UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 56163 / July 30, 2007

INVESTMENT ADVISERS ACT OF 1940
Release No. 2623 / July 30, 2007

ADMINISTRATIVE PROCEEDING
File No. 3-12715

In the Matter of **MICHAEL J. RICE**, **Respondent.**	**ORDER INSTITUTING ADMINISTRATIVE PROCEEDINGS, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS PURSUANT TO SECTION 15(b) OF THE SECURITIES EXCHANGE ACT OF 1934 AND SECTION 203(f) OF THE INVESTMENT ADVISERS ACT OF 1940**

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted pursuant to Section 15(b)(6) of the Securities Exchange Act of 1934 ("Exchange Act") and Section 203(f) of the Investment Advisers Act of 1940 ("Advisers Act") against Michael J. Rice ("Rice" or "Respondent").

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the "Offer") which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order

Instituting Administrative Proceedings, Making Findings, and Imposing Remedial

Sanctions Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Section 203(f) of the Investment Advisers Act of 1940 (the "Order"), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

Respondent

1. Rice, age 40, is a resident of New York, New York. Rice was employed as the chief administrative officer of the Private Client Group of Prudential Securities, Inc. ("PSI") from January 1999 to October 2000, as executive director of PSI's domestic retail branch system from November 2000 to December 2002, and as president of PSI's Private Client Group ("PCG") from December 2002 to July 2003. On July 1, 2003, Prudential Financial, Inc. ("Prudential Financial"), the parent of PSI, transferred the assets relating to PSI's domestic retail securities brokerage operations to a newly formed joint venture created by Prudential Financial and Wachovia Corporation. Rice was employed by the Prudential/ Wachovia joint venture until October 2003, and by Prudential Insurance Company of America from November 2003 to April 2004. During the Relevant Period (as defined below), Rice was one of the most senior executives of the Private Client Group, and once he became President of the PCG he was also one of the most senior executives at PSI, and during the Relevant Period he had supervisory responsibility for PSI's retail registered representatives. Rice was registered with PSI as a general securities representative, general securities principal, general securities sales supervisor, and registered options principal.

Other Relevant Entity

2. Prudential Securities, Inc. Prior to July 1, 2003, PSI was an indirect wholly owned broker-dealer and investment adviser subsidiary of Prudential Financial, a publicly-owned financial holding company traded on the New York Stock Exchange. Prior to July 1, 2003, PSI was registered with the Commission as a broker-dealer pursuant to Section 15(b) of the Exchange Act and as an investment adviser pursuant to Section 203(c) of the Advisers Act and was a member of NASD and the New York Stock Exchange. On July 1, 2003, PSI converted from a stock corporation into a limited liability company and was renamed Prudential Equity Group, LLC.

Summary

3. This matter concerns Rice's failure reasonably to supervise certain PSI registered representatives whose business involved market timing in mutual fund shares for their hedge fund customers. From at least November 2000 until at least June 2003 (the “Relevant Period”), the registered representatives used fraudulent and deceptive trading practices to evade restrictions on market timing imposed by the mutual fund companies whose funds they traded. The practices, which included the use of multiple customer accounts and multiple broker identification numbers (known at PSI as “Financial Advisor” or “FA” numbers), concealed the registered representatives’ identities and those of their customers, made it more difficult for mutual fund companies to detect and prevent their market timing activity, and deceived mutual fund companies into processing transactions from customers and registered representatives whose business they wanted to reject.

4. Rice failed reasonably to supervise the registered representatives with a view to preventing their violations of the federal securities laws. As executive director and president of PSI's Private Client Group, Rice was one of the most senior executives in PSI with responsibility for PSI retail registered representatives’ compliance with applicable regulatory and legal requirements. He knew that some PSI registered representatives derived a substantial portion of their revenues from market timing in mutual fund shares, and he became aware of numerous "red flags" which indicated that certain of the registered representatives were using deceptive practices to engage in market timing. Despite this knowledge, Rice failed to take effective steps to respond to these red flags. On several occasions, Rice participated in or directed the issuance of policies and procedures that ostensibly set limits on market timing by PSI registered representatives, but none of the policies adequately addressed their use of multiple accounts and FA numbers to evade detection. Moreover, even when Rice learned that specific registered representatives may have used fraudulent and deceptive practices to engage in market timing, he failed to recommend any discipline or sanctions against them. Due in part to Rice's failure to take effective action, the registered representatives’ widespread use of fraudulent and deceptive practices continued until at least June 2003. Rice, therefore, failed reasonably to supervise the registered representatives, persons subject to his supervision, with a view to preventing or detecting their violations of Section 17(a) of the Securities Act of 1933 (“Securities Act”) and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder.

