

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 58883/October 30, 2008**

**INVESTMENT COMPANY ACT OF 1940**  
**Release No. 28478/October 30, 2008**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-13284**

**In the Matter of**

**DAVID L. TASHJIAN,**

**Respondent.**

**ORDER INSTITUTING  
ADMINISTRATIVE AND CEASE-AND-  
DESIST PROCEEDINGS PURSUANT TO  
SECTIONS 15(b) AND 21C OF THE  
SECURITIES EXCHANGE ACT OF 1934  
and SECTIONS 9(b) AND 9(f) OF THE  
INVESTMENT COMPANY ACT OF 1940,  
MAKING FINDINGS, AND IMPOSING  
REMEDIAL SANCTIONS AND A CEASE-  
AND-DESIST ORDER AS TO DAVID L.  
TASHJIAN**

**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 Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Sections 9(b) and 9(f) of the Investment Company Act of 1940 (“Investment Company Act”) against David L. Tashjian (“Tashjian” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these

proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 and Sections 9(b) and (f) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order as to David L. Tashjian (“Order”), as set forth below.

### **III.**

On the basis of this Order and Respondent’s Offer, the Commission finds<sup>1</sup> that

#### **Respondent**

1. **David L. Tashjian**, age 53, resides in New York, New York and has been a licensed securities professional since 1982. From 1992 until 2006, when he resigned, Tashjian held various senior positions with Lazard Freres & Co. and Lazard Capital Markets LLC, becoming a managing director in 1993 and, for a period of time, serving on the firm’s management committee. In 2002, Tashjian became the head of Lazard Capital Markets LLC’s U.S. sales and trading department, a position he held until 2005, when he was asked to take over Lazard Capital Markets LLC’s equity sales and trading desk.

#### **Other Relevant Parties**

2. **Lazard Capital Markets LLC** (“Lazard Capital Markets”) is registered with the Commission as a broker-dealer (File No. 8-2595) pursuant to Section 15(b) of the Exchange Act, with its principal place of business in New York, New York. Lazard Freres & Co. LLC’s capital markets assets were separated from its other businesses and transferred to Lazard Capital Markets in 2005.<sup>2</sup> At all relevant times, Lazard Freres & Co. LLC was registered with the Commission as a broker-dealer pursuant to Section 15(b) of the Exchange Act and provided securities brokerage services to institutional customers.

3. **FMR Co., Inc.** (“Fidelity”) is registered with the Commission as an investment adviser (File No. 801-3447) pursuant to Section 203(c) of the Investment Advisers Act of 1940 (“Advisers Act”), with its principal place of business in Boston, Massachusetts. Fidelity is a wholly owned subsidiary of Fidelity Management & Research Company (“FMR”), which is also an investment adviser registered with the Commission (File No. 801-7884) pursuant to Section 203(c) of the Advisers Act. Fidelity provides portfolio management services as a sub-adviser to certain customers of FMR, including approximately 350 registered investment companies marketed under

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<sup>1</sup>The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

<sup>2</sup> For purposes of this Order, unless otherwise described, the term “Lazard Capital Markets” includes its predecessor entity, Lazard Freres & Co., LLC.

the “Fidelity Investments” trade name and managed by FMR and its affiliates (the “Fidelity Funds”).<sup>3</sup>

4. **Louis Gregory Rice** (“Rice”), age 42, resides in New York, New York and has been a licensed securities professional since 1987. From 1987 until he resigned in March 2005, Rice held various positions with Lazard Capital Markets. He became a managing director in 1996 and from 1996 to 2005, was the head of Lazard Capital Markets’ equity sales and trading department in the United States, supervising, among others, Robert A. Ward and W. Daniel Williams and, from 2000 onwards, reporting to Tashjian.

5. **Robert A. Ward** (“Ward”), age 47, resides in New York, New York and has been a licensed securities professional since 1983. From April 1998 until his resignation in March 2005, he was associated with Lazard Capital Markets as a registered account executive in the equity sales and trading department, becoming a managing director in January 2003.

6. **W. Daniel Williams** (“Williams”), age 47, resides in Westport, Connecticut and has been a licensed securities professional since 1985. From April 1998 until his resignation in March 2005, he was associated with Lazard Capital Markets as a registered account executive in the equity sales and trading department, becoming a managing director in January 2003.

