

BEFORE THE SECURITIES COMMISSIONER
OF THE STATE OF DELAWARE

IN THE MATTER OF:)
)
BLINDER ROBINSON AND)
CO., INC.,)
JOHN TEMPLETON THORN, JR.)
MARK TUCKER, SR.,)
JOHN JOSEPH COX, HARVEY) Case No. 90-01-01
ALLEN COHEN, THEODORE)
KEITH FLOWERS, JOHN PAUL)
MEE, DANETTE L. DEPINA,)
and MICHAEL KYOUNGHO KIM,)
)
Respondents.)

OPINION OF THE DESIGNATED HEARING OFFICER

Nature of the Proceedings

Having received a complaint against respondents, the Securities Commissioner issued an order dated January 30, 1990, that pursuant to 6 Del. C. sec. 7316(c) a hearing would be held on the charges contained in the complaint if written request were received within thirty-days of the date of the order. The complaint in the form of Notice of Intent to Revoke Broker-Dealer and Agent Registrations and the Commissioner's order were served on all parties. Requests for hearings were received within the thirty-days as well as a request for the Commissioner to recuse himself because of involvement with a prior matter involving Blinder, Robinson and Co., Inc. ("Blinder or Blinder Robinson"). Accordingly, pursuant to Rule 73(1)(6) I was appointed as the presiding officer for this hearing. A notice was sent to all parties

setting a time and place for a pre-hearing conference. The pre-hearing conference was held on June 18, 1990. Counsel for Blinder and Mr. Thorn, as well as counsel for the State, were in attendance. At that pre-hearing conference the hearing date was set for September 10, 1990. All parties were notified of that hearing date.

Prior to the hearing date it came to my attention that Blinder had filed for bankruptcy and counsel for Blinder was contacted and requested to notify me if Blinder intended to continue to participate in the hearing. By letter dated August 27, 1990 I was informed by counsel for Blinder that it had indeed filed for bankruptcy and was in the hands of Trustee. Charles Gruver, III, Esquire, counsel for Blinder further informed me that he had discussed the matter with the Trustee's representative and been informed that the Trustee did not intend to have him act as counsel in the proceedings.

I was then contacted by counsel for Mr. Thorn, James L. Patton, Esquire. A telephone conference was held during which he raised several issues including the bankruptcy of Blinder Robinson. I determined that pursuant to 11 Del. C. sec. 362 this hearing was a regulatory action under the police power of the State commenced prior to the bankruptcy of Blinder. Therefore it could proceed and was not subject to the automatic stay. He also raised two issues relating to Mr. Thorn, which requests were denied.

On September 10, 1990 prior to the commencement of the hearing, the State and Mr. Thorn entered into a stipulation and consent order suspending Mr. Thorn's registration as a broker/dealer in Delaware for two years, containing his agreeing not to apply for registration in Delaware for a period of ten years and his agreement to pay restitution to several investors in the amount of \$8,000. The Securities Commissioner retained jurisdiction to enforce that order and Mr. Thorn waived all rights to any hearing. This consent order was adopted by the Commissioner.

The hearing commenced on September 10, 1990 in the Department of Justice conference room, 820 N. French Street, Wilmington, Delaware. Present were the hearing officer, Deputy Attorney General Gregg Wilson representing the State, Denise Salvatore, Securities Investigator, and several of the respondents. Although the respondents had been advised of their right to be present either in person or through counsel and to participate fully in the hearing, several agents arranged to be present only during certain portions of the proceedings which they felt applied to them individually. However, the agents were advised of their right to be present throughout the hearing and that anything presented at the hearing, if competent, could be considered whether they were present or not.

During the hearing the State withdrew Counts 48 and 49 of the Complaint.

Summary of the Evidence

testified that he had limited experience in investing other than purchasing stock in a company for which he worked. He stated that he was approached by Mr. Thorn who telephoned him and explained that he had a government security which was safe. Mr. Thorn did not tell that this was a high risk security but told him that he could expect a ten to twenty percent return and never mentioned the possibility of losing his principal. never realized the extent of the risk involved in this investment. He was told by Mr. Thorn that he needed to buy a thirty thousand dollar minimum purchase and Mr. Thorn implied that he and his brother-in-law would be purchasing the stock. further testified that he was not aware of what a margin purchase was. He did not understand that he was borrowing part of the money to make the purchase. He testified he later received a mailgram saying that there was a \$14,000 margin call which he did not understand. He said Mr. Thorn explained that the value had dropped because of mortgage pay-offs. He again reiterated that he thought this was like a government bond.

stated that this investment, FNMA-7 he thought was a government security. He stated that Mr. Thorn did not inform him of any risk nor did he inform him that the Fannie Mae had not authorized this. Mr. Thorn had not told him that the pre-payment of mortgages or transfer of

mortgages could affect his investment nor was he told about the risk of purchasing stock on margin nor provided a prospectus prior to purchasing the stock. He was not asked about his investment objectives. He testified that he now realizes he was ignorant of what he was buying and had trusted Mr. Thorn because he had brought a small amount of stock from Mr. Thorn previously and made a small amount of money. He testified that he was not someone who was a risk taker.

testified that in August 1988 when he did not receive any checks as he expected on the FNMA-7 investment he called the Blinder office. He found that Mr. Thorn was not there and talked to Mark Tucker, respondent here. He testified that Mr. Tucker told him that his investment was safe and don't worry because it was insured by SIPC. Mr. Tucker told him the interest was being accumulated by Blinder and that he was getting interest on interest thereby getting a higher return than normal. At no time was

given a record of this. He testified he was concerned but that Mr. Tucker convinced him that his investment was safe. At no time did Mr. Tucker explain to him the risk involved in the purchase of this investment.

testified that when he finally sold the investment he lost approximately \$19,000. (S-1, S-3)¹

¹"S- " refers to a State Exhibit. There were 77 State's Exhibits and 11 Respondent Exhibits. The respondent
(Footnote Continued)

On cross examination _____ stated that he had two or three conversations with Mr. Tucker over a couple of months and stated that when he talked with Mr. Tucker he was not told anything about the interest rates of his investment but just given assurances as to its safety. _____ testified that he received Mr. Tucker's business card (S-31). He said he thought he started calling in June but was not sure when he talked to Mr. Tucker. _____ acknowledged that at one point Mr. Tucker was not there and he was referred to Mr. Mee who also assured him to stay in the investment. Upon further reflection _____ reaffirmed that he was sure he had talked to Mr. Tucker, perhaps as many as four times. He stated that he stayed in the investment because of what Mr. Tucker said. Admitted as S-7, as a document received by Denise Salvatore, Securities Investigator was a letter from FNMA to Blinder Robinson concerning Blinder's misrepresentations regarding the connection of its penny stock offering to FNMA.

