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7/27/2000

RAKOFFS.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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SECURITIES AND EXCHANGE COMMISSION,

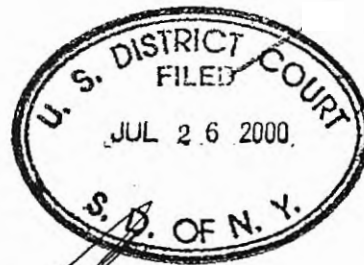
Plaintiff,

00 Civ. 2426 (JSR)

- against -

THE OAKFORD CORPORATION,  
EDWARD J. MUEGER, INC.,  
MFS SECURITIES CORP.,  
OAKWOOD SECURITIES CORP.,  
D'ALESSIO SECURITIES, INC.,  
WILLIAM S. KILLEEN, THOMAS W. BOCK,  
THOMAS J. CAVALLINO, EDWARD J. MUEGER,  
MARK R. SAVARESE, JOHN J. SAVARESE  
and JOHN R. D'ALESSIO,

Defendants.  
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**PARTIAL FINAL CONSENT JUDGMENT OF  
PERMANENT INJUNCTION AND  
OTHER RELIEF AS TO  
DEFENDANT JOHN J. SAVARESE**

Plaintiff Securities and Exchange Commission ("Commission"), having commenced this action by filing a Complaint ("Complaint") against, among other defendants, defendant John J. Savarese ("J. Savarese") on March 31, 2000; and J. Savarese, having executed the attached **Consent of Defendant John J. Savarese** ("Consent") incorporated herein, having accepted service of the summons issued to him and the Complaint, having admitted to the jurisdiction of this court over him and over the subject matter of this action, having waived the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, without admitting or denying the allegations contained in the Commission's

Complaint (except as to jurisdiction, which are admitted), and having consented to the entry without further notice of this **Partial Final Consent Judgment Of Permanent Injunction And Other Relief As To Defendant John J. Savarese (“Partial Final Judgment”)**:

**I.**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that J. Savarese be, and hereby is, permanently enjoined and restrained from, singly or in concert:

- (1) effecting any transaction on any national securities exchange of which he is a member, for his own account, the account of an associated person, or an account with respect to which he or an associated person thereof exercises investment discretion;
- (2) while on the floor of any national securities exchange of which he is a member, initiating, directly or indirectly, any transaction in any security admitted to trading on such exchange, for any account in which he has an interest, or for any such account with respect to which he has discretion as to the time of execution, the choice of security to be bought or sold, the total amount of any security to be bought or sold, or whether any such transaction shall be one of purchase or sale;

in violation of Section 11(a) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78k(a)] and Rule 11a-1 thereunder [17 C.F.R. § 240.11a-1].

**II.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that J. Savarese be,

and hereby is, permanently enjoined and restrained from, singly or in concert, aiding and abetting violations of Section 11(a) of the Exchange Act [15 U.S.C. § 78k(a)] and Rule 11a-1 thereunder [17 C.F.R. § 240.11a-1].

**III.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that J. Savarese be, and hereby is, permanently enjoined and restrained from, directly or indirectly, singly or in concert, in the offer or sale of any securities by the use of any means or instrument of transportation or communication in interstate commerce or by the use of the mails:

- A. employing any device, scheme, or artifice to defraud;
- B. obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; or
- C. engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser,

in violation of Section 17(a) of the Securities Act of 1933 [15 U.S.C. § 77q(a)].

**IV.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that J. Savarese be, and hereby is, permanently enjoined and restrained from, directly or indirectly, singly or in concert, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange:

- A. employing any device, scheme, or artifice to defraud;

- B. making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; or
- C. engaging in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,

in connection with the purchase or sale of any security, in violation of Section 10(b) of the Exchange Act [15 U.S.C. § 78j(b)] and Rule 10b-5 thereunder [17 C.F.R. § 240.10b-5].

**V.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that J. Savarese be, and hereby is, permanently enjoined and restrained from, directly or indirectly, singly or in concert, aiding and abetting violations of Section 17(a) of the Exchange Act [15 U.S.C. § 78q(a)] and Rule 17a-3 thereunder [17 C.F.R. § 240.17a-3].

**VI.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that J. Savarese be, and hereby is, permanently enjoined and restrained from, singly or in concert, at any and all times he is a member of the New York Stock Exchange ("NYSE"), effecting any transaction in any security on the NYSE for his account, the account of an associated person, or an account with respect to which he, or an associated person of a NYSE member organization that J. Savarese is associated with, exercises investment discretion, in violation of NYSE Rule 90(a).

