

ADMINISTRATIVE PROCEEDING
FILE NO. 3-10765

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
September 18, 2002

SECURITIES & EXCHANGE COMMISSION
MAILED FOR SERVICE
SEP 19 2002

In the Matter of :
:
J.W. BARCLAY & CO., INC. : ORDER
JOHN A. BRUNO :
MICHAEL J. WILLS :
EDGAR B. ALACAN :
EMMANUEL P. CUBE :
MAYER DALLAL :
DANOO NOOR, SR. :
EMANUELE A. SCARSO :
MICHAEL B. SCOTT :

CTFD NO. - 1st class only

The procedural schedule in this matter required any Respondent wishing to obtain documents from third parties to submit applications for subpoenas on or before September 17, 2002. See Order of August 26, 2002. I have now received subpoena applications from Respondents Alacan, Dallal, Noor, Cube, and Scarso.

The applications from Respondents Dallal, Noor, Cube, and Scarso raise no obvious issues. In each instance, I have signed the subpoenas and returned them to counsel for service.¹

I will not approve the applications of Respondent Alacan in their present form. Items 1, 2, and 4 of Alacan's applications would require customers to submit documents for the three years prior to the customer's first transaction at J.W. Barclay & Co., Inc., through the present. Item 14 of Alacan's applications seeks a copy of the customer's resume or, if one does not exist, a written description of the customer's complete educational and employment background through the present. See Rule 232(b) of the Commission's Rules of Practice.

Items 1, 2, and 4 of Alacan's applications are unreasonable, oppressive, excessive in scope, and unduly burdensome insofar as they seek documents after the period at issue in the Order Instituting Proceedings. This precise issue was discussed at the Prehearing Conference of August

¹ Respondents Cube and Scarso have subsequently advised this Office that they did not intend to subpoena documents from customers Robert W. Heidinger and the Goodrich Family Trust. Neither customer was identified in the Division of Enforcement's More Definite Statement. I have treated those two applications as withdrawn.

26, 2002, at 44-45. Insofar as Item 14 would require the customer to create documents that do not now exist, it is nothing but a disguised interrogatory. It is not permitted by the Rules of Practice.

If Respondent Alacan wishes to revise his subpoena applications, so as to narrow items 1, 2, 4, and 14, he must do so by September 23, 2002.

SO ORDERED.



James T. Kelly
Administrative Law Judge