

UNITED STATES OF AMERICA
BEFORE THE
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 52230 / August 10, 2005

ADMINISTRATIVE PROCEEDING
File No. 3-11449

In the Matter of	:	
	:	
	:	ORDER MODIFYING PRIOR
	:	ORDERS, EXTENDING PERIOD OF
	:	TIME GRANTED TO HEFFLER,
Van der Moolen Specialists, USA, LLC,	:	RADETICH & SAITTA L.L.P. TO
	:	SUBMIT PLAN IDENTIFYING
	:	INJURED CUSTOMERS
	:	
Respondent.	:	

I.

FACTS

1. On March 30, 2004, the Securities and Exchange Commission (“Commission”) issued an Order Instituting Administrative and Cease-and-Desist Proceedings, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order Pursuant to Sections 15(b)(4) and 21C of the Securities Exchange Act of 1934 (“March 30 Order”) against Van der Moolen Specialists, USA, LLC (“VDMS”). The March 30 Order directed VDMS, among other things, to pay disgorgement in the amount of \$34,926,613 and a civil penalty in the amount of \$22,748,491. Pursuant to the March 30 Order, VDMS was permitted to pay the amount of the civil penalty and post-judgment interest thereon in installments.

2. The March 30 Order further directs that the civil penalty shall be added to a Fair Fund (the “Distribution Fund”) to be distributed pursuant to a distribution plan (“Plan”) drawn up by an administrator to be chosen by the staff of the Commission and the New York Stock Exchange (“NYSE”). In accordance with the provisions of the March 30 Order, on April 7, 2004, VDMS made payments totaling \$45,775,104 to the Commission, comprised of \$34,926,613 in disgorgement and \$10,848,491 in civil penalty. Further, in accordance with the provisions of the March 30 Order, VDMS has made five installment payments to date: \$2,137,390.16 on June 28, 2004; \$2,106,592.37 on September 23, 2004; \$2,082,935.62 on December 21, 2004; \$2,058,672.83 on March 24, 2005; and \$2,034,947.84 on June 23, 2005.

VDMS is required to make one final installment payment pursuant to the March 30 Order, which is due on or before September 21, 2005.

3. On October 13, 2004, the Commission issued an Order Supplementing Prior Order, Creating a Fair Fund, Appointing Heffler, Radetich & Saitta L.L.P. as Fund Administrator, and Directing the Transfer of Funds (“October 13 Order”). Among other things, the October 13 Order granted Heffler, Radetich & Saitta L.L.P. (“Heffler Radetich”) 120 days from the date of entry of the Order to draw up a Plan identifying the customers who were injured as a result of VDMS’s trading violations as determined in the March 30 Order by the Commission staff and the NYSE. In addition, Section II.8. of the October 13 Order required Heffler Radetich to “procure an independent audit by an auditor not unacceptable to the staff of the Commission, of the Distribution Fund” if the settlement funds were not entirely distributed as of September 30, 2005.

4. On April 6, 2005, the Commission issued an Order Modifying Prior Order, Extending Period of Time Granted to Heffler, Radetich & Saitta L.L.P. to Submit Plan Identifying Injured Customers (“April 6 Order”). The April 6 Order granted Heffler Radetich an extension of 180 days following the expiration of the initial 120-day period to “draw up a Plan, for approval by the Commission, identifying customers who were injured as a result of VDMS’s trading violations as determined in the March 30 Order by the Commission staff and the NYSE.” Although Heffler Radetich has made notable progress, it has not submitted, for Commission approval, a Plan to identify injured customers.

II.

In view of the foregoing, it is ORDERED that:

1. Within 30 days following the expiration of the 180-day extension period stated in Section II.1. of the April 6 Order, Heffler Radetich shall draw up, for approval by the Commission, a Plan to identify customers who were injured as a result of VDMS’s trading violations as determined in the March 30 Order by the Commission staff and the NYSE.

2. Section II.8. of the October 13 Order is hereby modified to require Heffler Radetich to procure an independent audit of the Fair Fund by an auditor not unacceptable to the staff of the Commission if the settlement funds have not been entirely distributed as of June 30, 2006.

By the Commission.

Jonathan G. Katz
Secretary