

UNITED STATES OF AMERICA  
before the  
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934  
Rel. No. 52859 / November 30, 2005

Admin. Proc. File No. 3-10437

In the Matter of

HUNTER ADAMS,  
JASON A. COHEN,  
STEVEN M. COHEN,  
DAVID HIRSCH,  
JONATHAN D. WINSTON,  
JOHN J. GREMMO, III,  
JAMES L. BILA,  
CHRISTIAN W. BLAKE,  
LOUIS R. FACCHINI, JR.,  
ROBERTO A. MANGIARANO,  
JOSEPH P. MANNINO,  
DAVID M. MARGULES,  
JAMES J. PELLIZZI,  
DAVID M. PESSO,  
MICHAEL PUGLIESE,  
CHRISTOPHER J. RUSSO,  
HOWARD I. WEINSTEIN, and  
ROBERT J. WINSTON

ORDER  
MODIFYING  
SANCTIONS  
AND NOTICE  
THAT INITIAL  
DECISIONS, AS  
MODIFIED, ARE  
FINAL

On June 30, 2005, the administrative law judge issued an initial decision in this proceeding. <sup>1/</sup> The law judge concluded that it was appropriate to bar certain of the respondents from participating in any offering of penny stock and ordered them to disgorge various amounts, together with prejudgment interest. <sup>2/</sup> On September 8, 2003, in response to motions from the

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<sup>1/</sup> Hunter Adams et al., Initial Decision Rel. No. 290 (June 30, 2005), \_\_\_ SEC Docket \_\_\_.

<sup>2/</sup> Certain of the respondents were also ordered to pay civil penalties. John J. Gremmo, III, David Hirsch, Joseph P. Mannino, Christopher J. Russo, and Jonathan D. Winston, who  
(continued...)

Division of Enforcement and pursuant to Section 8A of the Securities Act of 1933, 15 U.S.C. § 77h-1, and Sections 21C and 15(b)(6), 15 U.S.C. §§ 78u-3, 78o(b)(6), of the Securities Exchange Act of 1934, the law judge barred all but one of the respondents from association with any broker or dealer and ordered them to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, 15 U.S.C. § 77q(o), Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. § 78j(b), and Exchange Act Rule 10b-5, 17 C.F.R. § 240.10b-5. <sup>3/</sup>

Respondents are also defendants in a criminal case. <sup>4/</sup> Several of them were ordered to pay restitution in that case. <sup>5/</sup> Pursuant to Rule of Practice 411(c), on our own motion, we

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<sup>2/</sup> (...continued)

also were part of the original administrative proceeding, entered into settlement negotiations with the Division. The Commission accepted the proposed settlements of Mannino, Russo, and Jonathan D. Winston on October 14, 2005. Hunter Adams et al. (Joseph P. Mannino), Securities Act Rel. No. 8625 (Oct. 14, 2005), \_\_ SEC Docket \_\_; Hunter Adams et al. (Christopher J. Russo), Exchange Act Rel. No. 8626 (Oct. 14, 2005), \_\_ SEC Docket \_\_; Hunter Adams et al. (Jonathan D. Winston), Exchange Act Rel. No. 8627 (Oct. 14, 2005), \_\_ SEC Docket \_\_. Therefore, the law judge did not issue orders as to the five respondents. The proceeding remains pending as to Gremmo and Hirsch.

<sup>3/</sup> Hunter Adams et al., Securities Act Rel. No. 8282 (Sept. 8, 2003), 81 SEC Docket 7. The order did not apply to Jonathan D. Winston.

<sup>4/</sup> United States v. Jonathan Winston et al., 00 Cr. 1248 (E.D.N.Y. filed Mar. 8, 2001).

<sup>5/</sup> The amount of restitution that each defendant has been ordered to pay is as follows:

Hunter Adams - \$100,000,000.00  
 James L. Bila - \$1,744,478.57  
 Christian W. Blake - not sentenced as of July 29, 2005, the last date for which there is information in the record  
 Jason A. Cohen - \$81,023,004.21  
 Steven M. Cohen - \$78,489,233.25  
 Louis R. Facchini, Jr. - \$321,487.48  
 John J. Gremmo, III - \$41,000,000.00  
 David Hirsch - sentenced April 3, 2003; restitution to be determined  
 Roberto A. Mangiarano - \$19,864,929.75  
 Joseph P. Mannino - \$1,001,177.60  
 David M. Margules - \$1,093,349.53  
 James J. Pellizzi - \$3,750,446.99  
 David M. Pessa - \$1,026,538.61

(continued...)

ordered a limited review of the decision of the administrative law judge. <sup>6/</sup> We wished to consider whether, and to what extent, the amounts required to be disgorged in this proceeding should be offset by any amount of restitution paid in the criminal case.

