

ADMINISTRATIVE PROCEEDING  
FILE NO. 3-4516

U. S. SECURITIES & EXCHANGE COMMISSION  
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UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

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In the Matter of :

A. J. CARNO CO., INC., (8-8936) :  
ANTHONY NADINO :

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INITIAL DECISION

Washington, D.C.  
February 23, 1976

Ralph Hunter Tracy  
Administrative Law Judge

UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION

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A. J. CARNO CO., INC. , (8-8936) : INITIAL DECISION  
ANTHONY NADINO :  
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APPEARANCES: Roger M. Deitz and Regina C. Mysliwiec of the  
New York Regional Office for the Division of  
Enforcement.

Richard M. Kraver of Feldshuh, Weinberger & Derfner  
for A.J. Carno, Inc., and Anthony Nadino.

BEFORE: Ralph Hunter Tracy, Administrative Law Judge

This is a public proceeding instituted by Commission Order (Order) dated July 3, 1974, pursuant to Sections 15(b) and 15A of the Securities Exchange Act of 1934 (Exchange Act) to determine whether the above-named respondents, among others, <sup>1/</sup> committed various charged violations of the Securities Act of 1933 (Securities Act) and the Exchange Act, and regulations thereunder, as alleged by the Division of Enforcement (Division), and the remedial action, if any, that might be appropriate in the public interest.

The Order alleges, in substance, that A.J. Carno Co., Inc., (Carno or registrant) and Anthony Nadino (Nadino) wilfully violated and wilfully aided and abetted violations of Sections 5(a), 5(c) and 17(a) of the Securities Act, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder; that Carno wilfully violated and Nadino wilfully aided and abetted violations of Section 15(c)(2) of the Exchange Act and Rule 15c2-11 thereunder; and that Carno failed reasonably to supervise those persons under its supervision with a view to preventing the alleged violations.

Respondents were represented by counsel throughout the proceedings. Proposed findings of fact and conclusions of law and supporting briefs were filed by all parties.

The findings and conclusions herein are based upon the preponderance of the evidence as determined from the record and upon observation of

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<sup>1/</sup> The Order, also, set forth charges against the following firm and persons whose cases have been determined by the acceptance of offers of settlement by the Commission as reflected in the Commission's respective releases as noted: Mayflower Securities Co., Inc., Exchange Act Release No. 11085/November 4, 1974; Joseph Cirello and Thomas F. Brennan, III, Exchange Act Release No. 11901/December 5, 1975.

the witnesses.

### FINDINGS OF FACT AND LAW

#### Respondents

A.J. Carno Co., Inc. (Carno) was incorporated in New York on August 18, 1960, and has been registered as a broker-dealer pursuant to Section 15(b) of the Exchange Act since October 25, 1960. It is a member of the National Association of Securities Dealers (NASD) and formerly had its principal place of business at 80 Broad Street, New York, N.Y. Carno has not been active since at least April 10, 1975, at which time its address was in care of Robert Berkson (Berkson), Cradle Rock Road, Pound Ridge, N.Y. Berkson became president and principal owner of Carno about September 1972.

Anthony Nadino (Nadino) was employed by Carno from about June 1971 until December 1974. He was a trader until September 1972, when he became vice-president in charge of the trading department and a registered principal with the NASD. Prior to his association with Carno he was a trader at Plymouth Securities. Upon leaving Carno he became head trader at First Jersey Securities, where he is presently employed.

#### Violations

The Order alleges that during the period from September 1, 1972 to December 8, 1972, Carno and Nadino wilfully violated and wilfully aided and abetted violations of Sections 5(a) and 5(c) of the Securities Act by offering to sell and selling common shares of Management Dynamics, Inc.

