

COURTESY
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UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of

SUNSHINE SECURITIES, INC.
LILLIAN GROSSBARD

File No. 8-8595

FILED

MAR 30 1965

SECURITIES & EXCHANGE COMMISSION

FINAL DECISION

Samuel Binder
Hearing Examiner

Washington, D. C.
March 30, 1965

UNITED STATES OF AMERICA
BEFORE THE
SECURITIES AND EXCHANGE COMMISSION

In the Matter of	:	
SUNSHINE SECURITIES, INC.	:	
LILLIAN GROSSBARD	:	<u>INITIAL DECISION</u>
File No. 8-8595	:	

BEFORE: Samuel Binder, Hearing Examiner.

APPEARANCES: Haig M. Casparian, Esq., Robert Laprade, and
Mortimer Gerber, Esqs. for the Division of
Trading and Markets.

Kreutzer, Hiller, Selman & Galt, Esqs. for
Sunshine Securities, Inc. and Lillian Grossbard.
Stanley Kreutzer, Esq.

This is a proceeding under Section 15(b) of the Securities Exchange Act of 1934 ("Act") instituted by an order of the Securities and Exchange Commission ("Commission") issued on August 26, 1964 to determine whether Sunshine Securities, Inc. ("registrant") violated Section 17(a) of the Act and Rule 17a-5 adopted thereunder and, if so, what, if any, remedial action is appropriate in the public interest. Section 17(a) and Rule 17a-5 adopted thereunder require the filing of an annual report of financial condition by each person registered as a broker-dealer under the Act. The order alleges that Sunshine Securities, Inc., which is a registered broker-dealer, wilfully failed to file a report of its financial condition for the calendar year 1963 in violation of the Act and the rule, and that Lillian Grossbard aided and abetted such wilful violation.

Sunshine Securities, Inc. and Lillian Grossbard ("respondents") filed an answer with the Commission on September 14, 1964 setting forth that no statement of financial condition was filed for the calendar year 1963 for the reason that Sunshine Securities, Inc. did not engage in any transactions during the year 1963 and did no business in said year, and further, that the said Lillian Grossbard had been incapacitated because of illness during such year.

After appropriate notice, a hearing was held before the undersigned hearing examiner at which the Division of Tracing and Markets ("Division"), the registrant, and Lillian Grossbard appeared and were given full opportunity to be heard and to file proposed findings of fact and conclusions of law and supporting briefs.

The Division filed proposed findings of fact and conclusions of law and a supporting brief but the respondents did not file any such documents although they had been afforded the opportunity to do so.

It was stipulated by the Division and the respondents during the hearing that the registrant has been registered as a broker-dealer pursuant to Section 15(b) of the Act since June 19, 1960 and is still so registered; that Lillian Grossbard is the president, director and beneficial owner of 100% of the common stock of the registrant; that as of December 30, 1964 registrant had failed to file with the Commission a report of its financial condition for the calendar year 1963 as required by Section 17(a) of the Act and Rule 17a-5 thereunder; that in November 1963 the registrant and Lillian Grossbard received a letter bearing the signature of Llewellyn P. Young, Administrator of the New York Regional Office ("NYRO") which specifically called their attention to the filing requirements of Rule 17a-5 and pointed out that registrant had not yet filed a financial report for 1963. The letter further stated that a failure to file would be deemed by the NYRO a wilful violation of the Rule, which would result in a recommendation by the NYRO that the Commission institute proceedings against the registrant.

On March 23, 1964, a second letter bearing the signature of the New York Regional Office Administrator was mailed and received by the registrant and Lillian Grossbard. This letter repeated the statements made in the November 1963 letter.

It was further stipulated and agreed that if Lillian Grossbard were called as a witness she would testify that she was ill during the year 1963 and did not engage in the securities business during such year and that she would further testify that on December 31, 1964 the respondents caused to be delivered to the New York Regional Office "a Statement of Financial Condition of Sunshine Securities, Inc."

The latter document was not prepared in conformity with the guide for the preparation of a report as required by Rule 17a-5, and as a result, the broker-dealer section of the NYRO could not make a determination from such report of the net capital position of the registrant.

In an effort to support a contention that a lesser sanction than revocation should be imposed for failure to comply with Rule 17a-5 the registrant filed another financial report on January 19, 1965 to cover the year 1963 together with an amendment filed on February 2, 1965 apparently in an effort to cure the deficiencies in its report for the year 1963 filed on December 31, 1964. Examination of this financial report by the NYRO disclosed that under the net capital requirements of the Act there was a deficiency of \$7,791.00.

Additional evidence in the record showed that the District Business Conduct Committee for District No. 12 of the National Association of Securities Dealers, Inc. ("NASD") issued a decision on December 20, 1963 expelling the registrant from the NASD and naming Lillian Grossbard as a cause of such expulsion.

The expulsion arose from a violation of the SEC net capital rule, a violation of Section 4(c)(2) of Regulation T, mailing customers confirmations when no order had been received from such customers and failure to register representatives.

Following an appeal from such decision to the Board of Governors of the NASD, the Board, on June 16, 1964, affirmed the decision of the District Committee.

The failure of the registrant to comply with Rule 17a-5 despite the warnings received by the respondents from the New York Regional Office establishes that the registrant wilfully violated Section 17(a) of the Act and Rule 17a-5 adopted thereunder, and that Lillian Grossbard aided and abetted such violation.

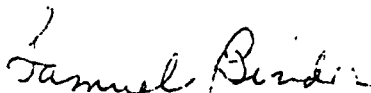
When consideration is given to prior decisions of the Commission and the courts relating to the importance of complying with Section 17(a) and Rule 17a-5 adopted thereunder,^{1/} and when further consideration is given to the decision of the NASD concerning the respondents, and when additional consideration is given to the fact that there is a deficiency in the registrant's net capital requirements, it is reasonable to conclude that the appropriate remedy in this case is to revoke the registration of Sunshine Securities, Inc. and to bar Lillian Grossbard from being associated with any broker or dealer pursuant to Section 15(b)(7) of the Act.

^{1/} John J. Murphy, 38 S.E.C. 430, 432; John Monroe, 39 S.E.C. 308 (July 1959); Boruski v. S.E.C., C.C.A. 2 (January 26, 1965).

It may be added that it is no defense to a charge of wilful violation of Rule 17a-5 of the Act that the registrant has not been active in the securities business.^{2/}

In view of all these circumstances, it is concluded that the appropriate remedy is and the public interest requires that the registration of Sunshine Securities, Inc. be revoked and that Lillian Grossbard be barred from being associated with a broker or dealer pursuant to Section 15(b)(7) of the Act.

Wherefore IT IS ORDERED, subject to review by the Commission, that the registration of the registrant Sunshine Securities, Inc., be and it is hereby revoked, and that Lillian Grossbard be and hereby is barred from being associated with any broker or dealer pursuant to Section 15(b)(7) of the Act.



Samuel Binder
Hearing Examiner

Washington, D. C.
March 30, 1965

^{2/} D. H. Victor & Co., 39 S.E.C. 208 (1959).