We received briefs from respondents Jason A. Cohen and Michael Pugliese, and from the Division. All the briefs supported offset. We have concluded that disgorgement amounts imposed in this matter should be offset or reduced by any restitution the respondents have paid in the criminal case. <sup>7/</sup> To this end, respondents may submit an accounting showing any amount paid in their criminal case. <sup>8/</sup>

The Division informs us that Hunter Adams is jointly and severally liable with respondent Jonathan D. Winston for \$401,708.37 of the disgorgement order entered against Hunter Adams. The Division further informs us that Jonathan D. Winston forfeited \$5 million in United States v. Jonathan Winston, et al. Pursuant to the terms of our settlement order issued on October 14, 2005 with Jonathan D. Winston, that forfeiture is deemed to satisfy the liability for the \$401,708.37. Because Hunter Adams was jointly and severally liable for that amount, his liability is also deemed satisfied, and his sanction is modified accordingly.

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<sup>5/</sup> (...continued)

Michael Pugliese - \$3,750,446.99  
 Christopher Russo - \$2,005,476.25  
 Howard I. Weinstein - \$6,743,805.04  
 Jonathan D. Winston - \$108,988,825.50  
 Robert J. Winston - \$10,308,214.36

Hunter Adams et al., *supra* note 1, at Appendix A; Letter from Cynthia A. Matthews to Hon. B. Murray, July 25, 2005. To the extent that Blake is ordered to pay restitution, he may offset the obligation to pay disgorgement by the demonstrated amount paid in restitution. The Division stated that, as of August 10, 2005, Adams, Facchini, Pesso, Pugliese, and Weinstein had made payments toward their restitution orders.

<sup>6/</sup> 17 C.F.R. § 201.411(c). The Commission did not receive any petitions for review. However, after the time for filing a petition for review had run, the Commission received a copy of a letter addressed to the law judge from counsel for Howard Weinstein asking that she permit the offset of restitution payments against the disgorgement amounts.

<sup>7/</sup> See SEC v. Palmisano, 135 F.3d 860, 866-67 (2d Cir. 1998) (amounts paid to customers through criminal restitution proceeding may offset amounts assessed in civil disgorgement proceeding), *cert. denied*, 525 U.S. 1023 (1998); SEC v. First Jersey Sec., Inc., 101 F.3d 1450, 1475 (2d Cir. 1996) (settlement payment properly taken into account in calculating disgorgement), *cert. denied*, 522 U.S. 812 (1997).

<sup>8/</sup> Laurie Jones Canady, 54 S.E.C. 65, 84 (1999), *pet. denied*, 230 F.3d 362 (D.C. Cir. 2000).

Notice is hereby given, pursuant to Rule 360(e) of the Commission's Rules of Practice 9/ that, as modified above with respect to offset of the initial decision's order of disgorgement by any demonstrated payment of restitution and with respect to Hunter Adams' liability for the disgorgement, the initial decision of the administrative law judge and the decision issued on September 8, 2003 have become final decisions of the Commission. The orders contained in those decisions are declared final as follows:

Hunter Adams is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; shall disgorge \$444,954.77 (of which, \$401,708.37 is subject to joint and several liability with Jonathan D. Winston 10/) plus prejudgment interest, determined in conformity with 26 U.S.C. § 6621(a)(2) and compounded quarterly, less any amount Adams may show he has paid as restitution in his criminal case; and shall pay a civil penalty of \$220,000;

James L. Bila is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; shall disgorge \$588,710.83 (of which, \$45,939.38 is subject to joint and several liability with Christian W. Blake) plus prejudgment interest of \$366,505.64 for a total of \$955,216.47, less any amount Bila may show he has paid as restitution in his criminal case; and shall pay a civil penalty of \$220,000;

Christian W. Blake is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; shall disgorge \$160,621.40 (of which, \$45,939.38 is subject to joint and several liability with James L. Bila) plus prejudgment interest of \$99,995.88 for a total of \$260,617.28, less any amount Blake may show he has paid as restitution in his criminal case; and shall pay a civil penalty of \$220,000;

Jason A. Cohen is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or

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9/ 17 C.F.R. § 201.360(e).

