

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION
April 15, 1966

In the Matter of	:	
ASSURANCE INVESTMENT COMPANY	:	
1440 Sylvan Street	:	
Van Nuys, California	:	FINDINGS,
	:	OPINION
and	:	AND ORDER
	:	REVOKING
PAUL A. MILLER	:	BROKER-DEALER
HAROLD M. PELTON	:	REGISTRATION
	:	AND SUSPENDING
File No. 8-11787	:	INDIVIDUALS
Securities Exchange Act of 1934 -	:	
Sections 15(b) and 15A	:	

BROKER-DEALER PROCEEDINGS

Grounds for Revocation

Grounds for Expulsion from Membership in
Registered Securities Association

Grounds for Suspension from Association with
Broker-Dealer

Offer, Sale, and Delivery of Unregistered
Securities

Bids for and Purchases of Securities During
Distribution

Failure to Comply with Net Capital Requirements

False Representation in Application for Broker-
Dealer Registration

Effecting Securities Transactions While Not
Registered as Broker-Dealer

Failure to Amend Application for Broker-Dealer
Registration

Injunction

Where registered broker-dealer partnership offered, sold and delivered unregistered securities, bid for and purchased such securities during distribution, failed to comply with net capital requirements, falsely represented in application for broker-dealer registration the date of its succession to business of predecessor, effected securities transactions prior to registration, and failed to amend application to disclose injunction with respect to transactions in unregistered securities, in willful violation of Securities Act of 1933 and Securities Exchange Act of

1934 and rules thereunder, held, in public interest to revoke broker-dealer registration, expel it from membership in registered securities association, and suspend partners from being associated with any broker-dealer.

APPEARANCES;

Samuel P. Norton, for Assurance Investment Company, Paul A. Miller and Harold M. Pelton.

R. G. de Queveda, for Division of Trading and Markets of the Commission.

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Following hearings in these broker-dealer proceedings pursuant to Sections 15(b) and 15A of the Securities Exchange Act of 1934 ("Exchange Act"), the hearing examiner submitted an initial decision in which he concluded that the registration as a broker and dealer of Assurance Investment Company ("registrant") should be revoked, that registrant should be expelled from membership in the National Association of Securities Dealers, Inc. ("NASD"), and that registrant's partners, Paul A. Miller and Harold M. Pelton, should each be suspended for 12 months from being associated with any broker or dealer.

We granted respondents' petition for review, and they and our Division of Trading and Markets filed briefs. Upon an independent review of the record and for the reasons stated herein and in the initial decision, we find:

1. Between January and March 1964, respondents willfully violated Sections 5(a) and 5(c) of the Securities Act of 1933 in that they offered, sold and delivered common stock of Kramer-American Corp. ("K-A") as to which no registration statement under that Act had been filed or was in effect.

Registrant distributed 11,610 shares of K-A stock which it had purchased from Pelton at prices ranging from 2 to 3½. Pelton had acquired those and additional shares, or options to purchase such shares, from Vern Coggle, president of K-A, and another officer of K-A, in consideration of services rendered to the company. Those officers had received options from K-A and had obtained their shares through the exercise of such options. It is clear that Pelton acquired the stock or options from controlling persons of the issuer with a view to effecting a public distribution and accordingly was an underwriter within the meaning of Section 2(11) of the Securities Act, and that registrant participated in such distribution. Coggle's assurances that the shares were free for trading, upon which respondents allegedly relied, did not relieve them of their responsibility to investigate the facts or of their burden to establish the availability of an exemption from registration.

2. Respondents willfully violated the anti-manipulation provisions of Section 10(b) of the Exchange Act and Rule 17 CFR 240.10b-6 thereunder in that, during their distribution of the K-A stock, registrant entered bids for the stock in the daily sheets published by the National Quotation Bureau, Inc., and effected purchases of such stock.

3. On April 23 and October 15, 1964, respectively, preliminary and permanent injunctions were entered against registrant and Pelton with their consent enjoining them from violating Sections 5(a) and 5(c) of the

Securities Act in the offer, sale and delivery of K-A stock. 1/ In failing to amend its application for broker-dealer registration to disclose the entry of each of those injunctions, registrant, aided and abetted by the individual respondents, willfully violated Section 15(b) of the Exchange Act and Rule 17 CFR 240.15b-2 (now 15b3-1) thereunder.