7. **Thomas H. Bruderman** (“Bruderman”), age 39, lives in Boston, Massachusetts. He was a domestic equity trader at Fidelity from 1998 until December 2004.<sup>4</sup>

## Facts

### Summary

8. These proceedings concern Tashjian’s provision of extensive travel, entertainment and gifts to Fidelity equity trader Thomas H. Bruderman, and Tashjian’s failure to supervise Ward and Williams, two Lazard Capital Markets registered representatives within his supervisory authority, who provided travel, entertainment and gifts to certain Fidelity traders. The members of Fidelity’s equity trading desk who received such travel, entertainment and gifts included equity securities traders, whose responsibilities included directing securities transactions for the Fidelity Funds to securities brokerage firms for execution.<sup>5</sup>

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<sup>3</sup> On March 5, 2008, the Commission instituted a related administrative proceeding against Fidelity. *See In the Matter of Fidelity Management & Research Co. and FMR Co. Inc.*, Advisers Act Release No. 2713, Admin. Proc. File No. 3-19276 (March 5, 2008).

<sup>4</sup> On March 5, 2008, the Commission instituted a related administrative proceeding against Bruderman and nine other employees of Fidelity’s equity trading desk. *See In the Matter of Scott DeSano, et al.*, Advisers Act Release No. 2715, Admin. Proc. File No. 3-12978 (March 5, 2008).

<sup>5</sup> Simultaneously with the commencement of this proceeding, the Commission has issued Orders with respect to Lazard Capital Markets and Messrs. Ward, Williams and Louis Gregory Rice. *See the following Commission Orders: In the Matter of Lazard Capital Markets LLC*, Admin. Proc. File No. 3-13281 (October 30, 2008); *In the Matter of Robert A. Ward*, Admin. Proc. File No. 3-13283 (October 30, 2008); *In the Matter of W. Daniel Williams*,

9. From 2000 through 2004 (the “Relevant Period”), in an effort to generate brokerage business for Lazard Capital Markets, Tashjian expensed over \$350,000 to entertain Bruderman and to provide him with certain gifts. Among other things, Tashjian took Bruderman to the Bahamas, Florida and California, providing him with airfare and lodging at high-end hotels. He also provided Bruderman with expensive wine, and incurred expenses at an adult entertainment establishment for Bruderman’s elaborate bachelor party.

10. Tashjian failed reasonably to respond to red flags indicating that two Lazard Capital Markets registered representatives within his supervisory authority, Ward and Williams, also provided extravagant travel and entertainment to Bruderman and certain other Fidelity equity traders. Among other things, he accompanied Ward or Williams on six trips during which they provided Bruderman with lavish lodging, meals and entertainment. Tashjian also failed to respond to red flags indicating that during some of the trips and entertainment events, Ward provided Bruderman and certain other Fidelity traders with drugs, including the drug commonly referred to as “ecstasy.”

11. By his behavior, Tashjian set an example for Ward and Williams to provide travel and entertainment to Fidelity employees, in an effort to increase Lazard Capital Markets’ business with the Fidelity Funds. Throughout the Relevant Period, the brokerage commissions Lazard Capital Markets generated from Fidelity were a significant portion of Lazard Capital Markets’ overall commission revenue. For example, from 2001 through 2003, Fidelity commissions generated by traders to whom Tashjian, Ward and Williams provided travel, entertainment and gifts constituted an average of over 16% of Lazard Capital Markets’ annual commission revenue during that period. During the Relevant Period, commissions from Fidelity far exceeded commissions from any other Lazard Capital Markets customer.

12. During the Relevant Period, Bruderman personally directed Fidelity securities orders to Lazard Capital Markets – specifically, to Ward and Williams – that generated approximately \$21.6 million in commissions - over ten percent of Lazard Capital Markets’ overall commission revenue during that five-year period.

13. Section 17(e)(1) of the Investment Company Act makes it unlawful for an affiliated person of a registered investment company, or an affiliate of an affiliate, when acting as an agent, to accept compensation from any source (other than a salary or wages from the registered investment company) for the purchase or sale of any property to or for the registered investment company. Bruderman and the other Fidelity traders were affiliated persons of Fidelity, which is an affiliated person of registered investment companies (the Fidelity Funds), because Fidelity is the adviser to those funds. Bruderman’s receipt of travel, entertainment and gifts from Tashjian, and Bruderman’s and the other Fidelity traders’ receipt of travel, entertainment and gifts from Ward and Williams constituted compensation within the scope of the prohibition of Section 17(e)(1) of the Investment Company Act.

