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U.S. DISTRICT COURT

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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

-against-

BERT FINGERHUT, ROBERT DANETZ, BRUCE FINGERHUT, and STEPHEN DANETZ,

Defendants.

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07 Civ. 2294 (PGS)

COMPLAINT

Plaintiff Securities and Exchange Commission ("Commission"), for its complaint against defendants Bert Fingerhut, Robert Danetz, Bruce Fingerhut, and Stephen Danetz (collectively, the "Defendants"), alleges as follows:

SUMMARY OF ALLEGATIONS

1. This action involves the fraudulent purchase of stock in 65 public offerings of banks that were converting from mutual to stock ownership. For more than a decade, defendant Bert Fingerhut, a former Wall Street executive, spearheaded a sophisticated scheme to defraud the banks and their depositors by secretly using friends and relatives as nominees to acquire stock in those conversions in contravention of the offering terms and applicable banking

regulations. From January 1997 through January 2007, this scheme generated a total of over $12 million in fraudulent profits from secondary market sales of the illegally obtained stock. Three of the nominees knowingly played active roles in implementing the scheme and profited handsomely from their efforts: defendant Robert Danetz, a childhood friend of defendant Bert Fingerhut; defendant Bruce Fingerhut, defendant Bert Fingerhut's nephew; and defendant Stephen Danetz, defendant Robert Danetz's brother.

2. The Defendants' scheme was designed to circumvent federal and state banking regulations that require banks to give their own depositors first priority to purchase stock ahead of other interested investors when converting from mutual to stock ownership. These priority subscription rights allow depositors to purchase up to a certain number of shares at a relatively low subscription price. If an offering is oversubscribed, then the available shares are allocated among depositors according to various criteria. Because the stock can usually be sold in the secondary market at a high premium to the subscription price, these offerings attract significant investor interest. To ensure that only depositors benefit from their priority stock subscription rights, federal and state banking regulations prohibit depositors from transferring ownership of their subscription rights or from entering into any agreement regarding the sale or transfer of shares purchased in the offering. These restrictions are set forth in the offering prospectus, and depositors are required to sign a subscription agreement certifying that they are purchasing the stock for their own account and that they have no agreement or understanding regarding the sale or transfer of any shares they receive. Banking regulations, as well as the offering terms set forth in the prospectus, also restrict the amount of shares that any one individual may acquire in an offering.

3. To benefit from the priority subscription rights while evading the maximum purchase restrictions, Bert Fingerhut funded the opening of accounts in his own name and the names of his nominees at mutual savings banks throughout the country in the hope that they would convert to stock ownership. When any of the banks undertook a conversion, Bert Fingerhut secretly funded his nominees' stock purchases, controlled the sale of his nominees' shares and retained most of the trading profits. Bert Fingerhut also had the nominees submit stock order forms in which they falsely certified that they were purchasing the stock for their own account and had no agreement to transfer the shares or the proceeds of their sale to anyone else.

4. Robert Danetz and Bruce Fingerhut did most of the legwork to set up the nominee accounts and were allowed to retain a significant portion of the profits from the sale of the shares in the accounts bearing their names. They both traveled around the country opening accounts, sometimes using phony identification cards and bogus utility bills to satisfy in-state residency requirements. They both also knowingly made misrepresentations in each of the subscription agreements they signed.

5. Stephen Danetz also acted as a nominee for Bert Fingerhut and knowingly made misrepresentations in one conversion. In addition, Stephen Danetz was involved in discussions with Bert Fingerhut and Robert Danetz that led Robert Danetz to make false statements to the Commission staff in connection with an earlier investigation into a similar, unrelated scheme that targeted the conversion of NewAlliance Bancshares Inc. ("NewAlliance").

6. In total, the scheme generated approximately $12.5 million in unlawful profits, most of which Bert Fingerhut received. Robert Danetz made a total of approximately $1.1 million, Bruce Fingerhut made a total of $181,268, and Stephen Danetz made $137,975.

7. The Defendants' scheme harmed the banks' legitimate depositors. Had the banks known about the unlawful transfer of subscription rights, they would have been able to take remedial steps to protect the rights of legitimate depositors. The 65 public offerings at issue were oversubscribed, and the Defendants' scheme therefore limited the amount of stock available to legitimate depositors, some of whom received less stock than they requested or were completely shut out. Attached as Appendix A is a list identifying each of the publicly traded banks involved in this action, and the dates on which their conversion to stock ownership was completed via an initial public offering and, in the case of two of the banks, on which a second public offering was conducted.

