ADMINISTRATIVE PROCEEDING
FILE NO. 3-7399

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

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| In the Matter of | ) |
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| ROBERT C. GLEAVE | ) |
| | ) |



# INITIAL DECISION

Washington, D.C.
August 5, 1991

Brenda P. Murray
Administrative Law Judge

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| In the Matter of<br><br>ROBERT C. GLEAVE | ) | INITIAL DECISION |

APPEARANCES: Thomas D. Carter and Amy J. Norwood, for the Division of Enforcement, Securities and Exchange Commission.

Robert C. Gleave, pro se, with James I. Watts, on the brief.

BEFORE: Brenda P. Murray, Administrative Law Judge

The Commission instituted this proceeding on September 27, 1990, pursuant to Sections 15(b) and 19(h) of the Securities Exchange Act of 1934 (Exchange Act), to determine whether the Commission's Division of Enforcement (Division) is correct that, based on actions taken while he was associated with a registered broker-dealer, (1) Robert C. Gleave willfully violated Sections 5(c) and 17(a) of the Securities Act of 1933 (Securities Act) and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, (2) Mr. Gleave was convicted of violating the securities statutes, and (3) Mr. Gleave was permanently enjoined from violating the securities statutes, and, if the allegations are true, whether or not it is in the public interest to sanction Mr. Gleave.

I held a hearing in Denver, Colorado on January 24, 1991. The Division introduced exhibits showing Mr. Gleave's criminal conviction for securities violations and his consent to a permanent injunction, as well as testimony from David G. McLean, an agent with the Federal Bureau of Investigation (FBI). Mr. Gleave appeared pro se. He did not introduce any evidence. Both sides filed briefs. The Division filed the last brief on May 3, 1991.

Pursuant to Rule 14(d) of the Commission's Rules of Practice (17 C.F.R. 201.14(d)), I grant Mr. Gleave's request and take official notice of the Plea and Cooperation Agreement which the U.S. District Court accepted on July 20, 1989, in United States v. Robert C. Gleave, No. 89-CR-0015G (D. Utah). Under the same rule, I grant the Division's request and take official notice of the following: a conviction for criminal contempt entered against Mr. John E. Worthern, an injunction against violations by Mr. Worthern of the registration and antifraud provisions of the securities statutes, and Mr. Worthern's conviction for the interstate transportation of stolen securities. (U.S. v. John E. Worthern, No. 87-1387-N-Criminal (S.D. Cal. December 14, 1989); S.E.C. v. Royal Airline, Inc., John E. Worthern, Civil Action No. 74-202-N (S.D. Cal. 1974), and U.S. v. John E. Worthern, No. CR-74-27 (D. Utah 1974)) In addition, I overrule the objections of Mr. Gleave and take

official notice of the National Association of Securities Dealers, Inc. (NASD) document Market Surveillance Committee v. Kober Financial Corp., et al., Complaint MS-937, June 27, 1990, which names Mr. Gleave as a respondent. These matters are material facts which might be judicially noticed by a United States district court as something that is capable of accurate and ready determination by reference to reliable sources. (Fed. R. Evid. 201) I sustain Mr. Gleave's objections and deny the Division's request that I take official notice of the transcript of the interview with Mr. Gleave on January 26, 1990. The fact of the NASD complaint proceeding is relevant because it responds to Mr. Gleave's claim that there have been no complaints about his conduct as a registered representative. Mr. Gleave's testimony in connection with that complaint is not relevant to the issues in this administrative proceeding. Finally, at the Division's request, I take official notice of the Commission's notice that it suspended trading in the securities of Protecto Industries, Inc. (Protecto) and 45 other issuers. (Exchange Act Release No. 25550 (April 5, 1988), 40 SEC Docket 1085)

## Findings

My findings and conclusions are based on the preponderance of the evidence as determined from the record and upon observation of the witness.