(MD) when no registration statement was in effect; that during the same period Carno and Nadino wilfully violated and wilfully aided and abetted violations of Sections 17(a) of the Securities Act and 10(b) of the Exchange Act and Rule 10b-5 thereunder by effecting transactions in MD stock by employing devices, schemes and artifices to defraud and by making untrue statements of material facts and omitting to state material facts necessary to make the statements made, in the light of the circumstances under which they were made not misleading; that from September 14, 1972, to December 1, 1972, Carno wilfully violated and Nadino wilfully aided and abetted violations of Section 15(c)(2) of the Exchange Act and Rule 15c2-11 thereunder by, among other things, publishing, or submitting for publication, bid and offer quotations for the common stock of MD in an inter-dealer quotation medium at a time when respondents Carno and Nadino did not fulfill the requirements of Rule 15c2-11; and that Carno failed reasonably to supervise other persons under its supervision with a view to preventing the violations alleged above by such other persons.

#### Injunction

On April 10, 1974, the United States District Court for the Southern District of New York, preliminarily enjoined Carno and Nadino, among others, <sup>2/</sup> from violating the registration requirements of Sections 5(a) and 5(c) of the Securities Act, and the anti-fraud provisions of Sections 17(a) of the Securities Act and 10(b) of the Exchange Act and

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<sup>2/</sup> Mayflower, Cirello, Brennan (supra, note 1), and William Levy (Levy) were similarly enjoined. Eleven other defendants had previously consented to a permanent injunction.

Rule 10b-5 thereunder, in connection with the securities of MD or any other security. On March 18, 1975, the United States Court of Appeals for the Second Circuit, vacated the injunction as to Carno and Nadino for violation of Section 5 of the Securities Act but affirmed the injunction as to the antifraud violations of Sections 17(a) of the Securities Act and 10(b) of the Exchange Act and Rule 10b-5 thereunder.

The transcript of the hearing on the motion for injunction before the U.S. District Court was introduced into evidence in this proceeding so that the record is substantially the same as that upon which the injunction was granted.

#### Background

The allegations set forth in the Order involving Carno and Nadino, arose from their participation in an alleged scheme to defraud public investors which involved 17 respondents in all and was carried out through (1) the reactivation of Management Dynamics, Inc., (MD), a dormant, publicly-held corporation with virtually no assets; (2) the infusion into MD of assets that were falsely represented to the public as likely to generate high earnings; (3) the touting of MD stock by such false representation by a broker-dealer, Global Securities, Inc., (Global);<sup>3/</sup> and (4) Global's enlistment of 3 other broker-dealers, Carno, Mayflower and Fairfield Securities, Inc., to insert bids for MD stock in the "pink sheets."<sup>4/</sup>

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<sup>3/</sup> Global's registration as a broker-dealer was revoked by the Commission on September 15, 1975, Exchange Act Release No. 11652.

<sup>4/</sup> The pink sheets are a compilation of the bid and ask quotations for securities traded in the over-the-counter market published by the National Quotation Bureau.

As of June, 1972, MD had no business activities and was controlled by William Levy (Levy), a securities lawyer, who had been an officer and director since its founding in 1969. MD had approximately 1,300,000 shares of stock outstanding held by several hundred persons, which had been issued, mostly for services, in 1969, 1970 and 1971. None of the MD stock, of which Levy held about 50,000 shares, had ever been registered with this Commission.

In June 1972, Levy began the resurrection of MD by suggesting its use as a suitable "shell" to Edwin Barrett a real estate developer who desired a public company as a vehicle for his real estate activities. The Barrett transaction required the approval of MD shareholders, since it was necessary to increase the number of authorized shares in order to issue a controlling block to Barrett. Accordingly, on June 14, 1972, Levy appointed 2 individuals as directors and immediately convened a board meeting at which the company issued 450,000 shares of its unregistered stock to 2 associates of Levy's for \$50,000 cash. The next day the new directors resigned and were replaced by the 2 associates who, also, became officers of the company. On July 10, 1972, this new board voted to acquire Barrett's assets in exchange for 2,700,000 shares of stock, subject to shareholder approval.

On August 15, 1972, Levy wrote a letter to MD shareholders seeking approval of the Barrett acquisition. This letter created the materially misleading impression that the company's acquisition of Barrett's assets would assure a bright future for MD in the field of real estate development.

