

**ADMINISTRATIVE PROCEEDING  
BEFORE THE  
SECURITIES COMMISSIONER OF MARYLAND**

IN THE MATTER OF:

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BARTHOLOMEW “BART” BUTLER, et. al.

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Securities Division No. 2008-0447

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RESPONDENTS

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**FINAL ORDER**

**AS TO**

**BARTHOLOMEW “BART” BUTLER**

**NRG RESIDENTIAL, LLC**

**BUTLER CLASSIC HOMES, LLC**

**MID-ATLANTIC CAPITAL PARTNERS, LLC**

**MITCHELL, MORRIS, EDWARD & ASSOCIATES, INC., and**

**THE HOME TEAM, LLC**

WHEREAS, the Securities Division of the Office of the Maryland Attorney General (the “Division”), pursuant to the authority granted in section 11-701 of the Maryland Securities Act, Title 11, Corporations and Associations Article, Annotated Code of Maryland (2007 Repl. Vol. and 2008 Supp.) (the “Securities Act”), undertook an investigation into the securities-related activities of Bartholomew “Bart” Butler (“Butler”), Butler Classic Homes, LLC (“BCH”), NRG Residential, LLC, (“NRG”), Mid-Atlantic Capital Partners, LLC (“MACP”), Mitchell, Morris, Edwards & Associates, Inc. (“MMEA”), and The Home Team, LLC (“THT”); and

WHEREAS, on the basis of that investigation the Maryland Securities Commissioner (the “Commissioner”) issued a Summary Order to Cease and Desist and Order to Show Cause (the “Order”), which is incorporated by reference, ordering each Respondent and their officers, directors, employees, agents and anyone else involved in the offer or sale of securities in or through them, to cease and desist from soliciting investments, or offering or selling securities, in or from Maryland; engaging in material misrepresentations or omissions in connection with the offer or sale of a security; engaging in fraudulent

acts in connection with the offer or sale of a security; acting as unregistered broker-dealers or agents in this State; and employing unregistered securities agents in this State; and requiring each Respondent to show cause why that Respondent should not be barred permanently from engaging in the securities business in Maryland; and why a statutory penalty of up to \$5,000 per violation should not be entered against each Respondent; and

WHEREAS, the Order provided that the failure to file an answer or a request for a hearing within fifteen (15) days of service of the Order would result in the entry of a Final Order imposing on each Respondent a monetary penalty of up to \$5,000 per violation of the Securities Act, and permanently barring each Respondent from engaging in the securities business in Maryland; and

WHEREAS, the Order further provided that the failure to request a hearing in writing would be deemed a waiver by that Respondent of the right to a hearing; and

WHEREAS, Respondents Butler, BCH, NRG, MACP, MMEA, and THT failed to file an answer to the Summary Order to Cease and Desist and Order to Show Cause and failed to make a request for a hearing; and

WHEREAS, the Commissioner has determined that it is in the public interest to issue this Summary Order to Cease and Desist and Order to Show Cause;

NOW, THEREFORE, IT IS HEREBY ORDERED:

#### **I. JURISDICTION**

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

#### **II. RESPONDENTS**

2. At all times relevant to this matter, Bartholomew "Bart" Butler has maintained a place of business and/or residence in the counties of Howard or Baltimore, Maryland. Butler is the principal and owner of NRG, MACP, BCH, MMEA, and THT. Butler also was a licensed real estate agent up until December 16, 2008 when his license went inactive. In 1999, Butler was sentenced to 18 months in jail by

the Prince George's County Circuit Court after pleading guilty to theft, criminal insurance fraud, and forgery. Butler was charged with stealing more than \$165,000 given to him by 15 insurance clients to purchase life insurance, annuities and other investment products. Butler was ordered to pay approximately \$48,000 in restitution upon his release from jail. A four and half year term of imprisonment also was imposed against Butler but was suspended pending the successful completion of a 5 year probationary period. By consent of Butler, the probationary period has been extended due to Butler's failure to pay the ordered restitution.

3. Butler Classic Homes, LLC is a Maryland limited liability company. BCH at all times relevant has maintained a place of business in Baltimore, Maryland. BCH is a licensed home builder. BCH is owned by Butler.