8. By virtue of the foregoing conduct, each of the Defendants, directly or indirectly, singly or in concert, violated Section 10(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §78j(b), and Rule 10b-5 thereunder, 17 C.F.R § 240.10b-5. Unless each of the Defendants is permanently restrained and enjoined, they will again engage in the acts, practices, transactions and courses of business set forth in this complaint and in acts, practices, transactions and courses of business of similar type and object.

JURISDICTION AND VENUE

9. The Commission brings this action pursuant to the authority conferred by Section 21(d) of the Exchange Act, 15 U.S.C. § 78u(d), and seeks to restrain and enjoin the defendants from engaging in the acts, practices, transactions and courses of business alleged herein. The Commission also seeks a final judgment ordering the Defendants to disgorge their ill-gotten gains and pay prejudgment interest thereon, and ordering the Defendants to pay civil monetary penalties pursuant to Section 21(d)(3) of the Exchange Act, 15 U.S.C. § 78u(d)(3).

10. This Court has jurisdiction over this action, and venue lies in this District, pursuant to Sections 21 and 27 of the Exchange Act, 15 U.S.C. §§78u and 78aa. The Defendants, directly or indirectly, singly or in concert, have made use of the means or instruments of transportation or communication in, and the means or instrumentality of, interstate commerce, or of the mails, in connection with the transactions, acts, practices, and courses of business alleged herein. Many of these transactions, acts, practices and courses of business occurred in the District of New Jersey, where some of the defrauded banks and depositors were located. For example, Provident Bank, described more fully below, was based in New Jersey at the time that the Defendants engaged in fraudulent conduct with respect to its conversion from mutual to stock ownership. In addition, at least one of the Defendants maintains a residence and transacts business in New Jersey.

THE DEFENDANTS

11. **Bert Fingerhut**, age 63, resides in Aspen, Colorado and Palo Alto, California. From 1965 through 1983, he was a registered representative associated in different capacities with Oppenheimer & Co., Inc. ("Oppenheimer"), then a registered broker-dealer. Among other positions, he was Director of Research and Executive Vice President and a member of both the Management and Executive Committees of Oppenheimer. From 1983 through 1988, he worked as an analyst for Odyssey Investors, Inc., a registered broker-dealer formerly affiliated with Oppenheimer.

12. **Robert Danetz**, age 62, resides in Teaneck, New Jersey and Roxbury, New York. He is a retired school teacher. He and Bert Fingerhut have been friends since childhood.

13. **Bruce Fingerhut**, age 38, resides in Alexandria, Virginia and is a freelance opinion poll researcher. He is Bert Fingerhut's nephew.

14. **Stephen Danetz**, age 65, resides in New York, New York. He is Robert Danetz's brother and is a real estate attorney admitted to practice law in New York and New Jersey.

THE DEFENDANTS' FRAUDULENT CONDUCT

The Conversion Process

15. Savings banks are typically organized as either mutual associations ("mutual banks") owned by the depositors or capital stock companies owned by shareholders. When the conversion of a mutual bank to stock ownership is approved, subscription rights to the stock offering are granted in tiers to defined groups of individuals with different levels of priority. In descending order of priority, the typical tiers are: (i) depositors who held accounts for at least a year prior to the announcement of the offering; (ii) bank employee benefit plans; (iii) borrowers and depositors who held accounts for less than a year before the announcement of the offering; and (iv) if shares remain available, members of the local community or, in a syndicated offering, other public investors. Federal and state banking laws prohibit depositors from transferring these subscription rights or entering into any arrangements for the transfer of shares before they are issued.

16. Mutual bank conversions have proven to be lucrative investment opportunities, as the stocks often trade in the immediate aftermarket at prices that represent a substantial premium over the offering price. As a result, depositors often wind up subscribing, in the aggregate, for more shares than the bank intends to issue. When a conversion offering is oversubscribed, some eligible depositors wind up receiving only a fraction of the shares they requested, and some depositors may receive none at all. The 65 offerings at issue were oversubscribed, and investors were therefore injured as a result of the Defendants' conduct.

Genesis and Mechanics of Bert Fingerhut's Scheme

17. Bert Fingerhut conceived the scheme in 1995 after reading about the profitability of thrift conversions. Over the next twelve years, Bert Fingerhut systematically targeted mutual banks throughout the country that had not yet converted to stock ownership, by opening as many accounts as possible in his own name and the names of his nominees.