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Admin. Proc. File No. 3-13285 (October 30, 2008); and *In the Matter of Louis Gregory Rice*, Admin. Proc. File No. 3-13282 (October 30, 2008).

14. As a result of his conduct, Tashjian aided and abetted and caused Bruderman's violations of Section 17(e)(1) of the Investment Company Act.

15. Section 15(b)(6) of the Exchange Act, incorporating by reference Section 15(b)(4)(E) of the Exchange Act, authorizes the Commission to sanction a person associated with, or at the time of the alleged misconduct was associated with, a broker or dealer for failing reasonably to supervise, with a view to preventing violations of the federal securities laws, another person who commits such a violation, if that person is subject to the person's supervision.

16. As the head of Lazard Capital Markets' U.S. sales and trading department and a licensed securities professional, Tashjian was responsible for being familiar with, and ensuring that employees for whom he had supervisory responsibility fully complied with, Lazard Capital Markets' travel and entertainment policies and the applicable securities rules and regulations. Tashjian was aware of the nature of the travel and entertainment that Ward and Williams provided to Bruderman and failed reasonably to respond to red flags indicating that their conduct violated both Lazard Capital Markets' policies and the applicable securities rules and regulations.

17. As a result of the conduct described above, Tashjian failed reasonably to supervise, within the meaning of Section 15(b)(6) of the Exchange Act, incorporating by reference Section 15(b)(4)(E) of the Exchange Act, Ward and Williams, with a view to preventing their aiding and abetting and causing violations of Section 17(e)(1) of the Investment Company Act.

Tashjian Aided and Abetted and Caused Bruderman's Violations of Section 17(e)(1) of the Investment Company Act

18. During the Relevant Period, Tashjian expensed to Lazard Capital Markets over \$350,000 in connection with entertaining and providing gifts and travel primarily to Bruderman. The travel, entertainment and gifts consisted primarily of trips including air travel, luxury accommodations, meals and other entertainment as well as certain gifts, such as wine.

19. Examples of the travel, entertainment and gifts that Tashjian provided are as follows:

a. In March 2001, Tashjian, accompanied by Rice, Ward, Williams, took Bruderman on two separate trips to resorts in Florida and California. Tashjian provided for most of the lodging, meals and entertainment, expensing nearly \$70,000 (the total cost of the trips was over \$100,000).

b. In April and October 2001, Tashjian took Bruderman on two separate trips to resorts in California, providing lodging and entertainment. The total cost to Lazard Capital Markets for these trips was over \$40,000, all of which Tashjian expensed.

c. In November 2001, Tashjian took Bruderman and their respective significant others by private plane for a four day trip to the Bahamas. Tashjian provided for the

private airfare, meals and lodging. The total cost for Lazard Capital Markets for the trip was over \$49,000, nearly all of which Tashjian expensed.

d. In April 2002, Tashjian took Bruderman and their respective significant others for a four day trip to Nassau, Bahamas. Tashjian provided for the party's private jet travel to Nassau, lodging and several meals. The total cost for Lazard Capital Markets for the trip was over \$53,000, all of which Tashjian expensed.

e. In September 2002, Tashjian took Bruderman, their respective significant others, and two others clients from firms other than Fidelity and their spouses, to the Bahamas. Tashjian provided for the private airfare, lodging and several meals. The total cost for Lazard Capital Markets for the trip was over \$70,000, all of which Tashjian expensed.

f. In March 2003, Tashjian attended a portion of Bruderman's bachelor party in Miami, where he expensed lodging, meals and entertainment that cost Lazard Capital Markets over \$4,000. Coupled with the expenses Ward, Williams and Rice incurred for this event, the total cost for Lazard Capital Markets was over \$50,000.

20. The travel, entertainment and gifts Tashjian provided to Bruderman constituted prohibited "compensation" within the scope of Section 17(e)(1) of the Investment Company Act.

Ward and Williams Aided and Abetted and Caused Bruderman's and Certain Other Fidelity Traders' Violations of Section 17(e)(1) of the Investment Company Act

21. During the Relevant Period, Tashjian failed reasonably to respond to red flags indicating that Ward and Williams expensed to Lazard Capital Markets over \$300,000 in connection with providing travel, entertainment and gifts to Bruderman and a few other Fidelity traders. The travel, entertainment and gifts consisted of approximately 15 trips (at least of six which Tashjian attended), including air travel, luxury accommodations, meals and other entertainment.