4. At all times relevant to this matter, NRG Residential, LLC has maintained a place of business in Baltimore, MD. Butler has listed NRG as BCH's successor on documents given to investors. NRG is owned by Butler.

5. Mid-Atlantic Capital Partners, LLC is a Maryland limited company. At all times relevant to this matter, MACP has maintained a place of business in Baltimore, MD. MACP is owned by Butler.

6. Mitchell, Morris, Edward & Associates, Inc. is a Maryland corporation. At all times relevant to this matter, MMEA has maintained a place of business in Baltimore, MD. MMEA is owned by Butler.

7. The Home Team, LLC is a Maryland limited liability company. At all times relevant to this matter, THT has maintained a place of business in Baltimore, MD. THT is owned by Butler.

### **III. FINDINGS OF FACT**

On information and belief, the Commissioner alleges the following as the basis for this Order:

8. Beginning in or about 2006, Butler, either in his individual capacity or through one of his affiliated companies, began soliciting investors to invest in a number of real estate-related investment programs.

9. For each investment program, Butler told investors that he was using their investment funds to fund a specific real estate development project or for a particular purpose such as funding a bridge loan. However, as some investors later learned after investing with Butler, their funds were never used for the intended purposes but instead were deposited into one or more accounts controlled by Butler and used for purposes such as repaying other investors or paying Butler's personal expenses.

10. Butler solicited investment funds ranging from \$5,000 up to \$200,000 from each investor. In return for their investments, investors were promised returns, usually in the form of interest or a set dollar amount, ranging from 15% for a 45-day investment to 100% for a one year investment.

11. Between the Fall of 2006 and the present, Butler was able to solicit in excess of \$800,000 from more than 20 investors.

#### Pennsylvania and Maryland Development Projects

12. One investment program promoted by Butler involved the purported investment of funds in land development projects.

13. In or about the Fall of 2006, Butler began soliciting investment funds by telling investors that he was using their funds for the acquisition and development of real estate development projects in the Pennsylvania and Maryland areas.

14. Butler solicited investors for this program in a number of ways, including word of mouth, presentations, advertisements, and the use of agents.

15. Butler initially solicited investment funds for a purported development project in the Pennsylvania area. Butler told investors that he was raising investment funds to acquire and develop land for residential use. Butler called the project the Alwine Meadows project.

16. Investors were required only to put up their funds, and to do nothing more. Butler and his companies were to handle all other aspects of the development project, including acquiring the land and managing the development phase of the project.

17. In exchange for their investment, investors were promised the repayment of their

principal plus a return in the form of interest payments. To memorialize the investments, investors were asked to execute loan agreements, guaranty documents, and promissory notes. The promissory notes ranged in duration from one to two years.

18. Other than the loan agreement, guaranty document, and promissory note, no other disclosure documents were given to investors.

19. Butler signed most of the promissory notes in his individual capacity, but Butler's companies, BCH or MMEA, were listed as the borrowers of the funds on the guaranty and loan documents. Additionally, investors were asked to make their investment checks payable to one of the two companies, and investor funds were deposited into accounts held in the name of one of the two companies.

20. When one investor asked to visit the Alwine Meadows project in Pennsylvania, Butler told the investor that the Alwine Meadows project had been put on hold. Butler then told that investor that his funds had been used for a land development project in Bowie, MD. Prior to this disclosure, the investor knew nothing about this Bowie, MD project and thought his funds had been used for the project listed in his paperwork.

21. Butler also solicited funds from investors for a number of real estate-related projects that he was purportedly developing in Maryland including the Bowie, MD project and a project in Dorchester County, Maryland. As with the Alwine Meadows investments, investors were asked only to put up investment funds and, in exchange, were to receive a return of principal plus interest. Butler would handle all managerial aspects of the development projects. Investors were asked to make their funds payable to BCH or MMEA.

22. Butler and his companies initially made good on their promises to make interest payments under the promissory notes. However, after only a few months of making interest payments, Butler and his companies began making those payments in an untimely manner or not at all. By the Spring of 2008, Butler and his companies began issuing interest checks that failed to clear the bank due to

insufficient funds.