Thereafter, at a meeting of MD's shareholders on September 6, 1972, the authorized shares of the company's common stock were increased from 2,000,000 to 8,000,000. Barrett received 2,700,000 of these newly-authorized MD shares in exchange for his assets and became president of MD. A press release issued on October 30, 1972, and another shareholder letter sent on October 25, 1972, served to reinforce the misleading impression created by the August 15th letter that the Barrett transaction was certain to generate substantial income for MD.

As of August 1972, there was little or no activity in the market for MD stock. During June and July 1972, the only quotations that had appeared in the pink sheets for MD stock were bids of 3/8 of a dollar per share. Sometime in the fall of 1972 Levy supplied copies of the 2 shareholder letters and the press release to Global which distributed them to its customers thereby inducing an interest in MD stock. Global, also, arranged for Carno, Mayflower and Fairfield to place quotations in the pink sheets for the purpose of acquiring MD stock and then reselling it to Global at higher prices. Thereupon, from early September until December 8, 1972, when the Commission suspended trading, Carno and the other 2 broker-dealers engaged in continuous active trading in MD stock through the placing of quotations in the pink sheets. This arrangement created the appearance of greater interest and activity in MD stock than if Global had entered its own quotations.

In late October and early November 1972, when the price of MD stock was rapidly rising, <sup>5/</sup> Levy caused the company to issue 960,000 unregistered

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<sup>5/</sup> It went from about 38 cents in June-July to \$6 per share on December 8, 1972, when trading was suspended.



shares to one Peter R. Watson (Watson) with the understanding that Watson would attempt to find buyers for the stock. The certificates for these 960,000 shares were in 5,000 share denominations and bore no restrictive legend to alert a prospective buyer that they were unregistered shares being offered by the issuer and might not be readily transferrable.

Subsequently, Nadino received a telephone call from an individual in California, identified only as "Buzz", offering 100,000 MD shares for sale. Nadino obtained the certificate numbers for these shares which turned out to be among those Levy had issued to Watson. Nadino never heard anything further about these shares.

#### Anti-fraud Violations

The Order charges that during the period from about September 1, 1972 to about December 8, 1972, Carno and Nadino wilfully violated and wilfully aided and abetted violations of Sections 17(a) of the Securities Act and 10(b) of the Exchange Act and Rule 10b-5 thereunder <sup>6/</sup> in that they sold and effected transactions in the common stock of MD by employing directly and indirectly devices, schemes and artifices to defraud and by means of untrue statements of material facts and omissions to state material facts necessary in order to make the statements made, in light

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6/ Section 10(b) as here pertinent makes it unlawful for any person to use or employ in connection with the purchase or sale of a security any manipulative device or contrivance in contravention of rules and regulations of the Commission prescribed thereunder. Rule 10b-5 defines manipulative or deceptive devices by making it unlawful for any person in such connection: "(1) to employ any device, scheme, or artifice to defraud, (2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which they were made, not misleading, or (3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person. . ." Section 17(a) contains analogous antifraud provisions.

of the circumstances under which they were made, not misleading. As part of the aforesaid conduct Carno and Nadino, among other things, would and did:

1. Fail to disclose the past and present financial condition of MD, the character of its business operations and its management capabilities;
2. Omit to state that MD had never registered its securities with the Commission pursuant to either the Securities Act or the Exchange Act; and
3. Manifest the appearance of a bona fide independent market for MD shares and fail to disclose the true nature and worth of the securities of MD.

On September 14, 1972, Nadino, the trader at Carno, began inserting quotations for MD stock in the pink sheets on a regular basis and continued to do so until trading in the stock was suspended by the Commission on December 8, 1972. Although Carno had engaged in sporadic trading in MD stock in late 1971 and early 1972, it had not inserted any quotations in the pink sheets during June, July or August 1972.

Between September 28, 1972 and November 15, 1972, Carno purchased some 11,228 shares of MD in the over-the-counter market and sold 9,825 of them, or 88 percent, to Global at prices ranging  $27/8$  to  $63/8$  with a profit of  $1/8$  to  $1/2$  points.