Market Timing in Mutual Fund Shares

5. Market timing in mutual fund shares involves the frequent buying and selling of shares of the same mutual fund, or the frequent exchanging of mutual fund shares within the same fund complex, in order to exploit inefficiencies in mutual fund pricing. Though not illegal *per se*, market timing can harm mutual fund shareholders in several respects, including: (a) it can dilute the value of the

shareholders' shares; (b) it can disrupt the management of the mutual fund's investment portfolio; and (c) it can impose significant administrative costs for the fund.

6. Beginning in the late 1990s, many mutual fund companies determined that market timing harmed their long-term shareholders. As a result, they began to monitor market timing in their funds' shares and imposed restrictions on excessive trading. Such restrictions limited the number of trades that an account holder could place in a fund's shares and often were set forth in the funds' prospectuses. Many mutual funds monitored trading activity to detect any violations of these prospectus limitations.

7. Most PSI registered representatives submitted mutual fund transactions through the National Securities Clearing Corporation (“NSCC”), which is a centralized trade clearance and settlement system that linked the registered representatives, PSI's Mutual Fund Operations division, and virtually all mutual fund companies. To place trades through NSCC, a PSI registered representative was required to identify himself by FA number and to provide the number of the customer account for which the trade was placed. The FA number and account number typically included a prefix for the PSI branch that submitted the trade.

8. Some mutual funds screened for excessive short-term trading by reviewing FA and customer account numbers that the registered representatives transmitted to them via NSCC. Some also monitored for excessive short-term trading by trade size and principal amount and by the branch code attached to a trade. Typically, if a fund concluded that a shareholder had violated its exchange limitations, the fund would attempt to prevent, or “block” additional trades in a fund or fund family by that shareholder. If a fund determined that a particular PSI registered representative or shareholder had violated its exchange limitations, the fund would send a “block letter” to PSI. Block letters varied but generally notified PSI of the mutual fund's intention to reject the registered representative's or customer's transaction and often asked PSI to take steps to preclude a particular registered representative or customer account from engaging in additional trades in a particular fund or fund family. Some block letters specifically identified the PSI registered representatives’ use of deceptive practices to avoid detection.

<u>The PSI Registered Representatives' Deceptive Conduct</u>

9. During the Relevant Period, certain PSI registered representatives engaged in a fraudulent scheme to avoid or evade blocks imposed by mutual funds on their trading privileges. Their scheme worked as follows. These registered representatives’ customers, typically hedge funds, asked the registered representatives to purchase and sell mutual funds on a short-term basis on their behalf. The registered representatives, however, knew that mutual funds tracked their trades by FA number and customer account number, and they further knew that

if they placed short-term mutual fund trades for their customers using a single FA or account number, the mutual funds would likely determine the number of trades was excessive and would block any further trades by them.

10. The registered representatives, therefore, devised a scheme to conduct their customers' trading using dozens of customer accounts, often established under fictitious names, and multiple FA numbers to make it difficult for mutual funds to identify their customers' market timing. When the mutual funds succeeded in blocking certain FA numbers or customer accounts from further trading, the registered representatives then used other FA numbers and customer accounts that had not yet been blocked to evade the funds' restrictions and continue to trade.

Rice Failed Reasonably to Supervise the Registered Representatives

Rice's Positions and Responsibilities

11. In October 1997, Rice joined PSI as the director of strategic initiatives, reporting to the president of the PSI's Private Client Group. In January 1999, Rice became chief administrative officer of the PCG, and he reported to the president of the PCG. As chief administrative officer, Rice was responsible for the PCG's administration, finance, real estate, and risk management functions, and the heads of those functions reported to him.

12. In November 2000, Rice became executive director of the PCG. As executive director, Rice retained his previous responsibilities and also assumed supervisory responsibilities concerning PSI's retail registered representatives.

13. In December 2002, Rice became president of the PCG. As president of the PCG, Rice was one of the most senior executives responsible for oversight of the PCG and certain other PSI business divisions, and one of the most senior executives with responsibility for supervision of the firm's retail registered representatives. As such, he participated in or directed the establishment of procedures and a system for implementing such procedures that could have reasonably been expected to prevent and detect violations of the federal securities laws.

As Early as 1998, Rice Was Warned about Risks from Market Timing

14. In October 1998, one of the PCG president's assistants forwarded to Rice an email from PSI's Mutual Fund Operations ("MFO") division staff warning that market timing activity in several PSI branches presented potentially serious risks. The problem resulted in part from the enormous volume of transactions, often submitted late in the trading day, which put substantial pressure on the back-office staff and created the risk of processing errors for which a customer might seek reimbursement from PSI. The email warned, "Because of the lack of time to edit or

validate we are taking a substantial financial risk by entering the exchanges in this manner."