Mark Tucker testified that he became office manager in Delaware after the Court of Chancery order and that he had some 1,000 accounts transferred to the Delaware office pursuant to that court order. Because he was office manager they all went under his name but in fact he divided the accounts among five brokers. He said he originally gave

(Footnote Continued)
exhibits are designated by the first letter of the respondent's name.

account to a Mr. Marini who did not want the account so it went back to Mr. Tucker. He asserted that he had no reason to misrepresent things to _____ as he was planning on leaving Blinder because of the problems of the firm. He stated that when he got the call from _____

_____ he looked at the account statement (S-33) and it was internally consistent and therefore based on the only information he had he thought the investment was okay. He asserted that there was no motive for him to make _____

_____ remain in the investment as he was leaving the firm. He was aware that the interest would be retained for five months. He adamantly asserted that it was not in his interest to keep _____ in the investment since he would only make a commission if he sold something else, which was not the case as he was leaving the firm. He thought he had spoken to _____ in June.

On cross examination he stated that he had been an agent with Blinder since August 1986. He admitted that he knew that _____ account was a leveraged account. He reiterated he thought he had taken over the account in May then assigned it for a month and then taken it back. He admitted that he has sold the FNMA-7 investment but did not play on it as a government investment. He said in fact he told people it was a "medium risk" and in fact a low risk relative to the interest rates. He said he told people that it would be five months before they got their interest. He stated that he thought Jack Thorn took short cuts and made

misrepresentations. He believed that [redacted] had received the circular about the investment prior to the solicitation. Mr. Tucker stated that he never saw the selling points although he was told about them. He stated that if he had talked to [redacted] and [redacted] had not understood the particulars of the investment he would have referred him to Mr. Cohen who was in the bond department of Blinder. He testified he thought [redacted] had not received the interest because of the five month period. He had been told by Blinder that the interest was out. He testified that Harvey Cohen and Joseph Cox were in charge of the investments and that they would explain the investments to the sales staff. He understood that the down side of this investment was a down turn in interest rates or mortgage pre-payments. He did not advise [redacted] of these factors at the time he talked to them.

He stated that because [redacted] statement had an internal consistency and he had not sold the securities to [redacted] he did not explain these factors. He testified he would not have known of the bid price at that time. He stated he was not sure of the specifics of his conversation but that if [redacted] had wanted to know specifics about the FNMA-7 investment he would have referred him to Mr. Cohen. He asserted his conversation with [redacted] was brief. Finally he asserted that he had no reason to keep [redacted] in the investment because he was leaving the firm and would not make anything on it.

Next to testify was _____ who was sold securities by respondent Michael Kim. _____ stated that he had never purchased penny stocks before. He was attracted to them by their potential but had told Mr. Kim that he was not interested in high risk but in safe investments. He stated that in February of 1988 Mr. Kim approached him and sold him L.Rex which Mr. Kim told him was a good investment with contracts in China and a safe, solid company. He bought 25,000 shares without understanding the difference between bid and ask price which was not explained, nor were any risks explained to him. He was not aware that Blinder Robinson was a market maker in this stock and was not provided a prospectus prior to the purchase of the stock. He testified he sent the check right after the phone call from Mr. Kim. He stated he was not advised of the company's financial conditions or other conditions in the prospectus and that there was no public market and that the shares could be diluted.

In March of 1988 he was contacted by Mr. Kim and persuaded to sell some of his L.Rex stock and buy a company called San Juan Fiberglass Pools. He was told by Mr. Kim that San Juan was the only fiberglass pool maker in the United States, had a good market share, and in the summer months the stock would go up without question. He testified he made \$52 on the L.Rex sale. He never saw the prospectus for San Juan Fiberglass Pools prior to purchasing it. He was still looking for safe investments.

In April of 1988 Mr. Kim again contacted [redacted] and persuaded him to buy Tekna-Tool a company specializing in hand tools. Mr. Kim told him that this company had exclusive patents and that even Taiwan, which doesn't recognize patent protection, would honor the company's patent. He further represented to [redacted] that this company had a contract with K-Mart and Sears. Mr. Kim did not advise [redacted] of any of the risks involved with this company and a purchase of \$6,010 was made.

After the purchase, [redacted] got a letter from Blinder stating that because of the Court order it could only deal through its Delaware office. [redacted] called Blinder and talked to Mr. Tucker and wanted to sell his stocks. Mr. Tucker did not know the prices but said he would handle the transaction. It was at this time that he found out that there was a 50% difference between the bid and ask price and that Blinder was still selling the stock to others at the original price but would only buy it back at one-half of the price. At this time he complained to Blinder with a letter of August 23, 1986 to Mr. Thorn. He stated that he was never told of any of the risk factors with regard to Tekna-Tool, never had a prospectus and believed it was a solid company as he was told by Mr. Kim. [redacted] testified that the present value of all his stock with Blinder Robinson is now less than \$400.

Michael K. Kim testified that he first contacted [redacted] in January of 1988 and had two conversation with him

that month. He stated that the seemed to be knowledgeable about investments. He testified that on February 2, 1988 he had a conversation with them explaining the penny stock market, the risks involved bid and ask prices and what making markets was. It was after that conversation, on February 4, 1988, that he recommended L.Rex. Mr. Kim asserted that he did not talk about contracts but sent them a prospectus. He stated that with the confirmation was enclosed a prospectus and he believed the were aware of the risks. He testified that on March 3, 1988 he called about San Juan Pools. He stated that wanted to sell L.Rex to diversify. He stated that on April 11, 1988

 asked him for a quotation on San Juan Pools and quotations on other things. He stated that on April 22, 1988 he recommended Tekna-Tool and did not request information. With regard to the allegation of misrepresentation on his U-4 form filed with the Securities Commissioner, Mr. Kim stated that he answered the question the way he did because he believed that the complaint from did not involve \$10,000 or more.

On cross examination Mr. Kim testified that told him his objective was growth. He stated that it was during the third conversation that he explained the penny stock market and told that it was risky and he could lose everything. He asserted that he told about bid and ask price. Mr. Kim said that on new issues Blinder paid the commission and that he made \$30 on a \$1,000 sell. When

asked why he recommended L.Rex, he testified that the management had experience, three years in the business and an attorney in the business; that it was a new business and a good idea. He testified that he recognized his duty of due diligence and believed [redacted] was interested in speculative stocks. He testified that nobody reads the whole prospectus and admitted that he had not read it "page by page". He admitted that the investment in San Juan Pools was highly speculative. He stated that he always told about bid and ask pricing if asked. He admitted that he did not tell [redacted] any of the risk factors listed in the Tekna-Tool prospectus. He again asserted that his answer to question 22 in the U-4 form about fraud was an honest mistake regarding the question. He asserted that with regard to the representations that he made that he was following his sales manager's orders.

