

ADMINISTRATIVE PROCEEDING  
BEFORE THE  
MARYLAND SECURITIES COMMISSIONER

IN THE MATTER OF:

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L.H. ROSS & COMPANY, INC.,

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Case No. 2004-0158

Respondent.

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**FINAL ORDER TO CEASE AND DESIST  
ORDER OF BAR  
ORDER IMPOSING MONETARY PENALTIES**

WHEREAS, the Maryland Securities Division (“Division”), pursuant to the authority granted by Section 11-701 of the Maryland Securities Act, Corporations and Associations Article, Title 11, Annotated Code of Maryland (1999 Repl. Vol. & 2003 Supp.) (the “Securities Act”) initiated an investigation into the securities-related activities of L.H. Ross & Company, Inc. (“L.H. Ross”) and Jon S. Landau (“Landau”); and

WHEREAS, on the basis of information presented by the Division, the Maryland Securities Commissioner (the “Commissioner”) had reason to believe that L.H. Ross may have used unregistered agents to sell securities and may have engaged in fraudulent sales activities in connection with the firm’s private placement offering; and

WHEREAS, on October 12, 2004, the Commissioner issued an Order to Show Cause addressed to L.H. Ross and Landau (the “Order”) charging L.H. Ross with employing an unregistered agent and engaging in fraudulent sales activity in Maryland, and requiring it to show cause why a final order should not be entered ordering it to cease and desist from violating Sections 11-402 and 11-301 of the Securities Act, barring it from the securities and investment

advisory business in Maryland, imposing a civil monetary penalty, and revoking its broker-dealer registration; and

WHEREAS, Landau answered the Order and entered into a Consent Order requiring Landau to cease and desist from further violations of Sections 11-301, 11-401 and 11-501 of the Act, fining him \$5,000 and revoking his registration as a broker-dealer agent; and

WHEREAS, through counsel, L.H. Ross filed first a Notice of Pending Hearings Requesting Expulsions and then a Report of the Status of LH Ross in the Four Pending NASD Enforcement Actions as of November 11, 2004, but did not file an answer to the Order; and

WHEREAS, on November 30, 2004, the Securities Commissioner stayed these proceedings in light of proceedings against L.H. Ross pending before the NASD; and

WHEREAS, on March 1, 2005, the Securities Division moved to lift the stay in light of a January 19, 2005 order by the NASD finding that the firm had committed fraud and other violations in selling unregistered offerings of its own stock, and a February 25, 2005 order by the NASD summarily suspending the firm because the firm is in “such financial or operational difficulty [that it] cannot be permitted to continue to do business as a member with safety to investors, creditors, other members or NASD;” and

WHEREAS, the Securities Commissioner lifted the stay on March 24, 2005; and

WHEREAS, more than fifteen days have elapsed since the stay was lifted, and L.H. Ross has failed to answer the Order; and

WHEREAS, the Commissioner has determined that it is in the public interest to enter this Final Order;

NOW, THEREFORE, the Commissioner finds the following as the basis for this Final

Order:

### **I. JURISDICTION AND VENUE**

1. The Commissioner has jurisdiction in this proceeding pursuant to Section 11-701.1 of the Act.

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### **II. RESPONDENT**

2. L.H. Ross (CRD # 37920) is a broker-dealer headquartered in Florida with a principal place of business at 2255 Glades Road, Suite 425W, Boca Raton, FL 33431. It has been registered with the Division since January 1996. The NASD suspended the firm on February 25, 2005 and expelled it on March 17, 2005.

### **III. FINDINGS OF FACTS**

#### Registered Representatives of L.H. Ross

3. Landau (CRD #2401167) was a representative of L.H. Ross registered with the Division from January 2, 2004 until February 4, 2004.

4. Marc S. Kimmel (CRD # 2805550) was a representative of L.H. Ross registered with the NASD from November 2002 until April 10, 2003 and from May 5, 2003 until March 17, 2005 and with the Division from July 23, 2003 until March 17, 2005. He has not passed the Series 24 exam and has never been registered as a principal.