23. By the summer of 2008, a number of the promissory notes issued to investors during the summer of 2007 began to mature. When investors demanded repayment of their notes, they were issued checks that also failed to clear due to insufficient funds. Some investors were issued post-dated checks and asked not to present those checks for payment until the end of September 2008. Those checks bounced when presented on the date of the post-dated checks.

24. In a letter sent to select investors in or about September 2008, Butler blamed his failure to make good on the notes on recent “delays in funding on our construction draws.” In a subsequent letter, Butler blamed the delays on the “worsening financial and banking crisis which has caused the flow of money to builders/developers, etc. to literally dry up.” Butler also proposed a new payment plan to those investors and requested that the investors execute an agreement extending the maturity of the note by an additional six months.

25. Despite the many excuses provided by Butler, he has produced no evidence showing the investment of investors’ funds in any real estate development projects in Pennsylvania, Maryland or elsewhere, let alone any projects that would generate the returns promised to investors.

26. Bank records subpoenaed by the Division show no evidence that investor funds have been used to purchase land or otherwise invested in development projects.

27. On the contrary, bank records show that investors’ funds were used for purposes unrelated to the purposes told to investors. One investor gave MMEA and Butler \$10,000 to invest in the purported Bowie, MD development project; however, \$5800 of that investment immediately was paid to a doctor for medical expenses related to an unknown individual.

28. Another investor was told that his investment of \$50,000 was being used to purchase and develop property in Dorchester County, MD. Instead, within a week of his investment, \$40,000 of his investment funds were used to repay another investor. After receiving a number of bad checks from Butler, this investor requested a refund of his \$50,000 investment. Butler told him that it was impossible

to provide a refund because his funds had been used to purchase land in Dorchester County, MD. As mentioned above, however, the bank records tell a different story of how the funds were used; no evidence has been produced to support Butler's claim that he purchased land in Dorchester County, MD.

### Bridge Loan Investments

29. At or around the same time Butler was promoting his land development investment program, he was promoting another investment program through BCH and its successor, NRG.

30. Butler told investors that he was raising funds to provide bridge loans to his real estate clients who needed short-term funding. Butler best described this investment in an e-mail of May 7, 2007, to A.W., a real estate client of Butler:

“I wanted to let you know if you have any clients or if you yourself are interested, I've got clients who are in need of short term bridge loans .. these loans are fully guaranteed and backed by me (I am the agent representing the transactions so I will guarantee repayments) interested parties will make 20%-30% on their funds in 90-180 days, i.e. \$25,k will repay \$30,k in 90 days and \$50k will repay \$65,k in 180 days fully guaranteed and secured by a Note..Ive done a number of these and just wanted to let you know in case you were interested in accumulating some additional funds for your new house .. you can call me at the house to discuss further if you or a client are interested.”<sup>1</sup>

31. In a subsequent e-mail, Butler added: “The borrower gets more money from the sale than they need for the purchase ... I charge them the interest paid to the investor i.e. you, etc..and I tack on a small fee for guaranteeing the deal to the investor...bridge loans from banks use to make this unnecessary, but they are hard to get so I step in and fill the void..what do you think?”

32. No other disclosures relating to the investment were provided to A.W.

33. Butler was to be responsible for all managerial aspects of the bridge loan transactions including identifying his real estate clients in need of a bridge loan, negotiating the terms of the bridge loans, paying out the proceeds to the bridge loan clients and collecting the interest payments. Investors

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<sup>1</sup> Quotes or partial quotes of Butler's e-mail communications are written verbatim, including any typographical errors.

simply invested their funds with Butler and knew nothing about the terms of the bridge transactions, including the identity of the recipient of the bridge loan.

34. A.W. took Butler up on his offer and invested money in his bridge loan investment program. In March 2008, A.W. invested \$10,000 with BCH and Butler. In return, she was promised a payment of \$15,000 in approximately 30 days.

35. A.W.'s initial investment appeared to pay off. Butler e-mailed A.W. on the 1<sup>st</sup> of April 2008 to tell her that her payoff would be slightly delayed: "The closing was rescheduled for 4/18, funds will be disp 3 days later so I will be able to wire on the 21<sup>st</sup>...I know the note calls for \$200 late but we can increase it to \$500...sorry for the inconvenience..I guess you expected this, I didn't..everything was lined up, but another appraisal was requested at the last minute.."