### Respondent

In 1986-88, Mr. Gleave was in his mid-twenties making a substantial income as a Vice-President of Excel Securities, Inc. (Excel), a registered broker-dealer in Englewood, Colorado. 1/ Mr. Gleave claims to be a high school graduate who attended the University

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1/ I conclude that Mr. Gleave's income was substantial because he had a dispute with the president of Excel and left his position as soon as he was able to pay off a $30,000 note which the firm held, and this took him three or four months. (Exhibit 9(a), 62-63)

of Utah for a "couple of years." (Exhibit 10, 9) However, a printout from the NASD's Central Registration Directory showing Mr. Gleave's "license, employment history" raises questions about Mr. Gleave's claim of a college education. (Counsel's Exhibit 1) According to the printout, Mr. Gleave was first employed at age 17 in 1978 by a sporting goods store, he attended Utah Technical School from 1978 to 1981, he was employed by a fruit company in 1979-81 and by United Parcel Service from 1981-83 when he entered the securities industry at age 22. Between July 1983 and July 1989, he was associated with six securities firms in Salt Lake City, Utah, and Englewood and Denver, Colorado. (Exhibit 17) The NASD record does not mention the University of Utah.

Illegal Activities

The Division introduced evidence of Mr. Gleave's activities during the period at issue in addition to the district courts' orders entered as a result of those activities to support its allegations that Mr. Gleave violated the securities statutes. For this reason, I will make findings as to each of the allegations before determining whether or not it is the public interest for the Commission to sanction Mr. Gleave.

The illegal activities at issue here came to light as the result of an FBI undercover operation directed at penny stock activities in Salt Lake City in 1987-88. The FBI agents portrayed individuals interested in obtaining a public shell corporation and in perpetrating a "box job" for the purpose of pledging securities whose value had been artificially inflated as collateral for a bank loan. A box job is a manipulative device whereby a party or parties control sufficient stock of a public corporation so that they can artificially manipulate purchases and sales of stock in order to raise the price of the stock with the ultimate goal of selling or disposing of the stock to the manipulators' financial advantage. (Exhibit 3, 4)

The agents secretly recorded or video-taped their conversations with Mr. Gleave, and,

within a day or so of the event, they prepared a written report, FBI Form 302, from the audio tapes describing what they did, who they met with, and the evidence they obtained. The testimony at the hearing was in large measure based on these reports.

As part of the operation, two FBI agents purchased ninety percent of the free trading stock and all the restricted stock of Business Finance Service, Inc. from a person in the business of selling public corporate shells in or about February 1988. 2/ Business Finance Service, Inc. was incorporated in Delaware in 1924, it had never issued shares to the public, and it had been inactive since 1927. Mr. Gleave knew the persons who claim to have "revived" Business Finance Service, Inc. in 1986. By supplying Delaware officials with false information, they obtained a current corporate charter from the state of Delaware. (Exhibit 6, 4) In 1988, Business Finance Service, Inc. merged with Protecto Industries, Inc., a private Nevada corporation, and the resulting entity became Protecto. As Protecto's owners, the agents went along with the false representation that it was a public corporation which had issued 1,000 shares of common stock to 129 shareholders in 1924-25 and that those shares, which split 1,000 for 1 in February 1988, were exempt from registration under former Section 3(a)(1) of the Securities Act. 3/ The shareholder names came from records

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2/ A shell is a corporation with few or no assets which carries on no business activity. (Exhibit 3, 3) The seller was Jerry Timothy, an individual active in supplying shells. (Tr. 36) According to the complaint in the civil action which resulted in a consent injunction against Mr. Gleave, he participated in a scheme which involved the fraudulent and fictitious revival of defunct corporations incorporated prior to 1933 for the purpose of creating vehicles for fraudulent public trading in unregistered securities. (Exhibit 6, 4)

3/ Section 3(a)(1), 15 U.S.C. 77c, provided the following exemption:

> Any security which, prior to or within sixty days after May 27, 1933, has been sold or disposed of by the issuer or bona fide offered to the public,

(continued...)

in the genealogy library of the Church of the Latter-Day Saints. The agents found an accountant who for $10,000 prepared a set of financials which showed Protecto with assets of $970,000 when it had no assets. (Tr. 36)

The FBI agents needed a broker to submit an application to have Protecto shares listed in the over-counter-market so as to achieve their professed objective. Third parties active in the penny stock market in Salt Lake City recommended Mr. Gleave as someone associated with a broker-dealer who would participate in the fraud. Mr. Gleave met with the FBI agents on February 4, 1988, March 16, 1988, and March 24, 1988, and made numerous phone calls to the agents in the period February -- September 1988. According to Mr. Gleave, the agents told him, "they had a company, and they -- they made -- they made it aware to me that they controlled the majority of the stock and that they wanted to escalate the price of the stock so they could pledge it against a banking loan that would -- that would -- that would give them cash for it." (Exhibit 9(a), 20) According to the FBI agent, Mr. Gleave had no hesitation about doing what was necessary to get the stock listed on the over-the-counter market, and in manipulating the price. (Tr. 48-52)