5. According to CRD, there is a Leowa N. Grober (CRD # 2623111) who was a representative of L.H. Ross registered with the NASD from August 29, 2003 until March 5, 2004 and with the Division from October 12, 2003 until March 5, 2004.

#### Bede Clarke

6. Bede Clarke is a Maryland resident. He is not an accredited investor.

7. In about September 2003, Landau made an unsolicited cold call to Bede Clarke, seeking his business and using high pressure sales tactics. Landau was not registered in Maryland until January 2, 2004, after the cold call.

8. On October 6, 2003, after Landau spoke with Clarke, L.H. Ross opened an account for Clarke. The new account form dated October 6, 2003, shows Marc Kimmel both as the registered representative on the account and as the supervisory principal. Kimmel, however, did not sign the form. Nor did Kimmel speak with Clarke before the account was opened. Kimmel is not registered as a principal.

9. Clarke's brokerage statements for the months of October through December 2003 show Newman Grober as his investment consultant. Clarke has never communicated with Grober.

10. On December 9, 2003, Clarke signed a form to obtain online access to his account, identifying "John Landau" as his investment consultant because he had dealt only with Landau at L.H. Ross.

11. Landau's solicitation of Clarke violated respondent's Supervisory Procedures and Compliance Manual dated October 2001 ("Compliance Manual"), which stated, in pertinent part:

"Unregistered cold callers may not pre-qualify prospective customers as to financial status and investment history; or solicit new accounts . . . ."

12. Landau recommended that Clarke invest in a private placement offering of L.H. Ross' own stock. To solicit the investment, Landau told Clarke that the company would go public in a matter of weeks and that L.H. Ross would be "self-clearing" in a few months. Clarke sent L.H. Ross a check for \$10,000 on about November 19, 2003. The check cleared on

November 21, 2003. Clarke, however, did not sign the subscription agreement for the private placement offering until November 25, 2003. He never received a prospectus or private placement memorandum. He was not told that L.H. Ross had lost millions of dollars since 2001 or that L.H. Ross was the subject of a series of disciplinary proceedings filed by the NASD and state securities regulators.

13. After he became concerned because he had received no paperwork from L.H. Ross reflecting his investment, Clarke was able to speak with Marc Kimmel, described as the office manager. Kimmel told him that the stock that he had bought for \$14 a share was then selling for about \$24.

14. L.H. Ross' stock was not publicly traded and was not selling for \$24 a share.

15. In June 2004, L.H. Ross offered rescission to Clarke and reimbursed him the amount of his investment plus interest.

#### Other Maryland Investor

16. In about March 2004, a second Maryland resident invested \$200,000 in shares of L.H. Ross' preferred stock at its private offering.

#### Registrations

17. L.H. Ross did not file with the Division a registration statement or exemption application for its private placement until May 10, 2004. The May filing identifies two Maryland investors, including one who is not accredited.

18. Landau was not registered in Maryland at the time he solicited investments from Clarke.

19. Kimmel was not registered as a principal at the time he approved Clarke's new

account form.

#### **IV. CONCLUSIONS OF LAW**

The Commissioner concludes that:

20. L.H. Ross wilfully violated Sections 11-402 and 11-301 of the Securities Act by employing unregistered persons, permitting unqualified persons to serve as supervisors and principals, and authorizing false and misleading sales presentations.

21. L.H. Ross engaged in dishonest and unethical practices by using unregistered persons to solicit funds for its own private placement without registering the securities or providing disclosure of material facts.

#### **V. ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. L.H. Ross cease and desist from engaging in the offer and sale of securities in violation of the Act.

2. L.H. Ross is permanently barred from engaging in the securities and investment advisory business in Maryland.

3. L.H. Ross' registration as a broker-dealer in Maryland is revoked.

4. A civil monetary penalty, pursuant to Section 11-701.1 of the Securities Act, in the amount of \$10,000 is imposed.

**V. NOTICE OF APPEAL RIGHTS**

Pursuant to COMAR 02.02.06.24, respondent has the right to file an appeal of this Order with the circuit court. Any appeal must be filed within 30 days from the date this Order is mailed by the Division.

DATE OF THIS ORDER

SO ORDERED:

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Melanie Senter Lubin  
Securities Commissioner