36. On the 22<sup>nd</sup> of April 2008, Butler again e-mailed A.W. and wrote ". . . I just left closing..they couldn't wire, my client that is, so they gave me a cqashiers check for \$85,k...it includes your \$17k plus repayment of what I put up and my profit...Im on my way to deposit it so I will call you..Im sure they can clear it overnight since it's a cashiers check..."

37. A.W. did in fact receive a \$17,000 check from Butler on the 22<sup>nd</sup> of April 2008, but the funds used to pay her did not come from the proceeds of a closing or a bridge loan transaction but rather from another investor, S.C., who had no idea her investment funds were being used to repay another investor.<sup>2</sup> A.W. invested with BCH yet she was repaid from an account held in the name of MACP. Just two days prior to that payment, S.C. had given Butler, by way of one of his agents, a check for \$85,000 with the intention of investing those funds in MACP.

38. Butler was seeking other investors and asked A.W. to approach her friends about investing in his bridge loan program. Butler even offered to pay A.W. for her solicitations, writing in an e-mail of April 17, 2008 to A.W.: ". . . I actually have another bridge .. \$20k for 30 days..I'll pay \$5k to

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<sup>2</sup> The \$17,000 payment to A.W. included an additional \$2,000 late payment fee.



the investor and you get a \$1000 ref fee...let me know asap!!”

39. Given the apparent success of her investment, A.W. approached her friends and family about investing in Butler’s bridge loan program. Some of them expressed an interest.

40. To facilitate the investment of funds by her family and friends, A.W. formed The Prime Investment Company for purposes of pooling the funds together to invest with Butler. Butler was aware that any subsequent funds coming from A.W. or The Prime Investment Company represented pooled funds from A.W.’s family/friends.

41. In April and May of 2008, The Prime Investment Company or A.W., on behalf of The Prime Investment Company, entered into a series of 4 investments with Butler for a total amount of \$55,000. Each investment was for a 30-day duration and called for a return ranging from \$5,000 on a \$20,000 investment to \$3,500 on a \$10,000 investment. The investments were made with NRG but the investment funds were wired to BCH.

42. When the investments came due in May and June 2008, Butler failed to make good on the investments. Butler issued a series of checks that failed to clear the bank, including a \$25,000 check issued to The Prime Investment Company.

43. Because she owed money to the underlying investors in The Prime Investment Company, A.W. pressured Butler to repay the investment funds. In an e-mail dated June 6, 2008 to A.W., Butler blamed the delay on his outlay of funds for a new venture and indicated that he was attempting to raise funds from other investors to repay The Prime Investment Company: “Im aware this is causing you a great deal of stress and problems, however, Im trying as hard as possible to get this resolved..Im in a sever cash crunch because Im launching this new venture and it cost me \$100k, I will get it back in a matter of weeks, but I had to put it out first..I need you to work out things on your end and give me some time to get replacement funds..Im still working with the investor who agreed to put up the \$25k, she is still trying to get her line of credit re-opened..her lender has requested an appraisal..so this will cause a delay so Im working other angles..at worst we are looking at a few weeks delay to bring you whole

entirely..in the interim please do what you can to appease your investors..”

44. A.W. finally demanded that Butler provide her with proof of the bridge loan investments. Butler could not produce evidence of the bridge loan investments and told A.W. that her investment funds, and those of The Prime Investment Company, were never invested in bridge loans but rather were used for his other business venture, MACP.

45. Butler’s bank records show, however, that the funds were used for a variety of purposes unrelated to bridge loans or MACP. On the same day that \$10,000 in investment funds was wired by A.W. into an account in the name of BCH, \$6409.36 of the funds were transferred to Butler’s personal account and used to make a \$3,139.48 payment to Capitol Cadillac Hummer, \$560 to Kangaroo Coach, and \$875 to a lawn service company.

46. Another \$10,000 in investment funds was wired by A.W. to BCH’s account. On the same day of the wire, \$6,097.74 of that \$10,000 investment was transferred to Butler’s personal account. \$4,428 of the funds transferred to his personal account were paid to Litton Loan Servicing, and an additional \$750 was paid to Kemax Lifestyles. Another \$1,116 of the \$10,000 investment was used to make interest payments to two investors in the land development projects, and \$2,800 was paid to cash.