On rebuttal, [redacted] testified that he was never told of the spread between the bid and ask price and that Mr. Kim never spoke of this. He reiterated that he was not interested in speculative or high risk stocks. His interest was in growth stocks but he never told Mr. Kim he was interested in high risk.

[redacted] testified regarding his purchase of stocks from respondent John Mee. [redacted] stated that he had no prior experience in investing but in September of 1988 brought 55,000 shares of L.Rex for \$3,585. He stated he was a Delaware resident, went into the office of Blinder

and met with Mr. Thorn and Mr. Mee. He stated that after that visit Mr. Mee called him and he bought the L.Rex at that time. He stated that at the time of the purchase he had received no prospectus and, had not been advised of any risk. He stated that he was a conservative investor. He testified that Mr. Mee did not asked him about his investment objectives, did not tell him of any risks, and did not inform him about bid and ask price. He stated that he requested a prospectus and had difficulty in obtaining it.

He testified that in late September 1988 he again on a first call from Mr. Mee brought a company called Lasergate Systems without seeing a prospectus, without being informed of any risks. He also testified that he was not informed that Blinder Robinson was making a market in this stock nor was he informed about bid and ask price. Mr. Mee did not discuss risks contained in the prospectus with regard to any of the stocks brought from Mr. Mee. The State introduced the annual report of Lasergate (S-28) which showed the company had sustained losses. only received the prospectus after request.

In late September 1988 Mr. Mee telephoned and recommended a stock called Nam Tai, which again brought without having been advised of any risks, not knowing about bid and ask price or that Blinder Robinson was making a market in this stock and without receiving a prospectus. testified that Mr. Mee never told him that the value of his stocks was decreasing and he only

the complaint without having heard his side of the story.

He stated that at the time of the transactions with

he was rarely in the office and that most of the dealings were with Mr. Thorn. He believes that the numbers on the confirmation slips for the transactions of (S-20 thru S-24) contained Mr. Thorn's agent number. He challenged the adequacy of the investigation. He stated although Ms. Polleck's letter required a response by approximately two weeks from its date, he thought that had been extended by phone and he said that he believed that since the stocks were sold beyond ninety days of the issue, there was no requirement to send a prospectus. He said he relied on the suitability of for the investments as stated on the account card. He testified that the separate account card shows an income of approximately \$75,000 which indicates suitability for these investments. He testified that he told that Blinder made a market in the three stocks and gave him the bid and ask price when asked. He also believed that was already in these type of stocks and therefore suitable. He asserted that

was not his account and that it was Mr. Thorn who had dealt with .

Next to testify was who testified that he was a Delaware resident and in November of 1988 brought from Mr. Thorn shares in a stock called Underground Camera of New York (UCAM). He testified that he had purchased about \$10,000 worth of stock previously and had purchased

some other stocks from Blinder. He testified that Mr. Thorn advised him to liquidate his holdings and buy UCAM. He stated he purchased the stock from Mr. Thorn on the first or second call. He stated that Mr. Thorn represented that UCAM had booths in many stores, would be profitable and would explode. He purchased stock in this company in the amount of \$975. Mr. Thorn represented to him that UCAM had an agreement with a nation chain to put booths in their stores. Mr. Thorn at no time told him of the down side risk of this investment nor provided him with a prospectus.

testified that he was not aware of what making a market in the stock was and did not know if Blinder Robinson held the stock. He testified that Mr. Thorn made no inquiry into his investment objectives and that he purchased the stock at a higher price than quoted.

He testified that two or three months later the stock was going down and he wanted to sell and Mr. Thorn advised him to wait until the annual meeting, that the stock would go up. At no time did Mr. Thorn speak of problems but merely assured him that when the annual report came out but the stock would go up. Based on such representations he held the stock until it became worthless. Mr. Thorn never discussed the risk factors listed in the prospectus prior to the purchase. Those risk factors as stated in S-43, included the closing of the stores in Zayres, competition, supply problems, litigation and market factors, conflicts of interest and dependence on key personnel. They also

included warrants held by the underwriter. testified that he was not aware that there was no market for the stock and that the price was set arbitrarily. He thought this stock acted like any on the public market. Mr. Thorn did not advise him that the company was losing money, restructuring and that the Zayres operations had closed one month prior to purchase of the stock (S-43, page 9).

testified that he is a Delaware resident and that in 1986 he purchased SBB, Inc. for \$1,500 from Theodore Flower, a Blinder agent. He stated that his offices were next to the Blinder office and he became acquainted with Mr. Flowers and Mr. Flowers suggested SBB. He testified that this was represented by Mr. Flowers to him as a blind pool that would increase in value approximately 25% in six months to a year. He testified Mr. Flowers represented that SBB, Inc., had raised ten million dollars at the time of the sale. Mr. testified that he thought the difference between bid and ask price was the commission, approximately 1.25 cents. He stated he knew there was some risk involved and understood that he could lose all his money. However, he stated that Mr. Flowers did not explain that Blinder Robinson was making a market in the stock. He did not receive the prospectus prior to purchase and Mr. Flowers did not discuss the possible dilution of the stock or the company's finances prior to the sale.

testified that the SBB stock became worthless.

On cross examination [redacted] testified that he and Mr. Flowers had become acquaintances and spoke about stocks. He admitted that this was not a hard sell. He stated that he had told Mr. Flowers that he had \$5,000 coming to him and that he wanted to invest one to two thousand dollars. He further admitted that he was at the time Assistant Manager of a bank credit card operation but testified that he had limited knowledge of stocks. He insisted that he was conservative investor and understood there were some risk. He admitted that he knew what the penny stock market was but did not know that Blinder made a market in these stocks. He basically knew that these were speculative stocks. He stated that Mr. Flowers told him what a blind pool was and showed him other blind pools and what had happened earlier. However, he testified he did not know that only Blinder could sell the stock and was making a market in the stock. He was led to believe that within six months the pool would buy a business and make a profit. He stated that his investment objective was long time growth with safety but with some risk. He testified he did not understand bid and ask and thought it was one quarter of one cent different which represented the commission.

Theodore Flowers testified that at the time of the transaction with [redacted] he had been at Blinder approximately one year. He stated that there is no safety in blind pools and they are not for a long term growth investment. He acknowledged that the 10K form disclosed that this was

not a suitable investment for someone who wished income. He testified that he met his duty of due diligence by having meetings with the office manager and regional manager who informed him about the blind pool. He stated that he himself had bought a blind pool.

