

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 59812 / April 22, 2009

ADMINISTRATIVE PROCEEDING
File No. 3-13455

In the Matter of

DAVID SCOTT CACCHIONE,

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 David Scott Cacchione (“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. Cacchione was a registered representative associated with various registered broker-dealers from 1989 through June 2008. Cacchione was employed most recently at registered broker-dealer Merriman Curhan Ford & Co. ("Merriman") as the Managing Director of Merriman's Client Services Group from December 2005 through June 4, 2008 when his employment was terminated. Cacchione has a disciplinary history. In January 2004, he consented to a thirty day suspension and was fined \$30,000 after the NASD found that he sold unregistered securities to public customers without proper disclosure. Cacchione, 44 years old, is a resident of Woodside, California.

2. On March 31, 2009, a final judgment was entered by consent against Cacchione, permanently enjoining him from future violations of Section 17(a) of the Securities Act of 1933, and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, in the civil action entitled Securities and Exchange Commission v. David Scott Cacchione, Civil Action Number CV-09-01259 CRB, in the United States District Court for the Northern District of California.

3. The Commission's complaint alleged that, in connection with the sale of securities, Cacchione, among other things, engaged in unauthorized trading in his customers' accounts; supplied the account statements of unknowing Merriman customers to another customer and friend so that his friend could fraudulently pledge the securities in the accounts as collateral for loans; signed lending agreements fraudulently certifying that the securities held by several unknowing Merriman customers belonged to another customer and friend; and otherwise engaged in a variety of conduct which operated as a fraud and deceit on investors.

IV.

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

Accordingly, it is hereby ORDERED:

Pursuant to Section 15(b)(6) of the Exchange Act, that Respondent Cacchione 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.

Elizabeth M. Murphy
Secretary