

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 58882/October 30, 2008

INVESTMENT COMPANY ACT OF 1940
Release No. 28477/October 30, 2008

ADMINISTRATIVE PROCEEDING
File No. 3-13283

In the Matter of

ROBERT A. WARD,

Respondent.

**ORDER INSTITUTING ADMINISTRATIVE
AND CEASE-AND-DESIST PROCEEDINGS,
PURSUANT TO SECTIONS 15(b) and 21C OF
THE SECURITIES EXCHANGE ACT OF
1934 and SECTIONS 9(b) AND 9(f) OF THE
INVESTMENT COMPANY ACT OF 1940,
MAKING FINDINGS, AND IMPOSING
REMEDIAL SANCTIONS AND A CEASE-
AND-DESIST ORDER AS TO ROBERT A.
WARD**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Sections 9(b) and 9(f) of the Investment Company Act of 1940 (“Investment Company Act”) against Robert A. Ward (“Ward” 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, which are admitted, Respondent consents to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings Pursuant to Sections 15(b) and 21C of the

Securities Exchange Act of 1934 and Sections 9(b) and 9(f) of the Investment Company Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order as to Robert A. Ward (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds¹ that

Respondent

1. **Robert A. Ward** (“Ward”), age 47, resides in New York, New York and has been a licensed securities professional since 1983. From April 1998 until his resignation in March 2005, he was associated with Lazard Capital Markets LLC as a registered account executive in the equity sales and trading department, becoming a managing director in January 2003.

Other Relevant Parties

2. **Lazard Capital Markets LLC** (“Lazard Capital Markets”) is registered with the Commission as a broker-dealer (File No. 8-2595) pursuant to Section 15(b) of the Exchange Act, with its principal place of business in New York, New York. Lazard Freres & Co. LLC’s capital markets assets were separated from its other businesses and transferred to Lazard Capital Markets in 2005.² At all relevant times, Lazard Freres & Co. LLC was registered with the Commission as a broker-dealer pursuant to Section 15(b) of the Exchange Act and provided securities brokerage services to institutional customers.

3. **Louis Gregory Rice** (“Rice”), age 42, resides in New York, New York and has been a licensed securities professional since 1987. From 1987 until he resigned in March 2005, Rice held various positions with Lazard Capital Markets. He became a managing director in 1996 and from 1996 to 2005, was the head of Lazard Capital Markets’ equity sales and trading department in the United States, supervising, among others, Ward.

4. **FMR Co., Inc.** (“Fidelity”) is registered with the Commission as an investment adviser (File No. 801-3447) pursuant to Section 203(c) of the Investment Advisers Act of 1940 (“Advisers Act”), with its principal place of business in Boston, Massachusetts. Fidelity is a wholly owned subsidiary of Fidelity Management & Research Company (“FMR”), which is also an investment adviser registered with the Commission (File No. 801-7884) pursuant to Section 203(c) of the Advisers Act. Fidelity provides portfolio management services as a sub-adviser to certain customers of FMR, including approximately 350 registered investment companies

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

² For purposes of this Order, unless otherwise described, the term “Lazard Capital Markets” includes its predecessor entity, Lazard Freres & Co., LLC.

marketed under the “Fidelity Investments” trade name and managed by FMR and its affiliates (the “Fidelity Funds”).³

5. **Thomas H. Bruderman** (“Bruderman”), age 39, lives in Boston, Massachusetts. He was a domestic equity trader at Fidelity from 1998 until December 2004.⁴

Facts

Summary

6. These proceedings concern Ward’s provision of extensive travel, entertainment and gifts to Fidelity equity trader Thomas H. Bruderman and certain other members of Fidelity’s equity trading desk. The members of Fidelity’s equity trading desk who received such travel, entertainment and gifts included equity securities traders, whose responsibilities included directing securities transactions for the Fidelity Funds to securities brokerage firms for execution.