He testified that the management of Blinder Robinson had told him about SBB and he made his recommendation based on what the management had told him but he admitted that he had not seen the 10K or 10Q disclosure forms at the time of the meeting. He acknowledged that the 10Q form showed that they were not two valid letter of intent as he had been told by management but that one had been canceled actually before he had been told by management that there were two. He acknowledged that he told [redacted] that there were two letters of intent and did not check the documents for accuracy. He further acknowledged that the 10K form (S-47) which showed the previous annual report showed that there were warrants due in October which would have to be exercised or lost. He further acknowledged that it showed that at the time [redacted] was paying 2.35 cents per share, that there were warrants outstanding for one hundred sixty million shares which could be brought at one cent per share. He admitted that 90% of blind pools fail. He stated that he left Blinder because he had been lied to about a new issue and was currently with Shamrock Partners in Media, Pennsylvania. He acknowledged that Blinder was not dealing fairly about the warrants and that Blinder exercised the warrants

without telling the brokers. He testified that he would not have recommended SBB had he known about the warrants being exercised.

Mark Tucker later in the proceeding testified again. He stated that Jack Thorn reviewed the accounts and if they were not busy accounts he gave them to John Mee to handle. Mr. Mee could have made sales on those accounts. He stated that Mr. Mee acted as a go between for Mr. Thorn and Mr. Mee may have been contacted even if Mr. Thorn's number was on the account. He testified that information was given to the agents by Blinder management. His assertion that as office manager he may have handled many accounts, but that they were not his clients. He stated that with FNMA-7 he was told by Blinder that interest rates would have to move two to four percent for there to be a problem with the investment. He was not told about the margin call and acknowledged that if safety of principal was a concern that this was not a good investment.

next testified that she is 69 years old and retired. She stated that prior to purchasing stock from Blinder she had gone through a traumatic divorce. She stated that she had operated a restaurant for five years, operated a car wash and gasoline station and also a Trailways Bus Station. She stated that she was divorced at 58 and received social security at 63. She said that she was a conservative investor. In 1987 she had friends who had made money in the penny stock market. She stated that

prior to her contact with Blinder she had relied on a Dean Witter broker and invested primarily in money market funds, utilities and blue chip stocks. She said she had no knowledge of the penny stock market. Her income at the time of investment with Blinder was approximately \$25,000. She stated at the time her net worth was approximately \$200,000 although her new account card at Blinder showed \$300,000. She testified that she learned about Blinder through a card in the mail and then received a call from Mary Whitaker. Approximately one month later she got a call from Danette DePina who asked if she knew about the penny stock market and she said no. She told Ms. DePina that she did not understand the brochure on penny stocks. She said that Ms. DePina never discussed the risks of penny stocks or told her that she could lose all her money. She said she realized she might lose some of her money but she not in a position to take much risk.

She said she purchased from Ms. DePina a company called Tele-Art, Inc. She stated that Ms. DePina told her the company had good prospects and she put her trust in Ms. DePina, telling Ms. DePina that she did not really understand it. stated that she never received a prospectus before the purchase. She stated that after purchase the stock was going down but she was told to buy more to average down. She testified she did not understand bid and ask price and was not told that she had lost 50% of her investment.

She was then sold a stock called Lasergates. She testified that she did not understand the risks nor was she told that Blinder made a market in the stock. She was never told that she lost \$930 nor was she ever told that she had ever lost money as the statements she received did not show this.

She testified that Ms. DePina then sold her San Juan Fiberglass Pools, Inc., and represented to her that they were going to be introduced into Sears stores when in fact they were not located in Sears stores. She testified that she actually checked with some Sears stores and could not find this pool. She testified that she was never told of the risk factors nor that there was no market and did not understand how the price was set. Ms. DePina never explained warrants which could effect the value of the stock with her. She testified that Ms. DePina never discussed risks of any stocks with her.

She then testified that Ms. DePina then sold her a stock called Executive Capital. She testified that with all the stock she never got any money back from Blinder until the end when she sold every thing and was not aware that she had lost \$2,330. She stated that in early 1988 she asked Ms. DePina for a statement on the value of her stocks. She was sent a handwritten statement (S-77) which did not show losses or gains. She thought at the time she had not lost anything.

Subsequently Ms. DePina sold her companies called Western Acceptance, Telephone Express Corp., Deucalion Research, L.Rex, and American Strategic, Inc. testified that she received a call from Ms. DePina saying that she could not handle her account anymore. When she did not hear from the Wilmington office she called and spoke to Mr. Tucker, who called her back and told her the value of her stocks was approximately \$2,000. In July she called and talked to Jack Thorn and told him to clear her account and she received \$1,962.60 back from Blinder.

On cross examination she said she may have purchased the Tele-Art stock from Ms. Whitaker. However, she stated she did not know anything about warrants which were involved with the Tele-Art stock.

Next to testify was Danette L. DePina. She introduced seven exhibits (D1-D7). She denied selling the Tele-Art stock to [redacted] and asserted that it was Ms. Whitaker who has sold it to her. She testified that she took over [redacted] account in March of 1987 and updated the account card. She stated that she told [redacted] of the risks of penny stocks and would only use 10% of worth to invest in them. She asserted that [redacted] had the prospectus of the all stocks prior to the purchase. She testified that [redacted] asked her to keep her aware of penny stocks. She handled the [redacted] account until January 1988. She stated that [redacted] never told her she was dissatisfied and that when she was relieved of the

account the value was the same as the investment. She testified that _____ never told her she did not receive a statement and assumed she was receiving these. She believed that _____ was capable of evaluating these stocks. She also believed that the prospectus on each stock had been issued to _____ and that she was given the information to make and informed decisions. She asserted that _____ wanted speculative stocks and understood the risks. She testified that she sent brochures about penny stocks to _____ and that she had a very close relationship with _____ including sending flowers and cards.

On cross examination Ms. DePina admitted that the account card (D-1) was not signed by _____. However, Ms. DePina again asserted that prospectuses with regard to Lasergates, San Juan Pools, Western Acceptance, Deculina and L.Rex were sent before the purchase. She asserted that the agent must send out the prospectus before the purchase and that Blinder Robinson sent another copy from its office. She admitted that the statement that she had sent

_____ did not have any information on losses. She also admitted telling _____ that San Juan Pools was in Sears but asserted _____ had the prospectus before she purchased San Juan Pools. She steadfastly maintained that _____ understood the risks of penny stocks.

_____ on rebuttal testified that she never got the prospectuses before purchase and was not a well informed

investor. She reiterated that she did not know she was losing money and that, although she was willing to take some risks, she was a conservative investor and was not aware that the penny stock market was a high risk venture. She stated that she was led to believe that she would make money and she trusted Ms. DePina like a daughter. She testified she did not know that she was incurring losses and that anything Ms. DePina would read her was over the telephone. She stated that when she eventually did get prospectuses she did not read them and did not understand them. At no time was she told negatives about potential investments. She stated that if she did read any prospectuses she did not understand them. She said she was surprised to learn of her losses.

Ms. DePina testified that she believed understood the risks and that the risks were the same in all penny stocks. She did not specifically review each prospectus risk factor with nor did she read each prospectus word for word herself. She asserted that was aware of the possibility of risks, and was not mislead. She thought was kept informed through the confirmation statements.