In the fall of 1972 Berkson received an unannounced visit from Levy, Barrett, possibly another officer of MD, an MD public relations person and a registered representative from another brokerage firm. Levy told Berkson he wanted to introduce the new management of MD to him. During the meeting promotional materials were supplied to Berkson by Levy who inquired about MD's performance at Carno. From time to time thereafter

Levy telephoned Berkson to inquire about MD's price and volume of shares being traded.

Nadino testified that he first traded MD in June 1971. He claimed he based his trading of MD on market activity in the stock and that he had checked the National Stock Summary <sup>7/</sup> for October 1970, which showed that MD had been quoted at 1/2 to 3 during the period from April through September 1970. He stated that it was the practice at Carno to send out a prepared postcard with the Carno letterhead requesting that prospectuses, reports and other literature concerning the company be sent to Carno and that such a card was sent to MD but there was no response.

Berkson testified that he received a telephone call from a Samuel Hodge (Hodge) who wanted to sell some MD stock. Berkson secured the information pertinent to opening an account and Carno then sold 1,500 shares of MD for Hodge on September 19, 1972, and 2,000 shares on October 9, 1972. No inquiry was made by Carno as to the source of Hodge's MD shares, whether they were registered or what his connection with MD might be. <sup>8/</sup>

Respondents argue that the principal reason for trading MD stock was its market activity which Nadino determined upon a review prior to Carno's first trade. Nadino states that he was consistently short in MD stock from the time Global made its first purchase from Carno and that this serves to demonstrate his good faith in relying on a trading market

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<sup>7/</sup> The National Stock Summary is published by the National Quotation Bureau twice yearly on April 1 and October 1 showing the prices at which over-the-counter stocks have been quoted during the previous six months.

<sup>8/</sup> Hodge was the "financial angel" whom Levy had secured for Global. In October 1972 Hodge purchased a one-third interest in Global for \$50,000 and loaned Global another \$25,000.

as the stock had to go down rather than up in order for Carno to realize a profit. In response the Division points out that MD trading was not ordinary because Carno could always sell to Global with at least 1/8 point profit. Therefore, in the event Carno needed to cover a short position at a higher price it could always recoup the difference by selling to Global at an even higher price. However, this never occurred and at the end of trading with Global on 11-15-72, Carno's position in MD was flat.

It is contended, further, that the files maintained by Carno were open to the public; that anyone could have asked to see the information therein, but that no one did and for that reason no disclosure was made; that none of the professional traders from whom Nadino was buying MD stock or to whom he was selling it, ever asked for any information with respect to the financial condition of the corporation, the management of the firm, or whether a registration statement had been filed with the Commission. If anyone had asked, Carno and Nadino would have been glad to have told them whatever they knew about the company.

Additionally, respondents urge, Levy never mentioned to Berkson that MD stock was unregistered; and that there was no connection, arrangement or conspiracy between Carno and Global to manipulate the market in MD stock.

Respondents' arguments that "we didn't know", "nobody told us," "no one asked," "there was no conspiracy", ignore the long established precept that a broker-dealer has a duty of inquiry concerning securities which he recommends and in which he chooses to make a market. The totality

of the circumstances herein should have placed Nadino and Carno on notice that diligent inquiry was called for concerning the issuer, in order to form a reasonable basis for their recommendation, and fully inform their customers of the information so obtained, or in the absence of any information, of that fact.<sup>9/</sup>

The many unusual factors here such as (1) the failure to receive a reply to Carno's postcard inquiry; (2) Levy's unannounced visit; (3) the Hodge sales; (4) the anonymous telephone call concerning 100,000 unregistered shares; (5) the unexplained price rise from .38 cents to \$6 a share in 4 months; (6) Global's willingness to buy all MD stock which Carno could obtain at a profit of at least 1/8 of a point; should have alerted respondents to more diligent inquiry.