7. From 2000 through 2004 (the “Relevant Period”), in an effort to generate brokerage business, Ward expensed to Lazard Capital Markets over \$200,000 in connection with taking Bruderman and certain other Fidelity traders on trips to exotic locations, lodging them at fancy hotels, and providing them with tickets to concerts and gifts such as expensive wine.⁵ In addition, in connection with certain of these entertainment events, Ward provided Bruderman and a few other Fidelity traders with the drug commonly referred to as “ecstasy.”

8. Lazard Capital Markets received substantial business from Fidelity traders during the period that Ward and certain other Lazard Capital Markets employees provided travel, entertainment and gifts to Fidelity traders. Throughout the Relevant Period, the brokerage commissions Ward, together with certain other Lazard Capital Markets employees, generated from Fidelity were a significant portion of Lazard Capital Markets’ overall commission revenue. For example, from 2001 to 2003, Fidelity commissions generated by Fidelity traders to whom Ward and certain other Lazard Capital Markets employees provided travel, entertainment and gifts constituted an average of over 16% of Lazard Capital Markets’ annual commission revenue during

³ On March 5, 2008, the Commission instituted a related administrative proceeding against Fidelity. *See In the Matter of Fidelity Management & Research Co. and FMR Co. Inc.*, Advisers Act Release No. 2713, Admin. Proc. File No. 3-19276 (March 5, 2008).

⁴ On March 5, 2008, the Commission instituted a related administrative proceeding against Bruderman and nine other employees of Fidelity’s equity trading desk. *See In the Matter of Scott DeSano, et al.*, Admin. Proc. File No. 3-12978 (March 5, 2008).

⁵ Simultaneously with the commencement of this proceeding, the Commission has issued Orders with respect to Lazard Capital Markets and Messrs. Rice, David L. Tashjian and W. Daniel Williams. *See the following Commission Orders: In the Matter of Lazard Capital Markets LLC*, Admin. Proc. File No. 3-13281 (October 30, 2008); *In the Matter of Louis Gregory Rice*, Admin. Proc. File No. 3-13282 (October 30, 2008); *In the Matter of David L. Tashjian*, Admin. Proc. File No. 3-13284 (October 30, 2008); and *In the Matter of W. Daniel Williams*, Admin. Proc. File No. 3-13285 (October 30, 2008).

that period. During the Relevant Period, commissions from Fidelity far exceeded commissions from any other Lazard Capital Markets customer.

9. Bruderman was the primary recipient of Ward's gifts and lavish entertainment of Fidelity traders. During the Relevant Period, Ward expensed over \$120,000 in connection with entertaining and providing gifts and travel to Bruderman. During the same period, Bruderman (who also received travel, entertainment and gifts from other Lazard Capital Markets employees) personally directed Fidelity securities orders to Ward that generated a total of approximately \$21.6 million in commissions for Lazard Capital Markets, over ten percent of Lazard Capital Markets' total commission revenue during that five-year period.

10. Section 17(e)(1) of the Investment Company Act makes it unlawful for an affiliated person of a registered investment company, or an affiliate of an affiliate, when acting as an agent, to accept compensation from any source (other than a salary or wages from the registered investment company) for the purchase or sale of any property to or for the registered investment company. Bruderman and the other Fidelity traders were affiliated persons of Fidelity, which is an affiliated person of registered investment companies (the Fidelity Funds), because Fidelity is the adviser to those funds. Bruderman's and the other Fidelity traders' receipt of travel, entertainment and gifts from Ward constituted compensation within the prohibition of Section 17(e)(1) of the Investment Company Act.

11. As a result of his conduct, Ward aided and abetted and caused Bruderman's and certain other Fidelity traders' violations of Section 17(e)(1) of the Investment Company Act.

Background

12. Prior to joining Lazard Capital Markets, while working as a sales trader for a competitor broker-dealer, Ward had developed business relationships with certain Fidelity equity traders. In or about 1998, Rice, the head of Lazard Capital Markets' equity sales and trading department, hired Ward and some of his colleagues in an effort to increase the department's brokerage business. Ward was given access to a travel and entertainment budget, which he was able to access through a Lazard Capital Markets-issued credit card. As required, Ward routinely submitted his expenses for approval by Lazard Capital Markets.