15. After he became chief administrative officer for the PCG in January 1999, Rice became actively involved in discussions about how to reduce the operational risk for PSI from market timing by its registered representatives. Much of the discussion concerned the fact that a purchase of mutual fund shares had not been fully processed before a sale or exchange of the same shares was submitted.

By Late 1999, Rice Was Aware of Red Flags Concerning Some PSI Registered <u>Representatives' Use of Multiple Accounts to Market Time</u>

16. On November 21, 1999, a senior executive in PSI's MFO division forwarded to Rice a string of emails concerning a complaint from a mutual fund company that a PSI registered representative had evaded a block on two of his accounts by opening new accounts:

> It appears [that the registered representative] circumvented this restriction by requesting new BIN [account] #s and fund accounts be established, funded by transferring shares into these new accounts on 11/8/99. Subsequently on 11/10/99, an exchange out of the money fund into our stock funds was processed, beginning market timing again.

The cover email commented, "[T]his seems to be a serious matter that will only get worse."

17. On January 19, 2000, the manager of the MFO division forwarded to Rice an email from another mutual fund company complaining that another PSI registered representative had likewise evaded a trading restriction by opening a new account:

> It appears that [the registered representative] set up another account in December for the same client we restricted on 11/22[.]

18. Thus, even before Rice assumed supervisory responsibilities concerning PSI's retail registered representatives, Rice understood that market timing presented operational risks to PSI and that some mutual fund companies were imposing restrictions on market timing by PSI registered representatives. At the time, he had also received indications that some PSI registered representatives were opening new customer accounts in order to evade the restrictions and continue trading in the same mutual funds.

Throughout 2001, Rice Became Aware of Red Flags Concerning
<u>Certain Registered Representatives' Use of Deceptive Practices to Market Time</u>

19. Throughout 2001, Rice was personally involved in several matters concerning market timing by leading PSI registered representatives. He received a series of notices that indicated quite clearly that certain PSI registered representatives were engaged in market timing on a significant basis and, more importantly, that some of them were using multiple accounts and FA numbers to avoid detection by the fund companies and to continue market timing despite restrictions on their trading.

20. On March 30, 2001, the head of PCG's risk management group copied Rice on an email attaching a letter from a mutual fund company complaining that "excessive trading activity" by PSI registered representatives in its mutual funds "has become detrimental to both the funds and shareholders of the funds involved." The email, which responded to the concerns raised in the attached letter, described the steps Prudential would take to address these concerns. The letter described the tactics used by some PSI registered representatives to avoid having their trades canceled as follows:

> Since trade cancellation began on February 26th, 2001, we have noticed several types of reactions by Prudential Financial Advisors in order to circumvent our attempts to terminate excessive trading. Originally, your Financial Advisors established new identification numbers so that they would not be recognized as a repeat offender.
>
> Secondly, Financial Advisors would transfer a fund(s) position from account to account, in order to disguise their identity. Lastly, your Financial Advisors have attempted to reduce the dollar amount of the exchange orders while simultaneously increasing the number of exchanges (in the same fund and account) in the hopes of not being identified.

21. On April 18, 2001, the head of PCG's risk management group sent Rice a string of emails concerning complaints from another mutual fund company about market timing. These emails indicated that the excessive trading was taking place in two accounts belonging to a PSI registered representative, four accounts belonging to the registered representative's wife, and six "duplicate accounts." The head of risk management added this comment for Rice: "Looks like we can add [this mutual fund company] to the list of fund companies who are strictly monitoring market timing activity."

22. On June 28, 2001, Rice was copied on an email from a PSI branch manager warning him that some PSI registered representatives in his branch office were obtaining multiple FA numbers in order to avoid restrictions on their market timing:

> We will have an issue soon with joint FA numbers: in order to get around the MF [mutual fund] timing issue they are starting to request 99/01 split numbers with their junior partners to help them get around being shut down by some MF companies on timing. I will not be approving these.

23. Between February and June 2001, Rice thus received several specific warnings indicating that some PSI registered representatives were engaged in market timing on a scale that presented significant operational and legal risks for PSI and, more importantly, that certain specific registered representatives were using multiple customer accounts and FA numbers to evade detection by the mutual fund companies and to continue market timing despite being blocked. Despite this knowledge, Rice failed to take effective steps to investigate the registered representatives' improper conduct or to ensure that PSI adopted reasonable policies and procedures to prevent and detect such conduct.

