

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934  
Release No. 55116 / January 17, 2007

ADMINISTRATIVE PROCEEDING  
File No. 3-12458

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In the Matter of	:	
	:	ORDER MAKING FINDINGS AND
MARCOS MARTINEZ and	:	IMPOSING SANCTION BY DEFAULT
JAMES FRACE	:	AS TO MARCOS MARTINEZ

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The Securities and Exchange Commission (Commission) issued an Order Instituting Proceedings (OIP), pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act), on October 18, 2006. Respondents Marcos Martinez (Martinez) and James Frace (Frace) were served with the OIP on October 24, 2006. The Division of Enforcement (Division) informed me by letter, dated January 12, 2007, that Frace submitted a signed Offer of Settlement that Division counsel will forward to the Division's Office of Chief Counsel. For this Order, I assume that the Commission will accept Frace's Offer of Settlement.

Martinez participated in a telephonic prehearing conference pro se on November 17, 2006, at which he was given until December 19, 2006, to file an Answer if he decided to retain an attorney. At the prehearing conference, I informed Martinez that if he did not retain an attorney by December 8, 2006, I would permit the Division to file a motion for summary disposition. To date, Martinez has not notified the Division that he has retained legal counsel. He has not filed an Answer and he has not contacted the Division.

Martinez is in default for failing to file an Answer or to otherwise defend the proceeding, and I find the following allegations to be true, as to Martinez. 17 C.F.R. §§ 201.155(a), .220(f).

Platinum Investment Corporation (Platinum) was a broker-dealer registered with the Commission pursuant to Section 15(b) of the Exchange Act from April 2001 through October 2004. Platinum was incorporated under the laws of the State of Nevada on August 30, 2000, and had its principal place of business in Rochester, New York. Platinum maintained offices in Rochester, New York, Fort Lauderdale, Florida, and New York, New York.

From approximately February 2002 through July 2002, Martinez was a branch manager, managing director, and principal with Platinum. Martinez held Series 7, 24, 31, 63 and 65 securities licenses.

On July 31, 2002, the Commission filed a complaint (Complaint) against Platinum, Martinez, and others (SEC v. Platinum Inv. Corp., No. 02 Civ. 6093 (S.D.N.Y. (JSR)) alleging, among other things, that from approximately August 2001 through July 2002, Platinum, Martinez, and others raised over \$1.5 million through two fraudulent unregistered stock offerings. The Complaint further alleges that Platinum, Martinez, and others misled investors through material misrepresentations concerning these offerings. The Complaint charges Martinez with violations of Sections 5 and 17(a) of the Securities Act of 1933 (Securities Act), Section 10(b) of the Exchange Act, and Exchange Act Rule 10b-5.

On May 9, 2005, Martinez pleaded guilty before Magistrate Judge James C. Francis, IV, to one count of conspiracy to commit securities fraud, mail fraud, and wire fraud, for his role in the Platinum securities fraud. On September 15, 2005, Judge Shira A. Scheindlin sentenced Martinez to thirty-seven-months' imprisonment and three years of supervised release, and deferred determination of restitution. On January 24, 2006, Martinez was ordered, jointly and severally with another defendant in the criminal case, to pay restitution of \$936,500. Based on the collateral estoppel effect of his criminal conviction and other evidence, the Commission moved for summary judgment against Martinez on July 31, 2006. Martinez did not oppose the Commission's motion and on September 27, 2006, the Honorable Jed S. Rakoff of the United States District Court for the Southern District of New York entered a Final Judgment against Martinez permanently enjoining Martinez from future violations of Sections 5 and 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Exchange Act Rule 10b-5; ordering Martinez to disgorge \$2,851,170.56, jointly and severally with other defendants, including ill-gotten gains of \$2,178,785.66 and prejudgment interest of \$672,384.99; and ordering Martinez to pay a \$120,000 civil penalty.

## **SANCTIONS**

Where it is in the public interest, Section 15(b) of the Exchange Act authorizes the Commission to censure, place limitations on the activities or functions, or suspend for a period not exceeding twelve months, or bar a person from association with a broker or dealer where the person has been convicted of a crime involving the purchase or sale of securities, has violated the securities statutes, or has been enjoined from violating provisions of the securities statutes and, at the time of the misconduct, was associated with a broker or dealer. Based on Martinez's egregious illegal conduct, it is in the public interest to bar him from being associated with any broker or dealer.

## **ORDER**

I ORDER, pursuant to Section 15(b) of the Securities Exchange Act of 1934, that Marcos Martinez is barred from association with any broker or dealer.

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Brenda P. Murray  
Chief Administrative Law Judge