13. Lazard Capital Markets' policies prohibited providing gifts in excess of \$100. From 2001 through at least mid-2004, Lazard Capital Markets' Compliance Manual stated:

An employee may not give any gratuity in excess of \$100 per person per year to any principal, officer, or employee of another ... *financial institution*.... Records shall be retained for at least three years of all such gratuities and compensation for inspection by Exchange examiners. (emphasis added).

Lazard Capital Markets also subjected its managing directors and employees to the prerequisites of relevant law and reasonable conduct and required that:

Any questions regarding the application or interpretation of behavior or conduct that may be acceptable must be brought to the attention of the General Counsel or his designee *before* any action is taken. (emphasis added).

Ward's Lavish Entertainment of Certain Fidelity Employees

14. During the Relevant Period, Ward expensed to Lazard Capital Markets over \$200,000 in connection with entertaining and providing gifts and travel to Bruderman and a few other Fidelity employees. The travel, entertainment and gifts consisted of trips including air travel, luxury accommodations, meals and other entertainment; expensive gifts such as a \$1,300 case of wine and \$1,329 humidior; and numerous tickets to concerts and the theater. During some of these trips and events, Ward provided drugs, including "ecstasy," to Bruderman and certain other Fidelity traders.

15. Examples of the trips that Ward (in some instances along with certain other Lazard Capital Markets employees) provided are as follows:

a. During 2001, Ward, together with other Lazard Capital Markets employees, took Bruderman on several out-of-town trips, including four trips to Florida (during which Ward expensed approximately \$36,000, and that cost Lazard Capital Markets in total over \$68,000), an excursion to California (during which Ward expensed approximately \$2,900, and that cost Lazard Capital Markets in total over \$76,000), and a trip to Europe (for which Ward expensed costs to Lazard Capital Markets of over \$13,000 for Bruderman and a number of other guests).

b. In January 2002, Ward took Bruderman to Florida for four days. Ward provided lodging, dinners and greens fees at a golf club, along with \$4,000 at an adult entertainment club called Rachael's Steakhouse. During that trip, Ward also paid over \$5,390 to take Bruderman and a colleague for lessons at a local auto racing school. The total cost to Lazard Capital Markets for the trip was over \$15,000, nearly all of which Ward expensed.

c. In or about August 2002 and again in or about August 2003, Ward, together with other Lazard Capital Markets employees, took certain clients, including at least one Fidelity trader, on trips to the Red Tail Golf Club, near Toronto, Canada. Ward, who was a member, provided the food, lodging, and golf, and the participants traveled by private jet at Lazard Capital Markets' expense. The total cost to Lazard Capital Markets for this trip was over \$34,000 in 2002 and \$43,000 in 2003.

d. In February 2003, Ward took a Fidelity trader, Bruderman, and Bruderman's guest, to Napa, California for a wine country excursion. Ward provided several nights lodging at high end hotels and meals at exclusive restaurants (including a \$3,600 dinner at the French Laundry). The total cost to Lazard Capital Markets for this trip was over \$16,000, nearly all of which Ward expensed.

e. In or about March 2003, Ward, together with other Lazard Capital Markets employees, joined with representatives of other brokerage firms to pay for Bruderman's bachelor party in Miami. Ward and the other Lazard Capital Markets employees provided several rooms at the Delano hotel, including a \$3,000 per night suite. Ward expensed over \$10,000 on this trip, which cost Lazard Capital Markets in total over \$50,000.

Lazard Capital Markets Received Substantial Business from Fidelity During the Period Ward Provided Travel, Entertainment and Gifts to Fidelity Certain Traders

16. During the Relevant Period, Ward used travel, entertainment and gifts in a manner that violated Lazard Capital Markets' policies requiring that entertainment be reasonable, based on the nature, scale and frequency of the entertainment targeted toward Bruderman.