18. When any of the banks at which Bert Fingerhut controlled accounts embarked on a conversion, he had his nominees -- principally Robert Danetz and Bruce Fingerhut -- submit stock order forms and subscription agreements seeking the maximum amount of shares offered to each depositor. In each instance, the nominees certified that, as required by law and the terms of the offering prospectus, they were purchasing the shares for their own account and had not entered into any prior arrangements for the transfer of the shares or the proceeds of any subsequent sale. Each of these statements was false. As detailed below, Bert Fingerhut funded both the opening of the nominees' accounts and the nominees' stock purchases, and the nominees had agreed in writing to transfer either the shares or the subsequent sale proceeds to Bert Fingerhut. In short, Bert Fingerhut secretly owned all the accounts, all the subscription rights and all the stock issued to those account holders.

19. In some cases, the converting bank also required depositors to disclose whether they were acting in concert with other subscribers or to certify that they were not doing so. In those instances, Bert Fingerhut's own stock order forms and subscription agreements were also false and misleading, as he did not disclose his arrangements with his nominees.

20. Most of the banks did not accept deposits from individuals who lived out of state, and even fewer accepted deposits by mail. Bert Fingerhut therefore recruited his childhood friend Robert Danetz to travel the country and open as many accounts as Robert Danetz could in

his own name and, via joint accounts, in the names of other Danetz and Fingerhut family members, including Bert Fingerhut. Bert Fingerhut told Robert Danetz which banks to approach, paid all of Robert Danetz's related expenses and shared a portion of the subsequent trading profits with him. As the scheme grew over the years, Bert Fingerhut also recruited his nephew Bruce Fingerhut to perform the same role as Robert Danetz. From the beginning, Bert Fingerhut made clear to both Robert Danetz and Bruce Fingerhut, and they both understood, that the money in the accounts and any related subscription rights all belonged solely to Bert Fingerhut.

21. In order to maximize his profits from the scheme, Bert Fingerhut progressively increased the amount of money he deposited into the accounts that he controlled, as larger deposits were needed to receive the maximum share allocation in a conversion. In the event of an oversubscription, the stock allocation formula employed by banks primarily depended on the amount held in the account on the record date. To finance the expansion of his scheme, Bert Fingerhut obtained two lines of credit in 1999 from the Central Bank of Aspen in Colorado, which was later acquired by U.S. Bancorp. At first, the two lines of credit totaled $4 million; by 2007, the total credit limit on the two lines of credit was $15 million.

22. Bert Fingerhut also made arrangements at several broker-dealer firms on his nominees' behalf so that he could directly control the aftermarket trading of the shares allocated to their accounts. He set up, or had his nominees set up, accounts in the nominees' names at Datek Online Holdings ("Datek"), an on-line brokerage firm later acquired by TDAmeritrade, Inc. ("Ameritrade"), enabling him to use the internet to trade in those accounts or to transfer shares to his own account. In addition, Bert Fingerhut had Danetz family members and Bruce Fingerhut open brokerage accounts at other firms with whom Bert Fingerhut had a longstanding relationship, including Friedman Billings Ramsey & Co., Inc., Legg Mason Walker Wood, Inc.

and Fig Partners, LLC. Bert Fingerhut arranged to receive copies of the nominees' account statements and had power of attorney over several of those accounts. When necessary, he used "signature" stamps for his family members and Robert Danetz.

Robert Danetz's Role

23. Robert Danetz's principle role was to open as many accounts at as many mutual banks as possible, in order to maximize the subscription rights that Bert Fingerhut would control in the event that the bank converted to stock ownership. At first, Robert Danetz opened single accounts in his own name and joint accounts with members of the Danetz and Fingerhut families. For several years, Robert Danetz traveled around the country with multiple copies of the social security cards and passports for Bert Fingerhut and his wife, their two daughters, Danetz's own wife, and their two children. Once Robert Danetz established accounts at a given bank, he was then able to open additional accounts by mail in the joint account holders' names and add new joint accounts with other names. To open accounts at those banks outside New York and New Jersey that prohibited depositors from outside the local area, Robert Danetz paid friends and acquaintances to add his name to their utility bills or leases so that he could show purported "proof" of local residency. He also used the acquaintances' addresses to fraudulently obtain state identification cards.

24. Although they were childhood friends, Bert Fingerhut required Robert Danetz to sign a series of written agreements setting forth the terms of their arrangement and expressly stating, among other things, that Bert Fingerhut: (a) owned all the money in all the accounts; (b) would pay the taxes on the interest income generated in the accounts; (c) would reimburse Robert Danetz for all the expenses he incurred in opening and maintaining the accounts; and (d) owned all the subscription rights in the event of a conversion. Bert Fingerhut also required