In March 1988, Mr. Gleave requested and received $5,000 from the FBI agents for

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3/(...continued)

> but this exemption shall not apply to any new offering of any such security by an issuer or underwriter subsequent to such sixty days;

According to L. Loss and J. Seligman, 3 Securities Regulation, 1142 (3rd ed. 1989), the exemption in Section 3(a)(1) for offerings pending in 1933 was deleted in December 1987, having long since spent its force.

T. L. Hazen, 1 Treatise on the Law of Securities Regulation, 129 (2nd ed. 1990) states:

> ... it is unlikely that this exemption would have any practical applicability today. Because of its apparent obsolescence section 3(a)(1) was repealed in 1987. (footnote omitted)

"pinking" Protecto so that trading could occur, and for agreeing to manipulate the price of the stock through wash trades among nominee accounts. 4/ (Tr. 51-54, 59-63; Exhibit 3, 25, Exhibit 9(a), 27) Pinking refers to getting a security listed with the National Quotation Bureau, Inc. (NQB) which publishes price quotations (bid and asked) for securities of public corporations in the over-the-counter market (as opposed to on a stock exchange) on pink sheets, hence the name. (Exhibit 3, 3)

Protecto's NQB application contains materials that Rule 15c2-11 requires of broker-dealers which publish quotes for a stock, i.e. the "due diligence" file. 5/ I find that Mr. Gleave knew that the filing which he arranged to submit to the NQB contained false information about material facts: (1) false statements that Protecto had approximately 124 shareholders and that no one owned more than 10 percent of the outstanding securities, (2) false financial statements, and (3) an erroneous legal opinion that shareholders who could trace their ownership from the shares supposedly issued prior to July 27, 1933, and who qualified for the exemption in Section 4(1) of the Securities Act could sell their Protecto shares without registering them with the Commission. 6/

The evidence is unanimous that Mr. Gleave knew his representation to the NQB that

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4/ Section 9(a)(1)(A) of the Exchange Act prohibits wash sales because they are transactions which involve no change in beneficial ownership of the security. Wash sales are manipulative practices because they are intended to mislead investors by artificially affecting market activity. (Santa Fe Industries, Inc. v. Green, 430 U. S. 462, 476 (1977))

5/ The rule makes it a fraudulent, manipulative and deceptive practice for a broker or dealer to publish a quote for a security unless specified information is available.

6/ Mr. Gleave takes responsibility for filing the application with the NQB. Since broker-dealers apply to the NQB, Mr. Gleave arranged for Excel's President to sign the form on March 16, 1988. Mr. Gleave is listed as the firm employee to be contacted.

Protecto was a public corporation was false. Mr. Gleave's answer denies this allegation (any allegation not admitted is denied), but he admits he was aware that two people controlled a large block of stock at the time he submitted the due diligence package and that this was a material fact. (Responsive Brief 7) Mr. Gleave prepared the second and third pages of the filing which state that no one owned more than ten percent of Protecto's outstanding shares, yet he knew that two people controlled Protecto. (Exhibit 9(a), 20, 37-38, Exhibit 10, 12-13; Tr. 111) Mr. Gleave characterized this factual situation as a box job and a pre-33 deal, and acknowledged that these descriptions indicated a control situation. (Exhibit 9(a), 28-29, Exhibit 10, 12-13)

Mr. Gleave denies that he knew the financials which were part of Protecto's due diligence file and the NQB filing were false. 7/ I find the preponderance of the evidence is that Mr. Gleave was aware that Protecto's financials were a sham. I reach this conclusion because when the Commission suspended trading in Protecto for ten days the purchaser of the one sale of Protecto stock that had occurred sold the stock back to the inventory account at Excel. As the registered representative responsible for the sale, Mr. Gleave admitted he expected to be out $2,500 because "it was worthless. The stock was worthless." (Exhibit 9(a), 66) Mr. Gleave must have known the truth because if you believed the financials, Protecto was a viable corporation with assets of $937,037 and liabilities of $34,350. (Exhibit 11) Another indication that Mr. Gleave knew that Protecto was a complete hoax is his admission that he knew Mr. Jerry Timothy, who sold the agents the shell which became Protecto, and Mr. Timothy "invents" all these companies which