22. On certain occasions, Ward provided prohibited compensation in the form of drugs, including "ecstasy," to Bruderman and a few other Fidelity traders. Most of the drugs were provided in connection with entertainment events, such as concerts or trips, which were paid for by Lazard Capital Markets. Tashjian failed reasonably to respond to red flags indicating that Ward provided drugs to Fidelity employees on these occasions.

23. The travel, entertainment and gifts provided to Bruderman and certain other Fidelity traders by Ward and Williams constituted prohibited "compensation" within the scope of the prohibition of Section 17(e)(1) of the Investment Company Act.

Lazard Capital Markets Received Substantial Business from Fidelity During the Period Tashjian, Ward and Williams Provided Travel, Entertainment and Gifts to Certain Fidelity Traders

24. Tashjian viewed the provision of travel, entertainment and gifts as part of a strategy – in competition with other securities brokerage firms – to increase Lazard Capital Markets’ brokerage business with the Fidelity Funds. By his own behavior, Tashjian set an example that encouraged Ward and Williams to supply Bruderman and certain other Fidelity traders with travel and entertainment.

25. Throughout the Relevant Period, the brokerage commissions Lazard Capital Markets generated from Fidelity traders to whom Tashjian, Ward and Williams provided travel, entertainment and gifts were a significant portion of Lazard Capital Markets’ overall commission revenue. In addition, the commissions Lazard Capital Markets received from the Fidelity Funds grew after Ward and Williams joined Lazard Capital Markets. In 1998, the year Lazard Capital Markets hired Ward and Williams, Lazard Capital Markets received \$1.4 million in commissions from Fidelity. By contrast, during the 2001 to 2003 period, for example, Lazard employees who provided travel, entertainment and gifts to Fidelity traders were responsible for generating the following commissions from Fidelity, representing the following percentages of Lazard Capital Markets’ overall gross commission revenue:

<b>Year</b>	<b>Approximate Gross Commission Revenue Ward and Williams Generated From Fidelity</b>	<b>Approximate Percentage of Lazard Capital Markets’ Overall Commission Revenue</b>
2001	\$7.4 million	16.2%
2002	\$7.2 million	16.4%
2003	\$6.1 million	16.1%

During the Relevant Period, commissions from Fidelity far exceeded commissions from any other Lazard Capital Markets customer.

26. Bruderman, the primary beneficiary of Tashjian’s, Ward’s and Williams’ travel, entertainment and gifts, alone sent trades generating a total of \$21.6 million in brokerage commissions to Lazard Capital Markets – specifically to Ward and Williams – during the Relevant Period, as follows:

2000	\$3.6 million
2001	\$6.4 million
2002	\$5.6 million
2003	\$3.8 million
2004	\$2.2 million

The commissions generated from Bruderman represented over ten percent of Lazard Capital Markets’ overall commission revenue during that five-year period.

Tashjian Failed to Supervise Ward and Williams

27. Lazard Capital Markets' policies prohibited providing gifts in excess of \$100. From 2001 through at least mid-2004, Lazard Capital Markets' Compliance Manual stated:

An employee may not give any gratuity in excess of \$100 per person per year to any principal, officer, or employee of another ... *financial institution*.... Records shall be retained for at least three years of all such gratuities and compensation for inspection by Exchange examiners. (emphasis added).

Lazard Capital Markets also subjected its managing directors and employees to the prerequisites of relevant law and reasonable conduct and required that:

Any questions regarding the application or interpretation of behavior or conduct that may be acceptable must be brought to the attention of the General Counsel or his designee *before* any action is taken. (emphasis added).

28. Lazard Capital Markets' General Supervision manual made it clear that supervisors were responsible for ensuring employee compliance with its gifts and entertainment policies. Under the heading "Conflicts of Interest," the manual provided that:

Supervisory Personnel are responsible for being familiar with these [gifts and gratuities] rules, and they must make certain that the employees under their supervision fully comply with them. Any doubts or concerns regarding the propriety of a gift or gratuity should be brought to the attention of the Legal and Compliance Department.