Robert Yoder testified that he was with Blinder Robinson in Valley Forge, Pennsylvania but had left Blinder and was presently with Dean Witter. He explained that while he was with Blinder that Joseph Cox was Special Assistant to Meyer Blinder and that Harvey Cohen was head of the Bond

Department and then Vice President. Mr. Yoder acknowledged that he sold the FNMA-7 stock to . He said he had discussed the stock with Joseph Cox and Harvey Cohen by phone and had been informed by them that it was a safe investment. He stated that was a Delaware resident and had been looking for income. He further acknowledged that was a conservative investor interested in only small speculation. He stated that when he met with he took the material sent to him by Blinder. He then went back to Mr. Cohen and Mr. Cohen again assured him that this investment was Government backed by the full faith and credit of the United States and was safe and secure. He was told that this was less speculative than penny stocks. Further, he was told by Mr. Cohen and Mr. Cox that interest rates would have to go to 17% or the discount rate to 3 1/2% to affect the investment. He was told by Mr. Cox and Mr. Cohen that an interest check would not be received for five months because the interest prior to that would be used to pay down the margin rate. He acknowledged that never got an interest check and that it appeared that this investment was an investment in which Fannie Mae was participating.

He stated that when he left Blinder, , who is a family friend, wanted to transfer with him to Dean Witter. It was at this time that he found that FNMA-7 was an investment where Blinder made the market and was not connected with Fannie Mae. Dean Witter would not accept this account

unless [redacted] met the Dean Witter margin requirements. Eventually Dean Witter found a buyer for the investment which resulted in approximately a \$40,000 lost to [redacted] with Mr. Heim never receiving any interest.

Mr. Yoder testified that there was nothing on any statement that [redacted] received to indicate that he had lost money. Mr. Yoder acknowledged that Blinder's FNMA-7 offering circular failed to mention the risks of pre-payments, general economic conditions that and transfers of mortgage properties would affect the investment; that pre-payment would affect the return on the investment; that buying securities on margin is risky; and that pre-payment would affect the yield on interest on the investments.

Further, Mr. Yoder testified that he was never told by Mr. Cohen or Mr. Cox of the letter to Blinder by Fannie Mae nor of Blinder's offer of recession. Mr. Yoder testified that

[redacted] was a business partner of his fathers and a friend of the family and that he, Mr. Yoder, would have used extreme care in recommending investments. Mr. Yoder stated that he had had medical problems and the stress caused by his association with Blinder had been detrimental to him. Mr. Yoder testified that Blinder pressured him to have his clients purchase penny stocks and "churn" the accounts.

Next John Paul Mee testified. He stated that Mark Tucker was not in the office at the time he was in Delaware. Although he acknowledged that the manager would have assigned some accounts with Jack Thorn's agent number on it to

him, he stated that if any trades were made they would be made in the name of the person that had made them. He stated that he never made any trades under Jack Thorn's agent number. He testified that he is presently a CPA and works as an accountant and in the vacation package business. He asserted that he did not discuss the particulars of any transaction with _____ nor the particulars of his account. Further, he asserted that Mark Tucker who was not in the Wilmington office when he was there.

Findings of Fact and Conclusions of Law

Prior to my findings of fact, it should be stated that although a settlement was reached with John Templeton Thorn, Jr., and therefore he presented no defense to the allegations specifically against him and no findings regarding his conduct can be made as against him, to the extent that independent evidence exist to support those allegations, and they support a finding that Blinder as broker was guilty of violations of the Securities Act, those findings will be made for the sole purpose of attributing such conduct to Blinder.

The factual allegations and legal conclusion stated in paragraph 1 thru 25 of the Notice of Intent to Revoke relate to statutory authority and parties. No evidence was presented contesting these introductory allegations and therefore I adopt them as findings of fact and conclusions of law.

From the testimony of _____ I find that Blinder, through its agent Thorn, sold _____, a Delaware resident FNMA-7 securities as alleged and did represent that this was a government security and the safest investment. Further, I find from _____ testimony that it was represented to him that he would make a ten to twenty percent return with no mention of his losing principal. _____ testimony further supports the finding that he was told that he had to buy a block of \$30,000 worth this stock and that he was given the impression that Mr.

Thorn and his brother-in-law would be purchasing the stock. I accept testimony that he was not aware nor was he told what purchasing on margin was and did not understand that he was borrowing money to purchase the stock. Further, it is clear that did not understand the margin call as he thought he was in a government investment. I find that at no time did Blinder, through its agent Thorn explain the risks involved nor that this was not a government security nor was it explained that pre-payment of mortgages could effect the investment. He further was not given a prospectus prior to the purchase nor was any investigation done regarding the suitability of this investment for .

In fact, I find that there was a willful and purposeful objective on the part of Blinder, through its agent Thorn, to mislead into believing he was purchasing a government security. This is supported additionally by the testimony of Mr. Yoder who testified regarding the misleading statements of officers of Blinder, including Harvey Cohen and Joseph Cox. These facts along with the pervasive pattern of misrepresentation of all the cases involved in this complaint, as well as the involvement of Cohen, Cox and the local office manager Thorn support the findings that these were willful misrepresentations of material facts and admissions of material facts in violation 6 Del. C. sec. 7303(2) and sec. 7316(a)(2) by Blinder and that Blinder, based on the above facts, engaged in dishonest and unethical

conduct in violation of 6 Del. C. sec. 7316(a)(7) and sec. 7316(a)(2) by failing to provide a prospectus, failing to investigate investment objectives, failing in due diligence, and recommending an unsuitable investment. Other material omissions and misrepresentations are the failure to advise, either orally or through its circular on this investment, that this was not in anyway connected with Fannie Mae, a government backed agency, failing to inform of the impact of certain factors such as pre-payment of mortgages and other economic factors. Blinder further violated 6 Del. C. sec. 7316(a)(7) and sec. 7316(a)(2) by failing to disclose the letter from Fannie Mae's legal counsel notifying Blinder of material misrepresentations and omissions in its circular and violated 6 Del. C. sec 7316(a)(10) and sec. 7316(a)(2) by failing to reasonably supervise its agent, John Thorn. Again, given the pervasive nature of this conduct throughout the transactions about which evidence was given in this case, as well as the specific involvement of the officers of Blinder as shown by Mr. Yoder's testimony, justifies the inference that this was a willful violation on behalf of Blinder as broker.

I further find testimony credible that when interest checks did not come he called the Blinder office and when Mr. Thorn was not there talked to Mr. Tucker who told him the investment was safe and that it was insured by SIPC and that interest was being accumulated at Blinder. I further believe that Mr. Tucker told him that interest was

being paid on interest thereby having a higher return. I find no evidence that Mr. Tucker ever explained any lost of value or risks with this investment from which sustained a \$19,000 plus loss.