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7/ The FBI agent testified that Mr. Gleave did not know the financials were false, but also that he and others laid out the whole fraudulent scheme to Mr. Gleave. (Tr. 38 and 63)

claim to be exempt from the registration requirements. (Exhibit 9 (a), 56) According to Webster, to invent is to produce or contrive (something previously unknown) by the use of ingenuity or imagination; to make up, fabricate. (Webster's II New Riverside University Dictionary 641)

I find that Mr. Gleave knew that the opinion in the NQB filing that the stock was exempt from registration was false. 8/ As noted above, Mr. Gleave knew that two people controlled Protecto and that they were the source of the securities being sold. Even if Protecto had issued shares to the public before 1933 and even if Section 3(a)(1) applied in 1988, and neither condition occurred, the fact that the securities emanated from persons controlling the corporation would make the exemption from registration inapplicable. This is because the opinion which was part of the NQB filing stated that the redistribution would not be exempt from registration under Section 4(1) where the sellers controlled the corporation. Moreover, Mr. Gleave admitted he knew that Protecto stock should have been registered because someone controlled the stock. (Exhibit 10, 13)

The evidence leaves no doubt that Mr. Gleave devised a trading plan among nominee accounts to increase the price of Protecto from $.50 bid and $1.00 asked to $2.00 bid and $2.25 asked. (Exhibit 13; Tr. 85) Mr. Gleave's position on the issue is confusing. He denied this allegation in his answer, yet he admitted that he agreed to manipulate the shares of Protecto to the U.S. District Court judge who accepted his guilty plea in the criminal action, to the Division in 1989, and at the hearing on January 24, 1991. (Exhibit 10, 12-20, Exhibit 9(a), 22-38, 51-55, 67-68; Tr. 111) On brief Mr. Gleave "admits that in furtherance of the plan to artificially increase the value of the Protecto shares, he

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8/ The Commission has no record that it ever received a registration statement in the name of Business Finance Services, Inc. or Protecto.

participated in the development of a plan for pre-arranged trades for the purpose of creating an appearance that the stock was being actively traded by the public", and that "he participated in a plan to artificially increase the value of the stock through preplanned trades." (Responsive Brief 8, 20)

I find the Mr. Gleave's participation was essential to having the stock listed on the over-the-counter market and to manipulating the price. Mr. Gleave represented that he could manipulate the stock, the FBI agents believed that could and relied on him to do so, Mr. Gleave prepared a two page memorandum describing the pre-arranged trades and the record contains a video which shows Mr. Gleave explaining to his co-conspirators how to conduct those trades. (Exhibit 14) The FBI agents established ten nominee accounts to trade Protecto shares - four accounts at Excel and individual accounts at six other broker-dealers - and put between 1,000 and 7,500 shares in each account at Mr. Gleave's direction. (Tr. 66-67) Mr. Gleave requested and received from the FBI agents an additional $1,500 to pay people he contacted at other securities firms - J. P. Michaels, Nash Weiss, and Hughes Securities - who agreed to participate as market makers in his scheme to increase the price of the stock by trading among nominee accounts. Mr. Gleave paid two of these people who agreed to assist and "knew what the program was" a couple of hundred dollars each, he gave the President of Excel who signed the NQB application a hundred dollars, and he kept the rest of the $1,500. (Exhibit 9(a), 27-36) Mr. Gleave agreed to direct or orchestrate the trades, and he boasted that the market for Protecto "would look like the stock validly should have went up." (Tr. 70)

The Commission suspended trading in Protecto on April 5, 1988, after the first trade which Mr. Gleave planned had occurred on March 31, 1988. The stock did not resume trading after the ten-day suspension.

I find that Mr. Gleave willfully violated the securities statutes and rule as alleged. In the period April through September 1988, Mr. Gleave willfully violated Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 while he was associated with a broker-dealer by using the mails and instruments of interstate commerce to defraud, make untrue statements of material fact and engage in transactions, practices and course of business which operated as a fraud or deceit upon investors in Protecto common stock. Mr. Gleave did so because, using information he knew was false, he was a principal conspirator in a scheme for offering, selling and purchasing Protecto shares through listing in the NQB's pink sheets, and in artificially manipulating the price of Protecto securities upward. 9/ Mr. Gleave willfully violated Section 5(c) of the Securities Act because he was instrumental in offering to sell and to buy Protecto securities when no registration statement for the security had been filed.