10/ Pursuant to the terms of our settlement order issued on October 14, 2005, the payment of disgorgement subject to joint and several liability (\$401,708.37) is deemed satisfied by Jonathan D. Winston's October 24, 2002 forfeiture of \$5 million in United States v. Jonathan Winston et al. Hunter Adams et al. (Jonathan D. Winston), Exchange Act Rel. No. 33-8626 (Oct. 14, 2005), \_\_\_ SEC Docket \_\_\_.

causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; shall disgorge \$395,021.52 plus prejudgment interest of \$245,923.16 for a total of \$640,944.68, less any amount Jason Cohen may show he has paid as restitution in his criminal case; and shall pay a civil penalty of \$220,000;

Steven M. Cohen is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; shall disgorge \$296,915.19 plus prejudgment interest of \$184,846.44 for a total of \$481,761.63, less any amount Steven Cohen may show he has paid as restitution in his criminal case; and shall pay a civil penalty of \$220,000;

Louis R. Facchini, Jr., is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; shall disgorge \$172,505.33 plus prejudgment interest of \$107,394.29 for a total of \$279,899.62, less any amount Facchini may show he has paid as restitution in his criminal case; and shall pay a civil penalty of \$220,000;

Roberto A. Mangiarano is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; shall disgorge \$1,028,737.86 plus prejudgment interest of \$640,447.30 for a total of \$1,669,185.16, less any amount Mangiarano may show he has paid as restitution in his criminal case; and shall pay a civil penalty of \$220,000;

David M. Margules is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; shall disgorge \$14,712.50 plus prejudgment interest of \$9,159.36 for a total of \$23,871.86, less any amount Margules may show he has paid as restitution in his criminal case; and shall pay a civil penalty of \$220,000;

James J. Pellizzi is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; and shall disgorge \$663,238.69 plus prejudgment interest of \$412,903.45 for a total of \$1,076,142.14, less any amount Pellizzi may show he has paid as restitution in his criminal case;

David M. Pessa is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; shall disgorge \$383,175.97 plus prejudgment interest of \$238,548.65 for a total of \$621,724.62, less any amount Pessa may show he has paid as restitution in his criminal case; and shall pay a civil penalty of \$220,000;

Michael Pugliese is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; and shall disgorge \$4,410.94 plus prejudgment interest of \$2,746.07 for a total of \$7,157.01, less any amount Pugliese may show he has paid as restitution in his criminal case;

Howard I. Weinstein is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; and shall disgorge \$1,140,682.64 (of which, \$24,100.00 is subject to joint and several liability with Robert J. Winston) plus prejudgment interest of \$710,139.23 for a total of \$1,850,821.87, less any amount Weinstein may show he has paid as restitution in his criminal case; and

Robert J. Winston is barred from association with any broker or dealer; is barred from participating in any offering of penny stock; is ordered to cease and desist from committing or causing any violations or future violations of Section 17(a) of the Securities Act of 1933, Section 10(b) of the Securities Exchange Act of 1934, and Exchange Act Rule 10b-5; and shall disgorge \$333,815.10 (of which, \$24,100.00 is subject to joint and several liability with Howard I. Weinstein) plus prejudgment interest of \$207,818.70 for a total of \$541,633.80, less any amount Winston may show he has paid as restitution in his criminal case.

Each respondent's payment of disgorgement or of civil money penalty 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) delivered by hand or courier to the Office of Financial Management, Securities and Exchange Commission, 6432 General Green

Way, Alexandria VA 22312; and submitted under cover letter that identifies the particular respondent in this proceeding, as well as the Commission's administrative proceeding file number. A copy of this cover letter and money order or check shall be sent to Cynthia A. Matthews, Securities and Exchange Commission, Northeast Regional Office, 3 World Financial Center; Room 4300, New York, New York 10281.

By the Commission.

Jonathan G. Katz  
Secretary