47. To date, the funds have not been repaid to A.W. or The Prime Investment Company.

#### Mid-Atlantic Capital Partners, LLC

48. In or about April 2008, Butler partnered with another individual to form MACP.

49. According to its articles of organization, MACP was formed for the purpose of engaging in portfolio management.

50. MACP then formed Mid-Atlantic Real Estate, LP (“MARE”), a limited partnership investment fund that would serve as an investment vehicle for investor funds. According to the private placement memorandum prepared for MARE, the fund was formed with the “objective of providing eligible investors with attractive returns primarily through investments in undervalued residential and commercial real estate.” MACP would serve as the general partner to MARE and provide all managerial

functions to the fund including acquiring, managing, financing and disposing of the fund's investments. In exchange, MACP would receive a 2% management fee.

51. S.C. was solicited to invest in MACP.

52. S.C. was provided with a copy of a 4 to 6 page business plan for MACP.

53. According to the business plan, the "company" was formed for the purpose of investing in "undervalued residential and commercial real estate in the Mid-Atlantic region." The company anticipated raising investment capital of \$5,000,000 to \$10,000,000 or more with a minimum capital contribution of \$100,000 from each limited partner. The invested capital would be used "to acquire real estate assets, with the exception of a two (2)% management and expense fee to go towards company operating expenses." Further, the invested capital would be fully collateralized by real property.

54. No other disclosure document was provided to S.C.

55. S.C. agreed to invest with MACP.

56. On or about the 17<sup>th</sup> of April 2008, S.C. executed a note wherein she agreed to lend \$85,000 to MACP for a two-year period. In return, she would receive an annualized interest rate of 10.5%, a rate that had been raised from 9% to entice S.C.'s investment.

57. To raise the funds for her investment, S.C. cashed out some CDs at her bank.

58. On the 22<sup>nd</sup> of April, 2008, S.C.'s investment funds were deposited into a Provident Bank account held in the name of MACP. Butler is the sole signatory on the account. At the time of the deposit, the account had a balance of \$5.00.

59. Two days later, on the 24<sup>th</sup> of April, 2008, Butler wrote a \$17,000 check to A.W. As discussed above, A.W. had earlier invested funds with Butler through BCH for purposes of providing bridge loans to potential home owners. A.W.'s investment was in no way related to MACP nor S.C.'s investment, yet Butler used S.C.'s investment funds to repay A.W.

60. Further, on the 25<sup>th</sup> of April, 2008, Butler wrote a series of 6 cashier's checks to 6 different individuals for a total of \$40,112.64. None of the individuals were related to the business

operations of MACP or S.C.'s investment. In fact, at least 3 of the individuals had previously given funds to Butler and his company, THT, for what they thought were down payments on condo units that Butler told them he was developing in Cheverly, MD. The individuals later requested a refund of their deposits. When they did not receive their deposits in a timely manner, they began an investigation and contacted the Project Head of the Cheverly development project. The Project Head told the individuals that he had never heard of Butler, and that reservations were not yet being taken for the Cheverly project. At the insistence of the Project Head's lawyer, Butler repaid the individuals' funds on April 25, 2008. The funds used to repay them, however, came from S.C. who was told and believed she was investing in MACP.

61. Butler used the remainder of S.C.'s \$85,000 investment funds to pay for miscellaneous things unrelated to MACP or S.C.'s investment, including \$2,500 to Butler's homeowner's association; \$4,900 to Butler's affiliated company, NRG, which at the time had a negative balance of \$4,822; and \$11,766 to C. Jackson for "back rental or mortgage (February, March, April) payments."

62. In June 2008, Butler sent out an e-mail announcement of the official launching of MACP which he described as "an asset-backed private equity firm specializing in investing in undervalued residential real estate in the Mid-Atlantic region." He encouraged the e-mail recipients to visit MACP's website to complete an investor questionnaire, download legal documents and view MACP's investment snapshot.

63. Butler also again reached out to A.W. for potential investors in MACP.

64. Several investors, including three of A.W.'s friends, invested funds with MACP and Butler.

65. Butler told investors that he owned a construction company and bought and sold homes for investment purposes. Investors also were provided a copy of MACP's business plan. No other disclosure document was provided.