Criminal Conviction

Based on a grand jury indictment which is part of this record and which details the factual situation set out above, Mr. Gleave pled guilty to securities fraud (15 U.S.C. 78j(b) and 78ff), aiding and abetting and causing (18 U.S.C. 2(a) and (b)), and conspiracy to commit securities fraud, wire fraud and bank fraud (18 U.S.C. 371). On March 13, 1990, Mr. Gleave was sentenced to ten months incarceration and two years probation, and ordered to pay restitution in the amount of $5,000, as the result of his guilty plea. (Exhibits 3, 4, 5 and 10, and Mr. Gleave's Plea and Cooperation Agreement in United States v. Robert C. Gleave, No. 89-CR-15G (D. Utah))

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9/ A listing in the pink sheets constitutes an offer for the purposes of Section 17(a). See Kubik v. Goldfield, 479 F.2d 472, 475 (3rd Cir. 1973). Mr. Gleave set Protecto's initial bid and asked quotes when he knew the stock was worthless, and the first transaction occurred in the scenario he planned to increase the value of the shares.

Injunction

Based on a complaint which sets out the factual matters set out above, Mr. Gleave consented to the entry of a permanent injunction enjoining him from engaging in acts and practices in violation of Sections 5(c) and 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. (Exhibits 6 and 7) (Securities and Exchange Commission v. Robert C. Gleave, No. 90-C-572S (D. Utah, July 30, 1990))

Public Interest

Mr. Gleave contends that a bar is too harsh a sanction for this "isolated occurrence" or "aberration" which is not in keeping with his true character. (Responsive Brief 22) He maintains that the purpose of the sanction is to protect the public, and that this purpose can be achieved without depriving him of his livelihood. Mr. Gleave considers that the following factors call for a lesser sanction: his unblemished employment history, that the illegal actions ceased on April 4 not in September 1988 as the Division suggests, that he took steps to ensure that the general public would not be harmed and that he did not believe a bank would loan money on this stock, that the substantial punishment he has suffered will deter others from committing similar acts, that he did not know that Protecto's financial and tradeability letters were false, and that he has accepted responsibility for his actions and will not repeat them.

I find that the terms "isolated occurrence" and "isolated and aberrational acts" are inapplicable to Mr. Gleave's actions with respect to Protecto securities. (Responsive Brief, 22-23) The evidence is that Mr. Gleave's illegal conduct was not an isolated occurrence. Mr. Gleave's reputation was such that an individual active in the industry could accurately predict that he would participate in a securities fraud. (Tr. 41-44) Mr. Gleave bragged about participating in "major scams" with John Worthern, a Salt Lake City resident

convicted of securities fraud who has been involved for many years in penny stock deals. (Tr. 72) Mr. Worthern's illegal activities are a matter of public record. See the earlier citations to cases naming Mr. Worthern and the Initial Decision in V. F. Minton Securities, Administrative Proceedings No. 3-7391, May 22, 1991, slip at 6. In addition, Mr. Gleave bragged that his activities were not detected because he knew "about how and what to do and basically the tricks that you don't do that the NASD or SEC knows too." (Tr. 70-71)

The illegal activities surrounding Protecto required participation by a registered representative associated with a broker-dealer. The violations were not technical or spontaneous. For $5,000 Mr. Gleave knowingly and willfully, over a period of several months, violated the key provisions of the securities statutes aimed at protecting investors. According to uncontested evidence, Mr. Gleave was aware of the entire fraudulent scheme, he agreed to participate without any hesitation, and he took the initiative to involve others. (Exhibit 9(a), 51-53; Tr. 38, 51-54, 63, 105, 111)

