

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 53622 / April 10, 2006**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-12256**

**In the Matter of**

**THOMAS J. GERBASIO,**

**Respondent.**

**ORDER INSTITUTING**  
**ADMINISTRATIVE PROCEEDINGS**  
**PURSUANT TO SECTION 15(b) OF THE**  
**SECURITIES EXCHANGE ACT OF 1934,**  
**MAKING FINDINGS, AND IMPOSING**  
**REMEDIAL SANCTIONS**

**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 (“Exchange Act”) against Thomas J. Gerbasio (“Gerbasio” or “Respondent”).

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over him and the subject matter of these proceedings, and the findings contained in Section III.2 below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Section 15(b) of the Securities Exchange Act of 1934, Making Findings, and Imposing Remedial Sanctions (“Order”), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Gerbasio, age 35, is a resident of Ocean City, New Jersey. From August 2002 until May 2003, Gerbasio ran the New York office of Fiserv Securities, Inc. ("Fiserv"), a broker-dealer registered with the Commission. In May 2003, Gerbasio assumed responsibility for Fiserv's Packaged Product Division.

2. On March 30, 2006, a final judgment was entered by consent against Gerbasio, permanently enjoining him from future violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, in the civil action entitled Securities and Exchange Commission v. Thomas J. Gerbasio, Civil Action Number 05-1833, in the United States District Court for the Eastern District of Pennsylvania.

3. The Commission's complaint alleged that, from at least August 2002 until November 2003, Respondent participated in a scheme to defraud hundreds of mutual funds and their shareholders by engaging in deceptive practices in connection with market timing by two hedge fund customers. The Complaint further alleged that, in order to evade and circumvent controls implemented by mutual funds seeking to restrict excessive trading, Gerbasio and his subordinate employed, on a daily basis, a variety of deceptions and evasions on behalf of the hedge fund customers, including misrepresenting the nature of their trades to the funds, opening dozens of accounts to conceal the customers' identities from the funds, entering trades in amounts that would avoid the funds' detection triggers, and advising the customers on strategies to conceal their market timing from mutual funds. The Complaint alleged that, using these fraudulent tactics, between August 2002 and November 2003, Gerbasio and his subordinate placed substantially more than 37,000 market timing trades for the hedge fund customers, many or all of which would have been rejected by the mutual fund companies absent the fraud.

### IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent's Offer.

Accordingly, it is hereby ORDERED:

Pursuant to Section 15(b)(6) of the Exchange Act, that Respondent Gerbasio be, and hereby is barred from association with any broker or dealer;

Any reapplication for association by the Respondent will be subject to the applicable laws and regulations governing the reentry process, and reentry may be conditioned upon a number of factors, including, but not limited to, the satisfaction of any or all of the following: (a) any disgorgement ordered against the Respondent, whether or not the Commission has fully or partially waived payment of such disgorgement; (b) any arbitration award related to the conduct that served as the basis for the Commission order; (c) any self-regulatory organization arbitration award to a customer, whether or not related to the conduct that served as the basis for the Commission order; and (d) any restitution order by a self-regulatory organization, whether or not related to the conduct that served as the basis for the Commission order.

By the Commission.

Nancy M. Morris  
Secretary