I do not find the possible confusion about the dates when talked to Mr. Tucker as opposed to when he talked to Mr. Mee as affecting his creditability regarding basic facts. I further do not accept Mr. Tucker's explanation that he simply looked at the account and saw that the statement was internally consistent and that he had no specific conversations with in which he persuaded him to stay in the investment. I accept the fact that after the Court of Chancery's order all accounts may have been transferred to the Delaware office under Mr. Tucker's name. He asserted that when he did sell the FNMA-7 investment, which he did not to , he told people it was medium risk, low to interest rates. He said he assumed that the circular would have gone to the customer and assumed had received it and understood it. He further said that if he did not understand an issue he would have referred the person to Mr. Cohen in the bond department. He stated that Mr. Cohen and Mr. Cox were in charge of explaining investments to the agents but that they did not explain the down side of this investment correctly. He insisted that if wanted specifics he would have referred him to Mr. Cohen. He continued to assert that he had no reason to keep in the investment.

However, not withstanding the mistake possibly in the date of the conversations I believe version that he was reassured by Mr. Tucker and through Mr. Tucker by Blinder and therefore find that the factual allegations set forth in paragraph 27 of the Notice of Intent to Revoke are true and conclude that Mr. Tucker, violated 6 Del. C. sec. 7316(a)(2)(7) and Blinder, through its agent Mr. Tucker, violated 6 Del. C. sec. 7316(a)(2)(7)(10) as alleged in the Notice of Intent to Revoke.

The misrepresentations in this case pervade the actions of all the agents named in this case, showing a pattern of operation for Blinder which alone would be sufficient to find that Blinder had failed reasonable to supervise its agents in violation of 6 Del. C. sec. 7316(a)(2) and (10). In addition, the testimony of Robert Yoder, which testimony I find to support the factual allegations and conclusions of law stated in paragraph 28 of the Notice of Intent to Revoke, specifically shows that the willful misrepresentations of material facts and omissions of material facts were not only known to Blinder through its high officials, Mr. Cox and Mr. Cohen, but were in fact promoted and furthered by the representations that Mr. Cox and Mr. Cohen made to its agents, an example of which relates to the FNMA-7 investment. Both Mr. Yoder and Mr. Tucker testified regarding material facts which Mr. Cox and Mr. Cohen either affirmatively misrepresented to them, such as the swing in interest rates which would necessary to affect the

investment or that this was government backed, or the material omissions, such as failing to advise the agents of the letter received from the Fannie Mae legal counsel (S-7). Although the testimony of Mr. Yoder and Mr. Tucker regarding the necessary swing in interest rates that they were told by Mr. Cox and Mr. Cohen would be necessary for losses to occur may differ slightly from those as alleged that is not significant. It is clear that the misrepresentations and willful omissions were made by Mr. Cox and Mr. Cohen as high officials of Blinder in violation of 6 Del. C. sec. 7303(2) and sec. 7316(a)(2)(7)(10) and that by such activity Blinder failed to reasonably supervise its agents in violation of sections 7316(a)(2)(10). Although specific allegations of paragraph 28 of the Notice of Intent to Revoke were supported by testimony of Robert Yoder, this testimony was substantiated by some of the testimony of Mark Tucker.

As I have found the factual allegations of paragraph 28 to be true I conclude that John Cox and Harvey Cohen likewise violated 6 Del. C. sec. 7303(2) and sec. 7613(2)(7).

Similarly, the testimony of _____ supports the finding that the allegations of paragraph 29 of the Notice of Intent to Revoke are true and I so find. Further, I find that the allegations that Blinder should be charged with the actions of its agent Flowers in this case are further supported, beyond what has been said before, by the testimony of Mr. Flowers who stated that he was relying on meetings with his manager or regional manager for his due

diligence, and that he had meetings with the manager and regional manager who gave him the information on which he relied to make his recommendation, not having seen the 10-Q or a 10-K documents himself. Further, Mr. Flowers testimony supports the willfulness of Blinder in that Mr. Flowers was never told that one of the letters of intent on which the blind pool was relying had been revoked prior to the sale to

Further, Mr. Flowers testified that there were warrants due in October which had to be exercised or lost and this made it a dangerous situation.

He stated he left Blinder because Blinder had lied to him about new issues and was not dealing fairly about warrants, including exercising warrants and not telling the brokers. He stated that if he knew that Blinder was exercising warrants he would not have recommended the stock. This clearly supports that Flowers violated 6 Del. C. sec. 7303(2) and 7316(a)(2)(7) and Blinder (through its agent Flowers) violated 6 Del. C. sec. 7303(2), 7316(a)(2)(7)(10).

Paragraphs 30 through 32 of the Notice of Intent to Revoke depend on one issue, namely credibility.

testimony along with the documentary evidence introduced, support a finding that the allegations contained in those paragraphs are true. Mr. Mee's defense was that he did not sell the securities to , alleging that the agent's number on the confirmation slips was that of Mr. Thorn. He admits talking to but asserts that he sold him no securities. From Mr. Tucker's testimony I find

that I believe _____, that Mr. Mee did in fact sell him the securities. Mr. Tucker testified at length about how, after the order of the Court of Chancery, accounts were transferred to the office manager' name. Accordingly, the fact that the number on the confirmations slips might be Mr. Thorn's is not significant. Mr. Tucker testified that he had knowledge that Mr. Mee often contacted accounts that were under Mr. Thorn's name. Based on the testimony of _____ and Mr. Tucker and the documentary evidence I find the allegations of paragraphs 30 thru 32 to be true and further conclude that these allegations constitute violations of 6 Del. C. sec. 7303(2) and sec. 7316(a)(2)(7). I further conclude that through Mr. Mee these facts constitute violations of 6 Del. C. sec. 7303(2) and 7316(a)(2)(7)(10) by Blinder.

With regard to the allegations in paragraph 33 thru 35 of the Notice of Intent to Revoke, these relate to Mr. Thorn who settled the claims against him prior to the hearing. However, these allegations also allege that they should be imputed to Blinder. In the absence of any contrary evidence due to Blinder's failure to defend this action, and given that I find _____ and _____ testimony to be true, I find that the allegations are true. Based on that testimony and the pervasive activity of Blinder agents in this case, as well as the fact that Mr. Thorn was office manager at the time of his actions with regard to these allegations, it is clear that Blinder should be found to

have acquiesced in these actions and therefore violated 6 Del. C. sec. 7303(2) and sec. 7316(a)(2)(7)(10). The allegations in this case as a whole show a total lack of supervision by Blinder and a conscious attempt by its management to either affirmatively mislead or willfully withhold information from investors.

