market timing of mutual funds, Snyder falsely stated that, to his knowledge, the accounts were not being used for market timing.

Prigot Facilitated Fraudulent Market Timing

57. Prigot was aware that mutual funds were trying to curtail Wilson's and Christian's trading. Prigot received numerous kick out letters from mutual funds. In addition, Prigot was responsible for dealing with mutual fund complexes that had questions about TWCO's mutual fund market timing customers.

58. Snyder explained to Prigot that, when mutual fund complexes asked who controlled accounts that the fund complexes suspected were engaged in market timing, Prigot should tell the fund complexes that the accounts were "house accounts." On at least two occasions, Prigot informed mutual fund representatives who called TWCO and questioned certain trading that the accounts in question were house accounts. Prigot knew, however, that the accounts belonged to customers of Wilson and Christian and were engaged in market timing.

59. In addition, Prigot served as a principal at TWCO. In this capacity, Prigot signed numerous account opening forms for Wilson's and Christian's market timing customers. Prigot

thus enabled TWCO to create duplicate accounts, which Wilson and Christian used to enable their customers to continue to market time mutual funds without the funds' knowledge.

VIOLATIONS

60. As a result of the conduct described above, TWCO, Wilson, Trautman, Wasserman, and Barbera willfully violated Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in the offer and sale of securities and in connection with the purchase or sale of securities. Among other things, Wilson participated in a scheme with TWCO's customers to defraud mutual funds and their shareholders by engaging in late trading. The late trading scheme involved implicit, material false representations that TWCO received trades from customers prior to 4:00 p.m. ET. Trautman, Wasserman, and Barbera were well aware of this late trading scheme and they solicited customers to late trade, gave false assurances to customers concerning the legality of late trading, and/or took other steps such as setting up customer accounts and negotiating capacity from mutual funds to be used for late trading. In addition, Trautman, Wasserman, and Barbera approved using TWCO assets for late trading of mutual funds, and Trautman, Barbera, and Wilson personally made late trading decisions. Further, Wilson defrauded mutual funds and their shareholders when he and Christian misrepresented and concealed the identities of TWCO's RRs and customers, as well as the nature of their customers' market timing activity, from the mutual funds. Wilson, Trautman, Wasserman, and Barbera each acted knowingly and/or recklessly in engaging in these activities, and by virtue of their positions at TWCO, their scienter is imputed to TWCO.

61. In the alternative, as a result of the conduct described above, Wilson, Wasserman, Trautman, and Barbera willfully aided and abetted and caused TWCO's and TWCO's customers' violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent conduct in connection with the purchase or sale of securities. TWCO and its customers violated Section 10(b) of the Exchange Act and Rule 10b-5. Wilson, Trautman, Wasserman, and Barbera each substantially assisted these violations. Specifically, TWCO engaged in late trading in its proprietary account, thereby defrauding mutual funds and their shareholders. Additionally, Wilson participated in a scheme with his customers to defraud mutual funds and their shareholders by engaging in late trading. The late trading scheme involved implicit, material false representations that TWCO received trades from customers prior to 4:00 p.m. ET. Trautman, Wasserman, and Barbera were aware of this late trading scheme. They solicited customers to late trade, gave false assurances to customers concerning the legality of late trading, and/or took other steps such as setting up customer accounts and negotiating capacity from mutual funds to be used for late trading. Further, Wilson defrauded mutual funds and their shareholders when he and Christian misrepresented and concealed the identities of TWCO's RRs and customers, as well as the nature of customers' market timing activity, from the mutual funds. Wilson, Trautman, Wasserman, and Barbera were all generally aware that their conduct was wrongful.

62. As a result of the conduct described above, TWCO willfully violated Section 15(c) of the Exchange Act and Rule 10b-3 thereunder, which prohibit fraudulent conduct by brokers or dealers in connection with the purchase or sale of securities. Among other things, TWCO participated in a scheme with its customers to defraud mutual funds and their shareholders by

engaging in late trading. The late trading scheme involved implicit, material false representations that TWCO received trades from customers prior to 4:00 p.m. ET. Trautman, Wasserman, Barbera, and Wilson were well aware of this late trading scheme and they accepted and entered late trades, solicited customers to late trade, gave false assurances to customers concerning the legality of late trading, and/or took other steps such as setting up customer accounts and negotiating capacity from mutual funds to be used for late trading. In addition, Trautman, Wasserman, and Barbera approved using TWCO assets for late trading of mutual funds, and Trautman, Barbera, and Wilson personally made late trading decisions. Further, Wilson defrauded mutual funds and their shareholders when he and Christian misrepresented and concealed the identities of TWCO's RRs and customers, as well as the nature of their customers' market timing activity, from the mutual funds. Wilson, Trautman, Wasserman, and Barbera each acted knowingly and/or recklessly in engaging in these activities, and by virtue of their positions at TWCO, their scienter is imputed to TWCO.