The importance of a broker-dealer's responsibility to use diligence where there are unusual factors is highlighted by the fact that violations of the antifraud provisions of the securities laws frequently depend for their consummation, as here, on the activities of broker-dealers who fail to make diligent inquiry to obtain sufficient information to justify their activity in the security.<sup>10/</sup> This activity contributed to creating a false and misleading impression of a free and active market for MD stock when, in reality, it was not. The more frequently a security is quoted, or the greater the number of dealers quoting it, the broader the appearance of the market for that security.<sup>11/</sup>

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<sup>9/</sup> Exchange Act Release No. 8638 (July 2, 1969).

<sup>10/</sup> Alessandrini & Co., Exchange Act Release No. 10466 (October 31, 1973).

<sup>11/</sup> S.E.C. v. Resch-Cassin & Co., Inc., 362 F. Supp. 964, 976 (S.D.N.Y. 1973); F.S. Johns & Co., Inc., 43 SEC 124, 135 (1936), aff'd, Dlugash v. S.E.C., 373 F.2d 107, 109 (2d Cir. 1967).

As the Commission has said:

The anti-manipulative provisions of the Securities Exchange Act are directed not only against the defrauding of unwary investors but with equal force against the impediments to a free and open market created by artificial stimulants or restraints. Where the purpose is to induce the purchase or sale of securities by others, the Act denounces manipulations whether designed to raise or lower the market price of a security or only to create a false appearance of activity or inactivity in the market for the security. Masland, Fernon & Anderson, 9 S.E.C. 338, 344 (1941).

A sophisticated trader or broker-dealer should have recognized that the instant situation required, at the very least, reasonable inquiry so as to assure that the activity in which he participated would not violate federal securities laws.<sup>12/</sup>

Accordingly, it is found that Carno and Nadino wilfully violated and wilfully aided and abetted violations of Section 17(a) of the Securities Act and 10(b) of the Exchange Act and Rule 10b-5 thereunder.<sup>13/</sup>

Violations of Section 15(c)(2)

The Order charges that from about September 14, 1972 to about December 1, 1972, Carno wilfully violated and Nadino wilfully aided and abetted violations of Section 15(c)(2) of the Exchange Act and Rule 15c2-11 thereunder in that they did induce or attempt to induce the purchase or sale of MD securities, otherwise than on a national securities exchange, in connection with which they engaged in fraudulent, deceptive and manipulative acts and practices and did make fictitious quotations. As part

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<sup>12/</sup> Hanley v. SEC, 415 F.2d 589, 597 (C.A. 2, 1969).

<sup>13/</sup> It is well established that a finding of wilfulness does not require an intent to violate the law; it is sufficient that the person charged with the duty knows what he is doing. Billings Associates, Inc., 43 SEC 641, 649 (1967); Biesel, Way & Company, 40 SEC 532 (1961); Hughes v. SEC, 174 F.2d 969, 977 (C.A.D.C. 1949).

of the aforesaid conduct Carno and Nadino, among other things, would and did:

Publish, or submit for publication, bid and offer quotations in an inter-dealer quotation medium for common stock of MD at a time when respondents Carno and Nadino did not fulfill the requirements of Rule 15c2-11.

Rule 15c2-11 was adopted by the Commission on September 13, 1971, to become effective on December 13, 1971. In the accompanying release,<sup>14/</sup> the Commission stated, "in general, Rule 15c2-11 prohibits the initiation or resumption of quotations respecting a security by a broker or dealer who lacks specified information concerning the security of the issuer." The Commission cautioned that there is fraudulent and manipulative potential in the quotation of the securities of shell corporations and other infrequently traded securities, in the absence of adequate information.<sup>15/</sup>

(Emphasis supplied)

Rule 15c2-11 (subject to certain exemptions) prohibits a broker or dealer from submitting any quotation for any security to any quotation medium unless: (1) a registration statement or, (2) a notification under Regulation A has become effective; (3) or the issuer is required to file reports pursuant to Sections 13 or 15(d) of the Exchange Act or is the issuer of a security covered by Section 12(g)(2)(B) or (G) of the Exchange Act; or (4) has in his records certain specified information, which he must make available to any customer, which he has a reasonable basis for believing is true and correct, and which was obtained by him

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<sup>14/</sup> Exchange Act Release No. 9310 (September 12, 1971).