The factors Mr. Gleave claims should mitigate the sanction are either irrelevant or inapplicable. It is irrelevant whether or not Mr. Gleave believed a bank would loan money on Protecto stock, and Mr. Gleave was wrong that defrauding a bank did not hurt the public. Mr. Gleave does not cite any record support for his claim that he took steps to ensure that his illegal actions would not involve or hurt public investors. I assume he refers to his claims that he involved persons in the scheme who he trusted would not trade Protecto outside the nominee accounts, and claims that he told those who controlled Protecto that "I mean, because I told them I didn't have the time and didn't want to have the public getting caught up in whatever they were going to do." (Exhibit 9(a), 22; Responsive Brief 33) These after the fact, self-serving representations by Mr. Gleave do not mitigate his illegal actions or indicate that public investors were not damaged by his

conduct. Mr. Gleave is mistaken that individuals have to lose money for the public to be damaged by securities fraud. Market manipulation hurts all investors because it attacks the very foundation and integrity of the free market system, and thus runs counter to the basic objectives of the securities laws. In re Pagel, Inc., 48 S.E.C. 223, 231-32 (1985).

Measuring Mr. Gleave's situation against several of the established criteria for determining an appropriate sanction in the public interest - the egregiousness of the respondent's actions, the need to deter others from similar conduct, the degree of scienter involved, the sincerity of assurances against future violations, and the likelihood of future violations - indicates that a severe sanction is required. (Steadman v. S.E.C., 603 F.2d 1126, 1140 (5th Cir. 1979), affd Steadman v. S.E.C., 450 U.S. 91, 67 L. Ed 2d 69, 101 S. Ct. 999 (1981); S.E.C. v. Blatt, 583 F.2d 1325, 1334 n.29 (5th Cir. 1978))

It is difficult to predict what sanction will deter Mr. Gleave and others from actions similar to those detailed in this decision. Mr. Gleave was a major success story as a high school graduate with no specialized training who at about age 25 was making substantial income in the securities industry. Counsel does not offer anything to support his claim that people will be deterred from similar actions by the sentence Mr. Gleave received in another forum - five months in a federal facility and five months in a community treatment facility, two years probation, and payment of $5,000 restitution. 10/

The criminal conviction, the permanent injunction, and the evidence in the form of a video and reports written from audio tapes show Mr. Gleave's unvarnished contempt for the laws and regulations governing the securities industry. It is well settled that the securities industry presents many opportunities for abuse and overreaching so that it is in

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10/ Mr. Gleave appears to have made more than $5,000 from his illegal actions. He received a $5,000 payment and kept what was left of $1,500 after he paid others $500.

the public interest not to allow participation by individuals whose honesty and integrity have been seriously impugned. (Richard C. Spangler, 46 S.E.C. 238, 252 (1976). See Archer v. S.E.C., 133 F.2d 795, 803 (8th Cir. 1943), cert. denied, 319 U.S. 767 (1943), Hughes v. S.E.C. 174 F.2d 969, 975-76 (D.C. Cir. 1949)).

Finally, the evidence provides no basis to believe Mr. Gleave's personal assurance that he will not violate the law in the future. On this record Mr. Gleave appears to have lied about his college education, and that there have been no other customer complaints about his conduct as a registered representative. (Compare Exhibit 17 and Exhibit 10, 9 and Tr. 112-113 with NASD Market Surveillance Committee v. Kober Financial Corp., et al., Complaint MS-937, June 27, 1990.

For all the reasons stated and because it appears very likely Mr. Gleave will violate the securities laws in the future if given the opportunity, I find that nothing less than a bar from association with any broker or dealer is sufficient to protect the investing public. 11/

Order

Based on the findings set out above, I ORDER that Robert C. Gleave is barred from being associated with any broker or dealer.

This order shall become effective in accordance with and subject to the provisions of 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 filed a petition for review pursuant to Rule 17(b) within fifteen days after service of the initial decision upon him or her, unless the Commission, pursuant to Rule 17(c),

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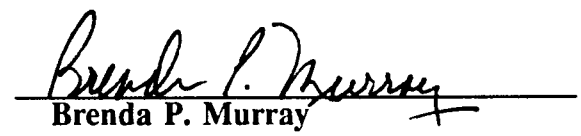
11/ I have considered and rejected those proposed findings, arguments, and conclusions submitted by the parties that are inconsistent with this decision.

**determines on its own initiative to review this initial decision as to a party. If a party timely files a petition for review or the Commission acts to review as to a party, the initial decision shall not become final as to that party.**



**Brenda P. Murray**
**Administrative Law Judge**

**Washington, D.C.**
**August 5, 1991**