63. As a result of the conduct described above, Wilson, Wasserman, Trautman, Barbera, Snyder, and Prigot willfully aided and abetted and caused TWCO's violations of Section 15(c) of the Exchange Act and Rules 10b-3 thereunder, which prohibit fraudulent conduct by brokers or dealers in connection with the purchase or sale of securities. As discussed above, TWCO violated Section 15(c) of the Exchange Act and Rule 10b-3. Wilson, Wasserman, Trautman, Barbera, Snyder, and Prigot substantially assisted this violation. Wilson and his customers defrauded mutual funds and their shareholders by engaging in late trading. The late trading scheme involved implicit, material false representations that TWCO received trades from customers prior to 4:00 p.m. ET. Trautman, Wasserman, and Barbera were aware of this late trading scheme. They solicited customers to late trade, gave false assurances to customers concerning the legality of late trading, and/or took other steps such as setting up customer accounts and negotiating capacity from mutual funds to be used for late trading. In addition, Trautman, Wasserman, and Barbera approved using TWCO assets for late trading of mutual funds, and Trautman and Barbera personally made late trading decisions. Further, Wilson defrauded mutual funds and their shareholders when he and Christian misrepresented and concealed the identities of TWCO's RRs and customers, as well as the nature of customers' market timing activity, from the mutual funds. Snyder and Prigot received numerous warning or kick out letters from mutual funds, but they failed to stop the market timing as the funds requested. Snyder created multiple RR numbers for Wilson and Christian. Snyder and Prigot signed numerous account opening forms for TWCO. Wilson and Christian then used the multiple RR numbers and accounts to market time mutual funds. After mutual funds questioned whether certain trades were market timing trades, Snyder and Prigot falsely told mutual fund complexes' representatives that money invested at the mutual fund belonged to a TWCO house account, and indicated that the trades were not market timing trades. Wilson, Trautman, Wasserman, Barbera, Snyder, and Prigot were all generally aware that their conduct was wrongful.

64. As a result of the conduct described above, Trautman, Wasserman, Wilson, and Barbera willfully aided and abetted and caused violations of Rule 22c-1, as adopted under Section 22(c) of the Investment Company Act. Rule 22c-1 prohibits dealers in a mutual fund's shares, among others, from executing a trade in that mutual fund's shares at that day's NAV if the trade was received after the time as of which the mutual fund has calculated that day's NAV (e.g., 4:00 p.m. ET). TWCO's clearing firm, B of A, had dealer agreements with the primary underwriters of

several mutual funds that were late traded by TWCO's customers. B of A sold and redeemed fund shares at prices not based on the current NAV next computed after receipt of an order to buy or redeem to facilitate the late trading engaged in by these customers. Thus, B of A willfully and directly violated Rule 22c-1, as adopted under Section 22(c) of the Investment Company Act. Wilson, TWCO, Trautman, Wasserman and Barbera substantially assisted this violation. TWCO, with the knowledge and approval of TWCO principals Trautman, Wasserman and Barbera, late-traded in TWCO's own proprietary account. Wilson and his subordinates received numerous orders for trades in those mutual funds after 4:00 p.m. ET, yet entered the trades in the B of A system such that they would receive the current day's NAV. Thus, B of A violated Rule 22c-1, and Trautman, Wasserman, Wilson, and Barbera aided and abetted and caused B of A's violations.

65. As a result of the conduct described above, TWCO willfully violated Section 17(a) of the Exchange Act and Rule 17a-3 thereunder, which require registered brokers and dealers to make and keep current certain specified books and records, including a memorandum of each brokerage order and other instruction given or received for the purchase or sale of a security and to note on the memorandum the time at which it received the order. Specifically, Wilson directed his subordinates to create falsified books and records by time stamping order tickets prior to 4:00 p.m. ET to create the appearance that customers made final trading decisions prior to 4:00 p.m. ET. Moreover, although customers routinely made their trading decisions after 4:00 p.m. ET, no TWCO employee created an order ticket reflecting this post-4:00 p.m. ET order. As a result of this conduct, TWCO failed to maintain order tickets that accurately reflected the time that TWCO received customers' final trading decisions.

66. As a result of the conduct described above, Wilson willfully aided and abetted and caused TWCO's violations of Section 17(a) of the Exchange Act and Rule 17a-3 thereunder, which require registered brokers and dealers to make and keep current certain specified books and records, including a memorandum of each brokerage order and other instruction given or received for the purchase or sale of a security and to note on the memorandum the time at which it received the order. As discussed above, TWCO violated Section 17(a) of the Exchange Act and Rule 17a-3 by failing to keep accurate order tickets. Wilson substantially assisted this conduct. Specifically, Wilson directed his subordinates to time stamp order tickets prior to 4:00 p.m. ET to create the appearance that customers made final trading decisions prior to 4:00 p.m. ET. Wilson knew that the customers did not make their final trading decisions at the time reflected on the order tickets.