<sup>15/</sup> Cf. Exchange Act Release No. 8638 supra, page 12.

from sources which he has a reasonable basis to believe are reliable.

It is clear from the record that MD, as issuer, did not meet the first 3 requirements and it is equally clear that Carno did not comply with several of the items under the 4th requirement that it possess specified information concerning the nature of the issuer's business; the nature of products or services offered; the nature and extent of the issuer's facilities or adequate financial information concerning issuer.<sup>16/</sup>

Respondents claim that they met all of the requirements under Rule 15c2-11(a)(4) and that, in any event, their conduct was exempt under Rule 15c2-11(f)(3).<sup>17/</sup>

It is clear that the record does not support respondents' claim that it met the requirements of Rule 15c2-11(a)(4). It is equally clear that no exemption was available. As stated earlier, supra, page 5, the record in this proceeding is substantially the same as that in the injunctive action where the Court of Appeals, in affirming the preliminary injunction against Carno and Nadino insofar as it restrained the violation of the antifraud provisions, said:

The district court noted that the lack of adequate knowledge about MD was "fraudulent" under rule 15c2-11. Nadino maintains that this was an impermissible finding, since that rule was not cited in the complaint or in any of the papers before the court, and that in any event, his conduct was exempt from that provision by 15c2-11(f)(3). We reject each of these contentions. Nadino has not succeeded in demonstrating a pattern of trading in MD prior to his entry of his first quotation that would satisfy the detailed requirements of the (f)(3) exemption. Nor

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<sup>16/</sup> Rule 15c2-11(a)(4) and items enumerated therein.

<sup>17/</sup> Rule 15c2-11(f)(3) provides: The provisions of this rule shall not apply to the publication or submission of a quotation respecting a security which has been the subject of both bid and ask quotations in an inter-dealer quotation system at specified prices on each of at least twelve days within the previous thirty calendar days, with no more than four business days in succession without such a two-way quotation.



does a fair reading of the opinion indicate that the district court based its decision on the rule. Indeed, the text of the injunction issued against Nadino tracks the language of rule 10b-5 rather than rule 15c2-11. Thus, we are satisfied that the district court relied on rule 15c2-11 only insofar as it indicated that the trading in MD was fictitious and manipulative. SEC v. Management Dynamics, Inc., 515 F.2d 801 at 811 n. 6.

In the instant proceeding the Order not only charged a violation of Section 15(c)(2) and Rule 15c2-11 but evidence in addition to that in the court record was introduced in support of the violation. Accordingly, it is found that Carno wilfully violated and Nadino wilfully aided and abetted violations of Section 15(c)(2) of the Exchange Act and Rule 15c2-11 thereunder.

#### Section 5 Violations

The Order charges that Carno and Nadino wilfully violated and wilfully aided and abetted violations of Sections 5(a) and 5(c) of the Securities Act. However, the Division did not present any evidence with respect to the Section 5 violation in addition to that contained in the District Court record which has been made a part of the record herein (supra p. 5) Upon review, the Court of Appeals vacated the district court's finding with respect to restraining violations of the registration provisions. A review of the record in this proceeding discloses no reason to disagree with that finding. Accordingly, the charges under Section 5 of the Securities Act are dismissed.

#### Supervision

The Division argues that Carno failed reasonably to supervise persons subject to its supervision with a view to preventing violations alleged

in the Order.<sup>18/</sup> However, such a finding would be inconsistent with the active role Carno played in this situation. Failure of supervision -- which may result in derivative responsibility for the misconduct of others -- connotes an inattention to supervisory responsibilities, a failure to learn of improprieties when diligent application of supervisory procedures would have uncovered them. Here, having found violations on the part of Carno it is inappropriate and inconsistent to find it responsible for a failure of supervision with respect to the same misconduct.<sup>19/</sup>