66. Investors executed notes ranging in duration from 45 days up to one year, and were promised rates of return ranging from \$750 on a 45-day investment of \$5,000 to 25% on a one year

investment of \$25,000.

67. As with Butler's other investments, there is no evidence that investor funds were invested in any investment that would generate the promised returns.

68. Investors whose notes have come due have not been paid.

#### Lack of Disclosures and Misrepresentations to Investors

69. Respondents Butler, BCH, NRG, MACP, and MMEA did not disclose to investors that Butler had been the subject of a criminal prosecution and conviction involving the taking and misappropriation of investment funds from his former insurance clients.

70. Respondents Butler, BCH, NRG, MACP, and MMEA did not disclose to investors that Butler had failed to pay the restitution ordered in his criminal proceeding.

71. Respondents Butler, BCH, NRG, MACP, and MMEA did not disclose to investors that Butler was not registered as a broker-dealer or agent.

72. Respondents Butler, BCH, NRG, MACP, and MMEA did not disclose to investors that the investment programs offered and sold by Respondents were not registered, exempt from registration, or subject to a claim of preemption.

73. Respondents Butler, BCH, NRG, MACP, and MMEA did not disclose to investors that the investment funds solicited by them were not being used for the purposes investors had been told.

74. Respondents Butler, BCH, NRG, MACP, and MMEA did not disclose the risks associated with the investment programs offered by them.

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

The Commissioner concludes that:

75. Respondents Butler, BCH, NRG, MACP, and MMEA offered and sold unregistered securities in violation of the registration requirements of section 11-501 of the Securities Act.

76. Respondents Butler, BCH, NRG, MACP, MMEA, and THT transacted business as an unregistered broker-dealer or agent in violation of section 11-401 of the Securities Act.

77. Respondents Butler, BCH, NRG, MACP, MMEA, and THT employed unregistered agents to solicit investments in Maryland in violation of section 11-402 of the Securities Act.

78. Respondents Butler, BCH, NRG, MACP, and MMEA, in connection with the offer and sale of securities, omitted to state, and misrepresented, material facts including, but not limited to, the risks associated with the investment programs, in violation of section 11-301(2) of the Securities Act.

79. Respondents Butler, BCH, NRG, MACP, and MMEA, in connection with the offer and sale of securities, have engaged in a course of business which operated as a fraud on investors in violation of section 11-301(3) of the Securities Act.

#### **V. SANCTIONS**

80. NOW, THEREFORE, IT IS HEREBY ORDERED that:

a. Respondents Butler, BCH, NRG, MACP, MMEA, and THT shall permanently cease and desist from engaging in activities in violation of Sections 11-301(2), 11-301(3), 11-401, 11-402, and 11-501 of the Securities Act.

b. Respondents Butler, BCH, NRG, MACP, MMEA, and THT are permanently barred from engaging in the securities business in Maryland.

c. Respondents Butler, BCH, NRG, MACP, MMEA, and THT, jointly and severally, are assessed a civil monetary penalty pursuant to section 11-702 of the Act in the amount of \$675,000 for the violations set forth in this Order. Said penalty shall be paid within ninety days of the date of this Order. Payment shall be by certified check payable to the Office of the Attorney General. However, this penalty shall be reduced by the amount of restitution made by Respondents to investors within thirty (30) days of the date of this Order. Payment of restitution shall be by certified check payable to the Office of the Attorney General and then distributed by the Office of the Attorney General in a manner within its discretion. The civil penalty imposed herein shall be waived completely if investors are repaid in full within thirty (30) days of the date of this Order.

## **VI. JURISDICTION RETAINED**

81. Jurisdiction shall be retained by the Commissioner for such further orders and directions as may be necessary or appropriate for the construction or enforcement of this Order.

## **VII. APPEAL RIGHTS**

82. Any Respondent may appeal this Final Order to the appropriate Circuit Court of the State of Maryland within 30 days from the date this Final Order is mailed by the Securities Division.

SO ORDERED:

**Commissioner's Signature is  
on File with Original Document**

MELANIE SENTER LUBIN  
SECURITIES COMMISSIONER

March 12, 2009