**VII.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that J. Savarese be, and hereby is, permanently enjoined and restrained from, singly or in concert, at any and all times he is a member of the NYSE, from filling a purchase order for securities that he has accepted for execution, personally or through his member organization, by selling such securities for any account in which he, his member organization or any other member or allied member therein has a direct or indirect interest or for any account in which an approved person in such organization or officer thereof is directly or indirectly interested when he knows or should know that the sale is for such an account, or having so accepted an order for the sale of securities, filling such order by buying such securities for such an account, in violation of NYSE Rule 91.

**VIII.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that J. Savarese be, and hereby is, permanently enjoined and restrained from, singly or in concert, at any and all times he is a member of the NYSE:

- (1) personally buying or initiating the purchase of any security on the NYSE for his own account or for any account in which he, his member organization or any other NYSE member, allied member or approved person, in such organization or officer thereof, is directly or indirectly interested, while he personally holds or has knowledge that his member organization holds an unexecuted market order to buy such security in the unit of trading for a customer; or

- (2) personally selling or initiating the sale of any security on the NYSE for his own account or for any account in which he, his member organization or any other NYSE member, allied member or approved person, in such organization or officer thereof, is directly or indirectly interested, while he personally holds or has knowledge that his member organization holds an unexecuted market order to sell such security in the unit of trading for a customer,

in violation of NYSE Rule 92(a).

#### **IX.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that J. Savarese be, and hereby is, permanently enjoined and restrained from, singly or in concert, at any and all times he is a member of the NYSE:

- (1) personally buying or initiating the purchase of any security on the NYSE for his own account or for any account in which he, his member organization or any other NYSE member, allied member or approved person, in such organization or officer thereof, is directly or indirectly interested, at or below the price at which he personally holds or has knowledge that his member organization holds an unexecuted limited price order to buy such security in the unit of trading for a customer; or
- (2) personally selling or initiating the sale of any security on the NYSE for his own account or for any account in which he, his member organization or any other NYSE member, allied member or approved person, in such organization or officer thereof, is directly or indirectly interested, at or above the price at which he

personally holds or has knowledge that his member organization holds an unexecuted limited price order to sell such security in the unit of trading for a customer,

in violation of NYSE Rule 92(b).

**X.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that J. Savarese be, and hereby is, permanently enjoined and restrained from, singly or in concert, at any and all times he is a member of the NYSE, and while on the floor of the NYSE, executing or causing to be executed on the NYSE, or through the InterMarket Trading System (as that term is defined in NYSE Rule 15) or any of its applications, any transaction for the purchase or sale of any stock with respect to which transaction defendant J. Savarese is vested with discretion as to:

- (1) the choice of security to be bought or sold;
- (2) the total amount of any security to be bought or sold; or,
- (3) whether any such transaction shall be one of purchase or sale,

in violation of NYSE Rule 95(a).

**XI.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that J. Savarese be, and hereby is, permanently enjoined and restrained from, singly or in concert, at any and all times he is a member of the NYSE, initiating transactions, while on the floor of the NYSE, for an account in which he has an interest unless he is registered as a Competitive Trader (as that term is defined by NYSE Rule 111) with the NYSE and unless the NYSE has approved of his so acting as a

Competitive Trader and has not suspended or withdrawn such approval, in violation of NYSE Rule 111(a).

**XII.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that J. Savarese shall, within 90 days, file with this Court and serve upon the Commission an accounting, signed and sworn to under penalty of perjury, which discloses and sets forth:

- A. All assets, liabilities, monies, funds, securities, and real or personal property held in the name of J. Savarese, his family (hereinafter defined to include any current or former spouse and any child, whether a natural child, a stepchild, or an adopted child) or held for the direct or indirect beneficial interest of any of them, or held by any of them jointly with others, including, but not limited to, bank accounts, brokerage accounts, investments, business interests and real and personal property, wherever situated, describing each asset and liability, its current location and amount, the date the liability was incurred, to whom it is owed, the interest rate, collateral or security if any, the name(s) and address(es) of the obligee(s), and a description of each asset with a fair market value of greater than \$1,000;
- B. All money, property, assets, and other income with a fair market value of greater than \$1,000, received directly or indirectly by J. Savarese or his family at any time from January 1, 1994 to the date of the accounting, describing or identifying the source, amount, disposition, date and current location of each of the items listed and, separately setting forth sub-itemizations of all money,



property, assets, and other income with a fair market value of any amount received, directly or indirectly, by J. Savarese or his family from MFS Securities, Inc. ("MFS") or any of its principals with respect to work performed in conjunction with The Oakford Corporation at any time from January 1, 1994 to the date of the accounting;

- C. Each account with any financial institution or brokerage firm maintained in the name of J. Savarese or his family in which any of them has or had a direct or indirect beneficial interest, or which any of them holds jointly with others;
- D. The names and last known addresses of all bailees, debtors, and other persons and entities which have held or are holding any of the assets, funds or properties of J. Savarese or his family, in or at any time from January 1, 1994 to the date of the accounting; and
- E. All money, property, assets and other income with a fair market value of greater than \$1,000, expended directly or indirectly, by J. Savarese or his family at any time from January 1, 1994 to the date of the accounting, describing or identifying the amount, date and purpose and recipient of the expenditure.