### Public Interest

The remaining issue concerns the remedial action which is appropriate in the public interest with respect to the respondents who have been found to have committed the violations herein. The Division urges that Carno's broker-dealer registration be revoked and that it be expelled from membership in the NASD and that Nadino be barred from association with any broker-dealer. On the other hand, respondents argue that a light suspension would more than redress the situation. The appropriate remedial action as to a particular respondent depends on the facts and circumstances applicable to him and cannot be measured precisely on the basis of action taken against other respondents,<sup>20/</sup> particularly where, as here, the action respecting others is based on offers of settlement which the Commission deemed

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<sup>18/</sup> Under Section 15(b)(5)(E) of the Exchange Act, failure to reasonably supervise a person subject to supervision who commits violations of the Securities Act or Exchange Act or rules and regulations thereunder is a basis for remedial action against the offending supervisor.

<sup>19/</sup> In the Matter of Anthony J. Amato, Exchange Act Release No. 10269 (June 29, 1972). See, also, Exchange Act Releases as follows: Adolph D. Silverman, 10237 (August 6, 1973); Fox Securities Company, Inc., 10475 (November 1, 1973); Charles E. Marland & Co., Inc.; 11065 (October 21, 1974).

<sup>20/</sup> See Dlugash v. SEC, 37 F.2d 107, 110 (C.A. 2, 1967).

appropriate to accept.<sup>21/</sup>

The violations found herein were serious and cannot be excused by lack of knowledge or understanding of pertinent requirements. Also, the finding of the court in the injunctive action cannot be ignored. As the Commission has stated: ". . . in determining the public interest question we may appropriately look to the nature of the acts enjoined and the basis on which the injunction was entered by the court."<sup>22/</sup>

Upon careful consideration of the record it is concluded that the public interest requires the registration of Carno as a broker-dealer be revoked and that Nadino not be permitted to associate with any broker-dealer in a principal or supervisory capacity. It appears appropriate, however, to give consideration to allowing Nadino a non-supervisory position with a broker-dealer after a period of six months.

#### ORDER

Accordingly, IT IS ORDERED that the registration as a broker-dealer of A.J. Carno Co., Inc., is revoked and the firm is expelled from membership in the NASD; and that Anthony Nadino is barred from association with a broker-dealer, except that after a period of six (6) months from the effective date of this order, he may become associated with a registered broker-dealer in a non-supervisory capacity upon an appropriate showing to the staff of the Commission that he will be adequately supervised.

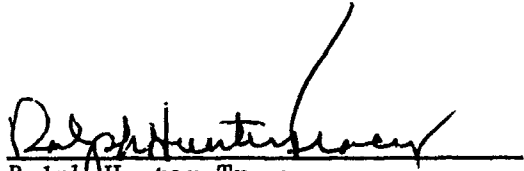
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<sup>21/</sup> See Benjamin Werner, 44 SEC 745, 748 (1971); Cortland Investing Corporation, 44 SEC 45, 54 (1969).

<sup>22/</sup> Frank Payson Todd, 40 SEC 303, 306 (1960). See, also Kimball Securities, Inc., 39 SEC 921 (1960); Balbrook Securities Corp., 42 SEC 496 (1965); Kaye, Real & Co., Inc., 36 SEC 373 (1955); Gibbs & Co., 40 SEC 963 (1962).

This order shall become effective in accordance with and subject to Rule 17(f) of the Commission's Rules of Practice.

Pursuant to that rule, this initial decision shall become the final decision of the Commission as to each party who has not, within fifteen days after service of this initial decision upon him, filed a petition for review of this initial decision pursuant to Rule 17(b), unless the Commission, pursuant to Rule 17(c) determines on its own initiative to review this initial decision as to him. If a party timely files a petition for review, or the Commission takes action to review as to a party, the initial decision shall not become final with respect to that party. <sup>23/</sup>

  
Ralph Hunter Tracy  
Administrative Law Judge

Washington, D.C.  
February 23, 1976

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<sup>23/</sup> To the extent that the proposed findings and conclusions submitted by the parties, and the arguments made by them, are in accordance with the views herein they are accepted, and to the extent they are inconsistent therewith they are rejected.