67. As a result of the conduct described above, Snyder and Prigot willfully aided and abetted and caused TWCO's, Wilson's, Christian's, and their customers' violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, which prohibit fraudulent practices in connection with the purchase or sale of securities. TWCO, Wilson, Christian, and their customers violated Section 10(b) of the Exchange Act and Rule 10b-5, as described above. For example, TWCO, Wilson, Christian, and their customers engaged in late trading and deceptive market timing. Snyder and Prigot substantially assisted this conduct. For example, Snyder and Prigot received numerous warning or kick out letters from mutual funds, but they failed to stop the market timing as the funds requested. Snyder created multiple RR numbers for Wilson and Christian. Snyder and Prigot also signed numerous account opening forms for TWCO. Wilson and Christian then used the multiple RR numbers and accounts to deceive mutual funds about the identity of

their customers in order to market time mutual funds. Additionally, after mutual funds contacted Snyder and Prigot and asked if particular trading was market timing, Snyder and Prigot falsely told mutual fund complexes' representatives that money invested at the mutual fund belonged to a TWCO house account. Snyder and Prigot were generally aware that their conduct was wrongful.

III.

In view of the allegations made by the Division of Enforcement, the Commission deems it necessary and appropriate in the public interest that public administrative and cease-and-desist proceedings be instituted to determine:

A. Whether the allegations set forth in Section II are true and, in connection therewith, to afford Respondents an opportunity to establish any defenses to such allegations.

B. What, if any, remedial action is appropriate in the public interest against Respondents pursuant to Section 15(b) of the Exchange Act including, but not limited to, disgorgement, prejudgment interest, and civil penalties pursuant to Section 21B of the Exchange Act, and against Wasserman pursuant to Sections 203(f) and 203(k) of the Investment Advisers Act.

C. Whether, pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, TWCO should be ordered to cease and desist from committing or causing violations of Section 17(a) of the Securities Act, Sections 10(b), 15(c), and 17(a) of the Exchange Act and Rules 10b-3, 10b-5, and 17a-3 thereunder and whether TWCO should be ordered to pay disgorgement and prejudgment interest.

D. Whether, pursuant to Section 8A of the Securities Act, Section 21C of the Exchange Act, and Section 9(f) of the Investment Company Act, Trautman, Wasserman, Barbera, and Wilson should be ordered to cease and desist from committing or causing violations of Section 17(a) of the Securities Act, Sections 10(b), 15(c), and 17(a) of the Exchange Act and Rules 10b-3 and 10b-5 thereunder (and in the case of Wilson Rule 17a-3 thereunder), and Rule 22c-1, as adopted under Section 22(c) of the Investment Company Act, and whether Trautman, Wasserman, Barbera, and Wilson should be ordered to pay disgorgement and prejudgment interest.

E. Whether, pursuant to Section 21C of the Exchange Act, Snyder and Prigot should be ordered to cease and desist from committing or causing violations of Sections 10(b) and 15(c) of the Exchange Act and Rules 10b-3 and 10b-5 thereunder and whether Snyder and Prigot should be ordered to pay disgorgement, prejudgment interest, and civil penalties.

IV.

IT IS ORDERED that a public hearing for the purpose of taking evidence on the questions set forth in Section III hereof shall be convened not earlier than 30 days and not later than 60 days from service of this Order at a time and place to be fixed, and before an Administrative Law Judge to be designated by further order as provided by Rule 110 of the Commission's Rules of Practice, 17 C.F.R. § 201.110.

IT IS FURTHER ORDERED that Respondents shall file an Answer to the allegations contained in this Order within twenty (20) days after service of this Order, as provided by Rule 220 of the Commission's Rules of Practice, 17 C.F.R. § 201.220.

If Respondents fail to file the directed answer, or fail to appear at a hearing after being duly notified, the Respondents may be deemed in default and the proceedings may be determined against them upon consideration of this Order, the allegations of which may be deemed to be true as provided by Rules 155(a), 220(f), 221(f) and 310 of the Commission's Rules of Practice, 17 C.F.R. §§ 201.155(a), 201.220(f), 201.221(f) and 201.310.

This Order shall be served forthwith upon Respondents personally or by certified mail.

IT IS FURTHER ORDERED that the Administrative Law Judge shall issue an initial decision no later than 300 days from the date of service of this Order, pursuant to Rule 360(a)(2) of the Commission's Rules of Practice.

In the absence of an appropriate waiver, no officer or employee of the Commission engaged in the performance of investigative or prosecuting functions in this or any factually related proceeding will be permitted to participate or advise in the decision of this matter, except as witness or counsel in proceedings held pursuant to notice. Since this proceeding is not "rule making" within the meaning of Section 551 of the Administrative Procedure Act, it is not deemed subject to the provisions of Section 553 delaying the effective date of any final Commission action.

By the Commission.

Nancy M. Morris
Secretary