The allegations of paragraph 36 and 37 of the Notice of Intent to Revoke deal with sales of a stock called Tele-Art Inc., to _____ by Danette DePina. Ms. DePina denies selling the stock to _____ and on cross examination _____ acknowledged that the Tele Art stock may have been sold to her by a Mrs. Whitaker of Blinder. On rebuttal the State was unable to present any further evidence on this fact and I therefore find that this particular stock was not sold to _____ by Ms. DePina and therefore the evidence does not support the allegations of paragraph 36 and 37 against Ms. DePina. Likewise the allegations against Blinder are therefore also unsupported.

The allegations of paragraph 38 thru 47 of the Notice of Intent to Revoke are substantially the same except they deal with different stocks being sold by Ms. DePina to _____ ; paragraph 38 involving a stock called Lasergate, paragraph 39 involving a stock San Juan Fiberglass Pools, paragraph 40 and 41 involving a stock called Executive Capital Inc., paragraph 42 involving a stock called Western Acceptance Corp., paragraph 43 involving Lasergate,

paragraph 44 involving a stock called Telephone Express Corp., paragraph 45 involving a stock called Deucalion Research Inc., paragraph 46 involving a stock called American Strategic Metals Inc., and paragraph 47 involving a stock called LRex International Inc. Ms. DePina acknowledges selling each of these stocks to . In each of these cases it is alleged that Ms. DePina, and Blinder through Ms. DePina, made willful misrepresentations of material facts and omissions of material facts, and engaged in dishonest and unethical conduct by failing to provide a prospectus and information prior to the sale disregarding the investment objectives of , and failing to exercise due diligence and make a reasonable investigation prior to a recommendation, as well as failing to provide with account statements despite being asked to do so and recommending a unsuitable stock for

. Blinder is further alleged to have failed to reasonably supervise Ms. DePina. These allegations and alleged violations of law are similar for paragraphs 38 thru 47.

These counts of the Notice of Intent to Revoke by necessity involve a determination by me of the creditability of as opposed to creditability of Ms. DePina asserts that Ms. DePina, with all the stocks, never informed her of the risks involved. She testified she was a conservative investor, knew nothing about penny stocks and put her total trust in Ms. DePina. Ms. DePina asserts

that she sent [redacted] information including prospec-
tuses and that she informed [redacted] of the risks
involved and that [redacted] was well aware of the risks
involved and wanted to achieve a high rate of return.

In weighing the testimony of [redacted] I am
convinced and find that she, although having run small
businesses, was not a sophisticated investor and knew
nothing about the risks of penny stocks. She basically was
solicited by Ms. DePina who never discussed with her the
risks of penny stocks or that she could lose all her money.
It is clear that a woman of her age, who is divorced and
depending on social security and her investment income, as
well as what she was able to make in her small businesses,
was not suitable for penny stocks. I find that she was
never set a prospectus prior to the purchase of stocks and
if she had been she would not have understood the risks. It
is clear that she was relying totally on Ms. DePina who
never explained that Blinder was making markets in these
stocks, often holding warrants which could dilute the value
of these stocks. In fact, I find that [redacted] was
not aware that she had lost money despite request for
statements until 1988 when she finally had Mr. Thorn sell
all her stock. Further, I find that Ms. DePina and Blinder
consciously sought to mislead [redacted]. This is
evidenced by the statement of holdings that Ms. DePina sent
[redacted] (S-77). [redacted] had asked for this
for the purpose of finding out her losses and gains for tax

purposes. That hand written statement is blatantly misleading on its face as it omits any showing of the losses which she had incurred up to that time.

testified that prior to her relationship with Blinder she had been a very conservative investor, investing strictly in money markets, utilities and blue chip stocks. This is not the investor who should be led unaware into penny stocks.

Ms. DePina's defense appears to be a denial. She claims that when she took over the account in 1987 she updated that account card with , although it was not signed by , and that she explained the risk of penny stocks and thought was suitable because they were only going to invest 10% of her worth, not withstanding that her worth was misstated on the card as \$300,000 verses \$200,000 that it was. Even at \$300,000, ten percent of her worth would not be appropriate given the age of and her dependency on her income. She claimed that was issued prospectuses and understood the risks. She specifically asserted that

was sent a prospectus for Lasergate, San Juan Pools, Western Acceptance, Deucalion and LRex prior to their purchase, asserting that the agent sent out one prospectus and Blinder Robinson sent out another. I do not find this assertion creditable in light of testimony and the testimony of the other investors involved in this case who all said they never received a prospectus prior to

purchase from any source, the agent or Blinder Robinson.

Further, Ms. DePina admits telling _____ that San Juan Pools were in Sears, which they were not, which I find reflects on Ms. DePina's credibility. I further find that there is nothing in the record to show that Ms. DePina made any investigation regarding her recommendation of the securities or that the investments were suitable for _____

. She specifically stated that she thought the risk of penny stocks was the same in all issues and did not read the prospectus. Her explanation was that _____ was kept informed through confirmations of the sales but acknowledged that those sale confirmations did not inform _____ of the states or value of her account.

As with the other agents, I find this pattern of deliberate misrepresentation, such as the assertion that San Juan Pools was in Sears, and the omission deliberately of material facts such as the risks involved, the omission of any information on a statement which _____ had asked for regarding gain and losses for tax purposes (S-77) shows a willful omission of material facts and an intent deliberately to mislead _____. This pattern, similar to that with the other agents involved in this case leads me to the conclusion that Blinder had a reckless disregard for the actions of its agents and in fact was willfully encouraging its agents to operate in this matter. Accordingly, I conclude that Danette DePina and Blinder, through her, was guilty of violating 6 Del. C. sec. 7303(2).

and sec. 7316(a)(2)(7). I further concluded Blinder violated 6 Del. C. sec. 7316(a)(10).

The State has withdrew paragraphs 48 and 49 of the Notice to Revoke with regard to Mark Tucker and John Thorn but continued to allege that Blinder failed in its obligations to advise _____ of the value of her investments and failed to send account statements despite being asked, as well as failed to supervise its agents. As the evidence from several agents is that the statements were sent from Blinder not the individual agents, I find that failure to send account statements to _____ and through this, the failure to advise _____ of the value of her investments shows willfully misconduct on the part of Blinder in failing to provide such information from its home office from which the statements were issued in violation of 6 Del. C. sec. 7316(a)(2)(7). I however find that there is an insufficient evidence in the record to suggest the failure of Blinder to supervise Mr. Tucker and Mr. Thorn with regard to these matters.

Based on the testimony of _____, I find that the allegations contained in paragraph 50 of the Notice of Intent to Revoke to be true. I find the testimony of Mr. Kim not to be creditable. It was clear from _____ testimony that no one had ever explained to him the difference between bid and ask price, or about Blinder making a market in a particular stock, and that Mr. Kim made the representations contained in paragraph 50. I further find

that these actions were in essence standard operating procedures for Blinder and that Blinder is therefore charged with having committed such actions and in failing to supervise its agent Kim. Accordingly, I conclude that Michael Kim and Blinder through him violated 6 Del. C. sec. 7303(2) and 7316(a)(2)(7) and that Blinder violated 6 Del. C. sec. 7316(a)(10). With regard to paragraphs 51 and 52 of the Notice of Intent to Revoke the factual allegations are slightly different and they involve different stocks but it is clear from testimony that these facts occurred and I so find. Based on these facts I conclude that with regard to those paragraphs Mr. Kim and Blinder did violate 6 Del. C. sec. 7303(2) and 7316(a)(2)(7) and that Blinder failed to supervise Mr. Kim in violation of 6 Del. C. sec. 7316(a)(10).