### **XIII.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that J. Savarese shall, within 90 days, produce to the Commission copies of all documents concerning the assets, liabilities, monies, securities, real or personal property, income, expenditures or other transfers, regardless of the amount of any of the foregoing, of or to J. Savarese or his family, MFS, or any entity or person affiliated with MFS, including, but not limited to, all documents

supporting the disclosures made pursuant to Paragraph XII. above, such as bank statements, judgments, liens, settlement agreements, sworn statements, deeds, trust agreements, brokerage records, federal income tax returns (including personal, trust or business returns) and gift tax returns.

**XIV.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that following J. Savarese's compliance with Paragraphs XII. and XIII. above, J. Savarese shall disgorge his ill-gotten gains, if any, from the conduct alleged in the Complaint, plus prejudgment interest pursuant to Rule 600(b) of the Commission's Rules of Practice, in an amount to be determined by the parties or, failing that, by the Court, which disgorgement and prejudgment interest shall be set forth in a judgment to be ordered by the Court.

**XV.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, pursuant to Section 21(d)(3) of the Exchange Act [15 U.S.C. § 78u(d)(3)], following J. Savarese's compliance with Paragraphs XII. and XIII. above, J. Savarese shall pay civil penalties, if any, as a result of the conduct alleged in the Complaint in an amount to be determined by the parties or, failing that, by the Court, which penalty shall be set forth in a judgment to be entered by the Court.

**XVI.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that the annexed Consent be and hereby is incorporated in this Partial Final Judgment with the same force and effect as if fully set forth herein.

**XVII.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that, pursuant to Federal Rule of Civil Procedure 65(d), this **Partial Final Judgment** shall be binding on J. Savarese, his officers, agents, servants, employees, attorneys, and upon those persons in active concert or participation with him who receive actual notice of this **Partial Final Judgment** by personal service or otherwise.

**XVIII.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that this Court shall retain jurisdiction of this matter for all purposes, including, but not limited to, implementing and enforcing the terms and conditions of this **Partial Final Judgment**.

**XIX.**

**IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that there is no just reason for delay, and the Clerk of the Court is hereby directed to enter this **Partial Final Judgment** pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

**CONSENT OF DEFENDANT**  
**JOHN J. SAVARESE**

1. Defendant John J. Savarese ("J. Savarese") being fully apprised of his rights, having had the opportunity to confer with counsel, having read and understood the terms of the annexed **Partial Final Consent Judgment Of Permanent Injunction And Other Relief As To Defendant John J. Savarese ("Partial Final Judgment")**, appears and admits the jurisdiction of this Court over him and over the subject matter of this action, accepts service of the Summons and the Complaint ("Complaint") of Plaintiff Securities and Exchange Commission ("Commission"), waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure and, without admitting or denying the allegations contained in the Complaint, except as to jurisdiction, which are admitted, hereby consents to the entry, without further notice, of the **Partial Final Judgment**.

2. J. Savarese agrees that this **Consent of Defendant John J. Savarese ("Consent")** shall be incorporated by reference in and made part of the annexed **Partial Final Judgment** to be presented to the Court for signature, filing, and entry contemporaneously herewith.

3. J. Savarese waives any right he may have to appeal from the **Partial Final Judgment**.

4. J. Savarese acknowledges that a willful violation of any of the terms or provisions of the **Partial Final Judgment** may place him in contempt of this Court and subject him to civil or criminal sanctions.

5. J. Savarese acknowledges that he enters into this **Consent** voluntarily, and that this **Consent** and the **Partial Final Judgment** embody the entire understanding of the parties. J. Savarese acknowledges and agrees that this proceeding, and his consent to the entry of the **Partial Final Judgment**, are for the purpose of resolving this civil action only, and that no tender, offer, threat, promise, or inducement of any kind has been made by Plaintiff Commission or by any member, officer, attorney, agent, or representative thereof, with regard to (i) this civil action, that is not explicitly stated in this **Consent** or the **Partial Final Judgment**; (ii) any administrative proceeding brought or to be brought before the Commission involving the **Partial Final Judgment** or the facts underlying this action; (iii) any other Commission civil action or administrative proceeding not involving the facts underlying this action; (iv) any administrative, civil, or criminal liability arising from the facts underlying this action in any action or proceeding brought or to be brought by any third party, other agency or criminal authority; or (v) immunity from any such administrative, civil, or criminal action or proceeding.