17. Throughout the Relevant Period, the brokerage commissions Ward generated from Fidelity were a significant portion of Lazard Capital Markets' overall commission revenue. In addition, the commissions Lazard Capital Markets received from the Fidelity Funds grew after Ward joined Lazard Capital Markets. In 1998, the year Lazard Capital Markets hired Ward and his colleagues, Lazard Capital Markets received \$1.4 million in commissions from Fidelity. By contrast, during the 2001 to 2003 period, for example, Ward was responsible for generating the following commissions from Fidelity, representing the following percentages of Lazard Capital Markets' overall gross commission revenue:

Year	Approximate Gross Commission Revenue Ward Generated From Fidelity	Approximate Percentage of Lazard Capital Markets' Overall Commission Revenue
2001	\$7.4 million	16.2%
2002	\$7.2 million	16.4%
2003	\$6.1 million	16.1%

During the Relevant Period, commissions from Fidelity far exceeded commissions from any other Lazard Capital Markets customer.

18. Bruderman, the primary beneficiary of Ward's largesse, alone sent trades generating a total of \$21.6 million in brokerage commissions to Lazard Capital Markets during the Relevant Period, as follows:

2000	\$3.6 million
2001	\$6.4 million
2002	\$5.6 million
2003	\$3.8 million
2004	\$2.2 million

The commissions generated from Bruderman represented over ten percent of Lazard Capital Markets' overall commission revenue during that five-year period.

19. The travel, entertainment and gifts Ward provided to Bruderman and a few other Fidelity traders constituted prohibited “compensation” within the scope of Section 17(e)(1) of the Investment Company Act.

Violations of the Federal Securities Laws

20. Section 17(e)(1) of the Investment Company Act makes it unlawful for an affiliated person of a registered investment company, or an affiliate of an affiliate, when acting as an agent, to accept compensation from any source (other than a salary or wages from the registered investment company) for the purchase or sale of any property to or for the registered investment company. A violation of Section 17(e)(1) is complete upon receipt of the compensation. Bruderman and certain other Fidelity traders were affiliated persons of Fidelity, which is an affiliated person of investment companies (the Fidelity Funds), because Fidelity advises those funds. Bruderman and certain other Fidelity traders’ receipt of travel, entertainment and gifts from Ward constituted compensation in violation of Section 17(e)(1) of the Investment Company Act. As a result of the conduct above, Ward willfully aided and abetted and caused those violations.

Undertakings

21. Respondent Ward shall provide the Commission, within 10 days after the end of the 6-month suspension period described below, an affidavit that he has complied fully with the sanctions described in Section IV below.

22. In determining whether to accept the Offer, the Commission considered these undertakings.

IV.

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

Accordingly, pursuant to Sections 15(b) and 21C of the Exchange Act and Sections 9(b) and 9(f) of the Investment Company Act, it is hereby ORDERED that:

A. Respondent Ward cease and desist from committing or causing any violations and any future violations of Section 17(e)(1) of the Investment Company Act.

B. Respondent Ward be, and hereby is suspended from association with any broker or dealer for a period of six months, effective on the second Monday following the entry of this Order.

C. Respondent Ward be, and hereby is prohibited from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for, a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter for a period of six months, effective on the second Monday following the entry of this Order.

D. IT IS FURTHER ORDERED that Respondent shall pay a civil money penalty in the amount of \$50,000.00 to the United States Treasury in accordance with the following schedule: (1) \$25,000 within 10 days of entry of this Order, and (2) \$25,000 within 364 days of entry of this Order. If any payment is not made by the date the payment is required by this Order, the entire balance of the civil penalties, plus any additional interest accrued pursuant to SEC Rule of Practice 600 or pursuant to 31 U.S.C. 3717, shall be due and payable immediately, without further application. Such payments shall be: (A) made by United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies Robert A. Ward as a Respondent in these proceedings, the file number of these proceedings, a copy of which cover letter and money order or check shall be sent to David P. Bergers, Regional Director, Boston Regional Office, Securities and Exchange Commission, 33 Arch Street, 23rd Floor, Boston, Massachusetts 02110-1424.

E. Respondent Ward shall comply with the undertakings enumerated in paragraph 21, above.

By the Commission.

Florence E. Harmon
Acting Secretary