The allegations of paragraphs 53 and 54 of the Notice of Intent to Terminate are that Mr. Kim falsely answered question 22H(1) at the time of changing employment from Blinder to A. G. Edwards and Sons, Inc., and subsequently to Diane Bosworth Inc. Mr. Kim's defense to these allegations is that he misinterpreted the question as meaning that a compliant, even about fraud, had to involve more than \$10,000. He acknowledged at the hearing that this was an incorrect interpretation. I find that explanation implausible and believe it was a willfully misrepresentation in violation of 6 Del. C. sec. 7316(a)(1)(2).

All the investors involved in this case were Delaware residents and the transactions took place in Delaware.

ORDER

From the above Findings of Facts and Conclusions of Law, I hereby order the follow:

Blinder Robinson Co. Inc. - When reviewing the above Findings of Fact and Conclusions of Law it is apparent that Blinder not only failed to supervise its agents, as shown by the pervasive pattern of misrepresentations, but also I believe it was company policy to foster such misrepresentations so as to mislead unwary investors into highly speculative investments which Blinder manipulated. Several agents testified that they got all their information from management and Blinder including Mr. Cox and Mr. Cohen and none of the agents were instructed on advising the customers regarding the dangers of penny stocks. Specifically with regard to the FNMA-7 investment, Blinder's own literature was grossly misleading and in fact Blinder failed to correct this when it received a letter from Fannie Mae's legal counsel. I believe this gross disregard for the truth of the representations being made is willful conduct and requires that Blinder registration be permanently revoked in order to protect the public. I also find it in the public interest to fine Blinder \$14,000, \$1,000 for each count in the Notice of Intent to Revoke.

Mark Tucker, Sr. - Although Mr. Tucker was perhaps in a difficult situation managing the Wilmington office after the Court of Chancery Order, the above findings of fact show that he was at the very least, so grossly negligent as to be

willful misrepresentations in assuring clients of the safety of their investment when, by his own testimony he could not tell from the papers he had whether or not the client had lost any money. As a result of such negligence, in the case of _____, he lost approximately \$19,000. It also seem negligent on Mr. Tucker's part that at a time when he was considering leaving Blinder because of the misleading of investors for him to have reassured clients is so grossly negligent as to constitute willful conduct. However, in recognition that he was handling a lot of accounts at the time, I find it appropriate that his registration be suspended for two years in Delaware.

John Joseph Cox and Harvey Allen Cohen - The testimony regarding their involvement was un rebutted. It is clear that as senior management these two men were the ones giving the agents information on new issues as evidence in the case of the FNMA-7 issue showed. It is further clear that these two were purposely and willfully misleading investors by informing Blinder's agents that this was a Government backed security and by grossly underestimating the risks involved with this investment so as to lure unwitting clients into it. This occurred at a time when they had received from Fannie Mae's legal counsel a letter outlining the gross misrepresentations in Blinder's circular. Based on the un rebutted testimony regarding this one investment alone, I find their registrations in Delaware should be revoked permanently and they should be fined the maximum of \$1,000

for each and every violation of the Securities Act. Given the nine misrepresentations or omissions alleged in Count 28 of the Notice of Intent to Revoke which were proven, I find that Mr. Cox and Mr. Cohen should each be fined \$9,000 in addition to the revocation of their registrations. I do so because these men as senior management were at the heart of the deceptive practices of the Blinder operations.

Theodore Flowers - I find that the victim here, was more sophisticated and that Mr. Flowers' violation was that he failed in his obligations of due diligence by not reading the financial data and relied solely on the information Blinder staff conveyed to him. He further failed in determining the suitability of investment given the high failure rate, which he acknowledged, of blind pools. Accordingly, his registration should be suspended for thirty-days and he should be fined \$1,000.

John Paul Mee - Although Mr. Mee denied the sale of the stock to I have found by preponderance of the evidence that he did in fact do so. Given that, he clearly violated his obligation of due diligence, determining suitability and his fiduciary duty generally. He basically took a conservative investor into an area of speculation into which he never should have been. I believe he did this willfully and knowing that he was in fact violating his duty to his client by doing so. Accordingly, his registration in Delaware should be revoked permanently and he is hereby

fined \$3,000, \$1,000 for each count in the Notice of Intent to Revoke.

Danette Lynn DePina - This case involved one of credit-ability and I have already found that I believe

testimony and disbelieve Ms. DePina's testimony where they contradict. This is perhaps the most egregious case in that Ms. DePina took an elderly divorced woman into the area of penny stocks when she was totally vulnerable. She was an elderly woman relying on a modest income who had been involved only in conservative investments. She came to rely on Ms. DePina almost as a daughter and developed a personal relationship. Ms. DePina betrayed this trust by churning her account through ten different stocks (I have previously found that she did not sell the Tele Art stock) with total disregard for the welfare of resulting in substantial losses of capital.

There were many misrepresentations or omissions but perhaps the one that stands out as showing this to have been the most egregious type of conduct is the hand written statement of gains and losses (S-77) which had asked to be provided for tax purposes. Ms. DePina failed to show on that the losses thereby continuing to mislead regarding the value of her investments. This reprehensible conduct deserves nothing less than revocation of Ms. DePina's registration permanently and a fine of \$10,000, \$1,000 for each of the ten transactions, having found that Ms. DePina did not sell the Tele Art stock.

This is done recognizing that under 6 Del. C. sec. 7316(g) I have the authority to impose a much greater fine given the number of misrepresentations which would constitute violations of the Act. However, I find that \$10,000 is an appropriate fine in this case.

Michael Kyoungho Kim - Again this is a case of an agent taking conservative investors into an area of which they knew nothing. On top of that he made substantial misrepresentations regarding San Juan Pools and the affiliations of certain of the companies with K-Mart and Sears. It is clear that the _____ did not understand bid and ask price nor that Blinder was a market maker. Also, it is clear that Mr. Kim falsified his applications to the Securities Commissioners. Based on all this, revocation of Mr. Kim's registration is warranted and a fine of \$3,000, \$1,000 for each stock in which the _____ lost money.

The above sanctions, I believe are in the public interest and this order will take affect 60-days after its adoption by the Securities Commissioner.



MALCOLM S. COBIN
Assistant State Solicitor

Designated Presiding Officer

Date: November 15, 1990