4. Registrant, aided and abetted by the individual respondents, willfully violated Section 15(c)(3) of the Exchange Act and Rule 17 CFR 240.15c3-1 thereunder in that it continued to do business while its net capital was deficient as computed under the Rule. Its net capital deficiencies amounted to \$1,032, \$4,141, \$3,263, and \$2,261 as of March 31, April 31, May 31, 1963, and February 29, 1964, respectively.

5. Registrant willfully made and the individual respondents caused to be made in registrant's application for broker-dealer registration, filed on November 26, 1963, a representation that registrant would succeed to the business of its predecessor Paul Miller, a registered broker-dealer doing business under the same name, upon the effective date of registration. In fact, registrant partnership had succeeded to Miller's sole proprietorship at least as early as April 1963 and thereafter engaged in the securities business. Accordingly, registrant, aided and abetted by the individual respondents, willfully violated Section 15(a) of the Exchange Act in that it effected securities transactions when it was not registered as a broker and dealer in accordance with Section 15(b) of that Act.

6. In view of the injunction and the nature and extent of the willful violations found, it is in the public interest to revoke the broker-dealer registration of registrant, expel registrant from membership in the NASD, and suspend each of the individual respondents from being associated with a broker-dealer.

The individual respondents urge that sanctions should not be imposed upon them. They assert that any violations were technical in nature or inadvertent and due to their ignorance as proprietors of the laws governing the conduct of a broker-dealer business. While they feel that the imposition of a sanction upon registrant is "understandable," they argue that there is no justification for taking any adverse action with respect to their status as salesmen since, as Pelton stated, "all of the violations were done, not as a salesman, but, as a proprietor or a partner." They further assert that Miller is 73 years old and is presently engaged solely in the sale of mutual fund shares and that he "depends totally on these for his income," and that all of Pelton's present sales, "except for transferring individual stock portfolios," are likewise of such shares.

We cannot agree that the violations were merely technical. 2/ Nor can they be deemed to have been inadvertent in view of the experience of

1/ Civil Action No. 64-643-PH (S.D., Cal.).

2/ See Gearhart & Otis, Inc., Securities Exchange Act Release No. 7329, p. 35 (June 2, 1964), aff'd 348 F.2d 798 (C.A.D.C., 1965); D'Antoni & Associates, Inc. v. S.E.C. 289 F.2d 276, 277 (C.A. 5, 1961); S.A.E. Corporation, Securities Exchange Act Release No. 6956, pp. 1-2 (November 28, 1962).

the individual respondents in the securities business, 3/ they must or should have been aware of the existence or importance of the statutory provisions and rules involved. While the two partners failed to exercise responsibilities as proprietors, the provisions which they violated are important matters of investor-protection. We note that the hearing examiner specifically refrained from concluding that they should be barred from association with a broker-dealer, because of the absence of any prior disciplinary action against them. Miller appears however to have been less intimately involved in the willful violations relating to the K-A stock, and under all the circumstances we think he should be accorded greater leniency. 4/ We conclude that Pelton should be suspended from being associated with any broker-dealer for a period of 12 months, and Miller for a like period except that he may, after a period of 6 months, become associated with a registered broker-dealer in a non-supervisory capacity upon an appropriate showing to our staff that he will engage solely in the sale of mutual fund shares under adequate supervision.

Accordingly, IT IS ORDERED that the registration as a broker and dealer of Assurance Investment Company be, and it hereby is, revoked, that the company be, and it hereby is, expelled from the National Association of Securities Dealers, Inc., and that Harold M. Pelton and Paul A. Miller be, and they hereby are, suspended from being associated with any broker or dealer for a period of twelve months, except that Paul A. Miller may become so associated after six months upon a showing as described above.

By the Commission (Chairman COHEN and Commissioners WOODSIDE, OWENS, BUDGE and WHEAT).

Orval L. DuBois
Secretary

3/ Pelton states that he has had a "securities license" since 1957. We note that according to registrant's application for registration, his connections with broker-dealers, either as "agent" or sales manager, date from February 1959, and Miller's connections from July 1961. Miller served as an "agent" and a resident manager prior to his registration as a sole proprietor in April 1962.

4/ In the injunction proceedings, in which Miller was not named as a respondent, Pelton stated that he was the managing partner of registrant beginning in November 1963.