29. Under the heading "Entertainment of Customers," Lazard Capital Markets' General Supervision Manual stated:

Firm policy provides that a Managing Director must approve all entertainment expenditures and document their approval in writing on the appropriate forms.... If a Supervisor confronts a compliance problem concerning the entertainment of customers, he should immediately contact the Legal and Compliance Department to plan an appropriate response.

30. During the Relevant Period, Tashjian headed Lazard Capital Markets' U.S. capital markets group and, later, Lazard Capital Markets' U.S. sales and trading department. As a supervisor and licensed securities professional, Tashjian was responsible for being familiar with, and ensuring that employees under his supervision, including Ward and Williams, fully complied with Lazard Capital Markets' travel and entertainment policies and the applicable securities rules and regulations. Tashjian failed to discharge the duties placed upon him and permitted Ward and Williams to provide travel and entertainment to Fidelity employees in violation of applicable rules,

regulations and policies. By his behavior, he set an example that encouraged Ward and Williams to provide travel and entertainment to Bruderman and certain other Fidelity traders in an effort to generate brokerage business for Lazard Capital Markets.

31. Tashjian failed reasonably to respond to red flags concerning the nature and extent of the travel and entertainment that Ward and Williams provided to Bruderman and certain Fidelity traders. He joined Ward and Williams on several out-of-town trips, during which he, Ward and Williams provided airfare, extravagant lodging, and other entertainment. Despite red flags, he failed reasonably to monitor whether, when he was not present, Ward and Williams continued to provide extravagant entertainment to Bruderman and certain other Fidelity employees, in violation of Section 17(e)(1) of the Investment Company Act. Had Tashjian appropriately responded to the concerns raised by this conduct, it is likely he could have prevented and detected Ward's and Williams' securities law violations.

### **Violations**

32. Section 17(e)(1) of the Investment Company Act makes it unlawful for an affiliated person of a registered investment company, or an affiliate of an affiliate, when acting as an agent, to accept compensation from any source (other than a salary or wages from the registered investment company) for the purchase or sale of any property to or for the registered investment company. A violation of Section 17(e)(1) is complete upon receipt of the compensation. Bruderman was an affiliated person of Fidelity, which is an affiliated person of investment companies (the Fidelity Funds), because Fidelity advises those funds. Bruderman's receipt of travel, entertainment and gifts from Tashjian constituted compensation in violation of Section 17(e)(1) of the Investment Company Act. As a result of the conduct above, Tashjian willfully aided and abetted and caused those violations.

33. As a result of the conduct described above, Tashjian failed reasonably to supervise Ward and Williams, with a view to preventing their aiding and abetting and causing of Fidelity's employees' violations of Section 17(e)(1) of the Investment Company Act, within the meaning of Section 15(b)(6) of the Exchange Act, incorporating by reference Section 15(b)(4)(E) of the Exchange Act.

### **Undertakings**

34. Respondent Tashjian shall provide the Commission, within 10 days after the end of the nine month suspension period described below, an affidavit that he has complied fully with the sanctions described in Section IV below.

35. In determining whether to accept the Offer, the Commission considered these undertakings.

#### IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Tashjian's Offer.

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act and Sections 9(b) and 9(f) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Tashjian cease and desist from committing or causing any violations and any future violations of Section 17(e)(1) of the Investment Company Act.

B. Respondent Tashjian be, and hereby is suspended from association with any broker or dealer, and is prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter for a period of nine (9) months, effective on the second Monday following the entry of this Order.

C. IT IS FURTHER ORDERED that Respondent Tashjian shall pay a civil money penalty in the amount of \$75,000 to the United States Treasury. Payment shall be made in the following installments: (1) \$25,000 within 10 days of entry of this Order, (2) \$12,500 within 90 days of entry of this Order, (3) \$12,500 within 180 days of entry of this Order, (4) \$12,500 within 270 days of entry of this Order, and (5) \$12,500 within 364 days of entry of this Order. If any payment is not made by the date the payment is required by this Order, the entire balance of the civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600 or pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application. Such payments shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies Tashjian as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to David P. Bergers, Regional Director, Boston Regional Office, Securities and Exchange Commission, 33 Arch Street, 23rd Floor, Boston, Massachusetts 02110-1424.

D. Respondent Tashjian shall comply with the undertakings enumerated in paragraph 34, above.

By the Commission.

Florence E. Harmon  
Acting Secretary