6. J. Savarese acknowledges that he has been informed and understands that Plaintiff Commission, at its sole and exclusive discretion, may have referred or granted or may in the future refer or grant access to this matter, or any information or evidence gathered in connection therewith or derived therefrom, to any person or entity having appropriate administrative, civil, or criminal jurisdiction or authority, if the Commission has not already done so.

7. J. Savarese acknowledges and agrees that this **Consent** to the entry of the **Partial Final Judgment** is for the purpose of resolving this civil action only, in conformity

with the provisions of 17 C.F.R. § 202.5(f), and does not resolve, extend to, affect or preclude any other proceeding which may be brought against him by any criminal authority.

J. Savarese waives any right he may have to assert that under the Double Jeopardy Clause of the United States Constitution, the relief consented to in this civil action, including the imposition of any remedy or civil penalty herein, bars any criminal action, or that any criminal action bars the relief consented to in this civil action.

8. J. Savarese agrees that first class mail to Benjamin Brafman, Esq., his counsel, at 767 Third Avenue, 26<sup>th</sup> Floor, New York, New York 10017, shall be deemed personal service for all correspondence, service, and notices as to any matter related to this Consent and the **Partial Final Judgment**, unless J. Savarese notifies the Commission otherwise by letter addressed to James K. Hanson, U.S. Securities and Exchange Commission, Northeast Regional Office, Seven World Trade Center, New York, New York 10048.

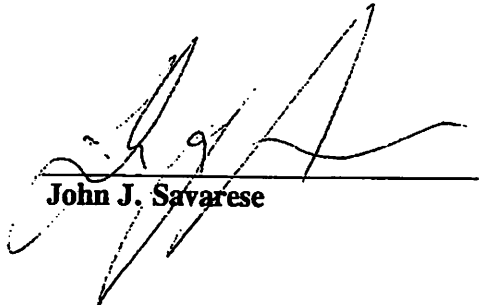
9. J. Savarese understands and agrees to comply with the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." 17 C.F.R. § 202.5(e). In compliance with this policy, J. Savarese agrees: (i) not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any allegation in the Complaint or creating the impression that the Complaint is without factual basis; and (ii) that upon the filing of this Consent, J. Savarese hereby withdraws any papers filed in this action to the extent that they deny any allegation in the Complaint. If J. Savarese breaches this agreement, the Commission may petition the Court to vacate the **Partial Final Judgment** and restore this action to its active docket. Nothing in this provision affects J. Savarese's: (i)

testimonial obligations; or (ii) right to take legal positions in litigation in which the Commission is not a party.

10. J. Savarese agrees to execute and return promptly an acknowledgment of receipt of the **Partial Final Judgment** once the **Partial Final Judgment** has been entered by the Court and forwarded to him for such purpose.

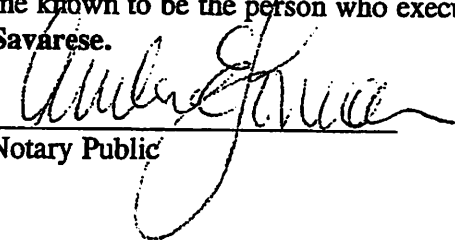
11. J. Savarese agrees that this Court shall retain jurisdiction of this matter for all purposes, including the implementation, modification and enforcement of the **Partial Final Judgment**.

12. J. Savarese further agrees that the annexed **Partial Final Judgment** may be presented by the Commission to the Court for signature and entry without further notice and delay.

  
\_\_\_\_\_  
John J. Savarese

STATE OF NEW YORK     )  
                                  ) ss.:  
COUNTY OF NASSAU )

On this 24<sup>th</sup> day of July 2000, before me personally appeared John J. Savarese, to me known to be the person who executed the foregoing Consent of Defendant John J. Savarese.

  
\_\_\_\_\_  
Notary Public

ANDREA E. FORMAN  
Notary Public, State of New York  
No. 02F05030818  
Qualified in New York County  
Commission Expires July 25, 2002

SO ORDERED:

  
\_\_\_\_\_  
UNITED STATES DISTRICT COURT JUDGE

Date: 7/26/00  
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THIS DOCUMENT WAS ENTERED  
ON THE DOCKET ON 7/27/00

**Local Civil Rule 77.1(b) Statement**

The parties entitled to be notified of the entry hereof and the names and addresses of their respective attorneys are:

**Plaintiff: United States Securities and Exchange Commission**

James K. Hanson  
United States Securities and Exchange Commission  
Seven World Trade Center, 13<sup>th</sup> Floor  
New York, NY 10048  
(212) 748-8153

**Defendant: John J. Savarese**

Benjamin Brafman, Esq.  
767 Third Avenue, 26<sup>th</sup> Floor  
New York, New York 10017  
(212) 750-7800