

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

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 62750 / August 20, 2010**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-13871**

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<b>In the Matter of</b>	:	
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	:	<b>ORDER MAKING FINDINGS AND</b>
<b>Ronald S. Bloomfield,</b>	:	<b>IMPOSING REMEDIAL SANCTIONS</b>
<b>Robert Gorgia,</b>	:	<b>AND A CEASE-AND-DESIST ORDER</b>
<b>Victor Labi,</b>	:	<b>PURSUANT TO SECTIONS 15(b) AND</b>
<b>John Earl Martin, Sr., and</b>	:	<b>21C OF THE SECURITIES</b>
<b>Eugene Miller</b>	:	<b>EXCHANGE ACT OF 1934 AS TO</b>
	:	<b>EUGENE MILLER</b>
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**I.**

On April 27, 2010, the Securities and Exchange Commission (“Commission”) instituted administrative and cease-and-desist proceedings pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Eugene Miller (“Miller” or “Respondent”) and four other individuals.

**II.**

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 Making Findings and Imposing Remedial Sanctions Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934, as set forth below.

**III.**

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

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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.

## **Summary**

1. During the relevant period, from April 2005 to April 2007 (“Relevant Period”), Miller was the president of Leeb Brokerage Services, Inc. (“Leeb”), a now-defunct broker-dealer, and held significant supervisory responsibilities. During this period, certain customers of Leeb routinely delivered into their accounts large blocks of privately obtained shares of penny stocks, which Leeb then sold to the public on its customers’ behalf, without any registration statements being in effect. Miller, as president of Leeb with supervisory responsibilities over the trading desk and penny stock activity, failed to respond to red flags indicating that certain registered representatives were not conducting reasonable inquiries into facts that could indicate unlawful distributions of stock, in order to prevent and detect violations of Section 5 of the Securities Act of 1933. Miller also willfully aided and abetted and caused Leeb’s failure to file suspicious activity reports, as required by Section 17(a) of the Exchange Act and Rule 17a-8 thereunder, regarding suspicious penny stock trading in certain Leeb customer accounts.

## **Respondent**

2. Miller, 52 years old, is a resident of Park Ridge, New Jersey. He was the president of Leeb from April 2004 to April 2007.

## **Other Relevant Entity**

3. Leeb was a broker-dealer incorporated under New York law, with a main office in New York and an Office of Supervisory Jurisdiction (“OSJ”) in California. Leeb was registered with the Commission from March 1999 to July 20, 2007, when the firm filed a broker-dealer withdrawal form (“BDW”).

## **Background**

4. Throughout the Relevant Period, Miller was president of Leeb and supervisor of Leeb’s home office. He was the trading desk supervisor, was responsible for supervising firm-wide “penny stocks/microcap” activity, and was responsible for reviewing all trading activity for the firm, including activity at the OSJ.

5. During the Relevant Period, certain customers of Leeb routinely delivered into their accounts large blocks of privately obtained shares of penny stocks, which Leeb then sold to the public on behalf of the customers, without any registration statements being in effect.

6. The sales of penny stock shares were accompanied by a number of warning signs, or “red flags,” involving the customers for whom the stocks were sold, the method and timing under which the penny stocks were sold, and the way that proceeds from the sales were subsequently routed.

7. For example, red flags associated with certain Leeb customers engaged in penny stock transactions included: (a) an individual with a prior pump-and-dump related consent

judgment; (b) persons whom registered representatives at Leeb knew or should have known were engaged in promotional activity in the same stocks they were selling; and (c) individuals who controlled more than one brokerage account under different corporate names.

8. Red flags associated with the way the penny stock shares were sold included: (a) repeated delivery in and selling to the public of privately obtained shares of penny stocks; (b) selling within weeks of receipt; (c) selling while promotional activity was occurring; and (d) sales that represented a high percentage of trading volume or of an issuer's public float.

9. In addition to the red flags described above, the accounts controlled by these customers and their transaction histories were suspicious in other respects. In one case, a stock promoter customer sold hundreds of millions of privately obtained shares of penny stocks through two separate corporate accounts that he controlled. Account opening documents for the accounts, however, identified his daughter as the sole proprietor and officer of both companies. In another case, there was an account held by a customer incorporated in Nevis that: was operated by persons in Vancouver; was submitting orders through traders in Costa Rica; was routinely delivering into its account privately obtained shares of penny stocks; and had, from October 2005 to June 2007, wired proceeds totaling over \$30 million to a bank in Liechtenstein.

10. Despite the red flags described above suggesting that certain of Leeb's customers could be violating Section 5 of the Securities Act by engaging in illegal distributions of securities through their Leeb accounts, the registered representatives responsible for these accounts failed to conduct a reasonable inquiry regarding the securities delivered into Leeb customer accounts. They also failed to obtain documentation concerning how their customers acquired those securities or to make adequate inquiries into: the nature of the underlying transactions in which the purportedly "free-trading" stock had been obtained; the length of time the customers had held stock; the customers' intent to sell additional shares; or how the customers' selling activities compared with the issuer's outstanding share balance and trading volume.

11. The Leeb customer trading activity described above, as well as the absence of Low-Priced Securities Questionnaires for numerous penny stocks traded through customer accounts, reflected numerous red flags concerning whether the firm's registered representatives had made adequate inquiry into facts that could indicate unlawful distributions of stock were taking place.

12. Although Miller regularly reviewed the firm's penny stock trading activity and regularly communicated with the branch manager of the OSJ regarding penny stock activity conducted through the OSJ, Miller did not identify any red flags or question the source of any of the stock sold through the firm.

13. In addition, Miller ignored other red flags that he was aware of, such as repeated regulatory inquiries concerning certain customer accounts or specific penny stocks. Despite his concern over the number of such inquiries, Miller did not subject any registered representative or customer account to heightened scrutiny, did not question the registered

representatives regarding whether they conducted inquiries into the customers' penny stocks, and did not conduct additional account reviews.

14. As a result of the conduct described above, Miller failed reasonably to supervise certain registered representatives, within the meaning of Sections 15(b)(4) and 15(b)(6) of the Exchange Act, with a view to preventing their violations of Section 5 of the Securities Act.

15. The Bank Secrecy Act ("BSA"),<sup>2</sup> as implemented under rules promulgated by the U.S. Treasury Department's Financial Crimes Enforcement Network ("FinCEN"), requires that broker-dealers file Suspicious Activity Reports ("SARs") with FinCEN to report a transaction (or a pattern of transactions of which the transactions is a part) involving or aggregating to at least \$5,000 that the broker-dealer knows, suspects, or has reason to suspect: (1) involves funds derived from illegal activity or was conducted to disguise funds derived from illegal activities; (2) is designed to evade any requirements of the BSA; (3) has no business or apparent lawful purpose and the broker-dealer knows of no reasonable explanation for the transaction after examining the available facts; or (4) involves use of the broker-dealer to facilitate criminal activity.<sup>3</sup>

16. Exchange Act Rule 17a-8 requires broker-dealers to comply with the reporting, recordkeeping and record retention requirements of the rules promulgated under the BSA. The failure to file a SAR as required by the SAR Rule is a violation of Section 17(a) of the Exchange Act and Rule 17a-8 thereunder.

17. Leeb's Anti-Money Laundering ("AML") program enumerated a number of examples that could be indicative of the need to file a SAR, including (i) a history of criminal, civil, or regulatory violations by the customer or an associate; (ii) multiple LLCs with the same address; (iii) multiple transfers of funds to or from bank secrecy jurisdictions, tax havens, or non-cooperative jurisdictions as identified by the Financial Action Task Force ("FATF") or FinCEN; and (iv) penny stock activity. Furthermore, Leeb's AML program charged all employees with responsibility for AML compliance, including identifying red flags that would be indicative of the need for Leeb to file a SAR.

18. The transactions described above were suspicious and Miller should have caused Leeb to file SARs. Miller knew of his obligation to assist Leeb in fulfilling its requirement to file SARs, and knew or was reckless in not knowing that significant suspicious activity was not being reported by Leeb as a result of his actions.

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<sup>2</sup> Currency and Financial Transactions Reporting Act of 1970 (the "Bank Secrecy Act"), 12 U.S.C. § 1829b, 12 U.S.C. §§ 1951-1959, and 31 U.S.C. §§ 5311-5330. The Bank Secrecy Act was most recently amended by the USA PATRIOT Act. *See* Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Pub. L. No. 107-56, 115 Stat. 296 (2001).

<sup>3</sup> 31 C.F.R. §103.19 ("SAR Rule").

19. Based on the conduct described above, Miller willfully aided and abetted and caused Leeb's violations of Section 17(a) of the Exchange Act and Rule 17a-8 thereunder.

### **Undertakings**

20. Respondent undertakes to cooperate fully with the Commission in any and all investigations, litigations or proceedings relating to or arising from the matters described in the Order. In connection with such cooperation, Respondent undertakes:

- a. To produce, without service of a notice or subpoena, any and all documents and other information reasonably requested by the Commission's staff;
- b. To be interviewed by the Commission's staff at such times as the staff may reasonably request and to appear and testify truthfully and completely without service of a notice or subpoena in such investigations, depositions, hearings or trials as may be requested by the Commission's staff; and
- c. That in connection with any testimony of Respondent to be conducted at deposition, hearing or trial pursuant to any notice or subpoena, Respondent agrees that any such notice or subpoena for his appearance and testimony may be served by regular mail and facsimile on his counsel, George Brunelle, Brunelle & Hadjickow, P.C., 1 Whitehall Street, 18<sup>th</sup> Floor, New York, NY 10004, Fax No. (212) 809-3219.

21. Respondent shall provide to the Commission, within thirty days after the end of the twelve-month suspension period described below, an affidavit that he has complied fully with the sanctions described in Section IV.A, IV.B, and IV.C below.

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

## **IV.**

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

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

A. Respondent Miller shall cease and desist from committing or causing any violations and any future violations of Section 17(a) of the Exchange Act and Rule 17a-8 thereunder;

B. Respondent Miller be, and hereby is, suspended from association in a supervisory capacity with any broker or dealer for a period of twelve months, effective on the second Monday following the entry of this Order.

C. Respondent shall, within 30 days of the entry of this Order, pay a civil money penalty in the amount of \$50,000 to the United States Treasury. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. 3717. Such payment shall be: (A) made by wire transfer, 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 Eugene Miller 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 Stoelting, Senior Trial Counsel, and to Robert J. Keyes, Associate Regional Director, Securities and Exchange Commission, 3 World Financial Center, Room 400, New York, New York, 10281-1022.

D. Respondent shall comply with the undertaking set forth in paragraph 21 above.

By the Commission.

Elizabeth M. Murphy  
Secretary

## Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Making Findings and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 as to Eugene Miller, on the Respondents or their legal agents.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray  
Chief Administrative Law Judge  
Securities and Exchange Commission  
100 F Street, N.E.  
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