Throughout 2002, Rice Continued to Become Aware of Red Flags Concerning Some PSI Registered Representatives' Use of Deceptive Practices to Market Time

24. On April 4, 2002, the MFO manager sent an email to the head of PCG risk management, who reported to Rice, and to the director of compliance at PSI, attaching a letter from a mutual fund company complaining that identified PSI registered representatives were using multiple accounts and FA numbers to evade restrictions on their market timing:

> What we have seen [s]cares us. It appears certain representatives are changing account registrations, tax id numbers, and branch and rep numbers in an effort to time [the mutual funds]. All of these accounts have been stopped, but each day "new" ones pop up.

This mutual fund company's complaint thus concerned the same kind of deceptive practices about which another mutual fund company had complained in March 2001 one year earlier. Shortly after the PSI chief compliance officer saw this complaint, he discussed it with Rice in a meeting. The head of PCG risk management also discussed the complaint with Rice.

25. On April 29, 2002, Rice met with a PSI working group that had been

analyzing market timing issues. The meeting included representatives of PSI's compliance department, PCG's risk management group, the PSI law department, a PSI divisional officer, and PSI's manager of the New York metropolitan region. The group described for Rice the mutual fund companies' restrictions on excessive trading, their block letters to PSI, and the evasive tactics used by certain PSI registered representatives, including the use of multiple accounts and FA numbers. Rice stated that any misuse of FA numbers should stop at once, directed the group to develop a new policy prohibiting their misuse, and encouraged that work continue on a draft of a policy prohibiting market timing.

26. While the head of PCG risk management was on maternity leave, the interim head of risk management notified Rice on two occasions of the New York registered representative's attempts to evade detection by mutual fund companies. First, on May 8, 2002, in connection with a request by a registered representative in PSI's Boston branch office to charge his customers a service fee similar to that charged by the New York registered representative to his market timing customers, the interim head of risk management sent Rice a chart indicating that between April 1, 2002 and May 7, 2002, the New York registered representative had 19 different mutual fund companies request that accounts under his control be blocked from their funds, but he had circumvented these requests using "also" or joint FA numbers or journaling funds between accounts, which in some instances caused sizable (7 figure) deficits, as exchanges continued to be processed in the old account. On May 29, 2002, the interim head of PCG risk management forwarded a draft market timing policy, and included a cover email reiterating the same concerns about deceptive practices by the New York registered representative as described in the chart she circulated on May 8, 2002.

27. Shortly after receiving this information, Rice held a meeting with the New York registered representative and representatives of legal, compliance, risk management, the divisional and regional officers, and regional business and divisional managers to review the New York registered representative's business. Rice knew at the time of this meeting that some mutual fund companies had complained to PSI that the New York registered representative used deceptive practices to market time. After the meeting, the head of compliance, the divisional officer and the regional officer agreed to follow up with the New York registered representative. Rice took no further steps at that time, and failed to follow up with any of the meeting's attendees to ensure the New York registered representative's conduct had been addressed.

28. From April to early June 2002, Rice thus received detailed information indicating that some PSI registered representatives, including several of the firm's largest business producers, were apparently using deceptive practices, primarily multiple customer accounts and FA numbers, to evade fund company restrictions on market timing and to continue trading despite being blocked. Despite this knowledge, Rice failed to take effective steps to curtail the registered

representatives’ conduct.

Rice Approved An Ineffective Policy Concerning New FA Numbers

29. Rice responded to these red flags by directing and approving the issuance of a PCG policy, dated June 21, 2002, requiring regional business managers to approve the issuance of new FA numbers. Under the policy, a registered representative seeking a new FA number was supposed to identify a business reason for the request. Responsibility for enforcing the policy rested with the branch and regional managers, who reported up through the divisional officers to Rice.

30. Even though the analysis by PCG risk management and compliance had revealed that some PSI registered representatives were using multiple FA numbers to evade blocks on their trading, PSI took no steps to identify their current FA numbers, and the policy did nothing to restrict the use of these existing FA numbers for market timing. Although Rice told the working group on April 29, 2002 that the misuse of FA numbers should stop at once, the June 2002 policy did nothing to identify and prevent the registered representatives’ continuing misuse of existing FA numbers to market time.

31. Further, the June 2002 policy did not even address the registered representatives’ deceptive use of multiple customer accounts to evade restrictions on market timing – even though the analysis by PCG risk management and compliance had clearly identified this problem for Rice. Indeed, as of June 2002, PSI's most active market timing registered representatives had already opened dozens of accounts for their handful of customers.

Rice Approved An Ineffective Policy Concerning Market Timing in Non-Prudential Funds

32. During the summer and early fall of 2002, a PCG working group continued to discuss a draft policy concerning market timing by PSI registered representatives in non-Prudential mutual funds. Members of the working group periodically briefed Rice on the group's progress. At the time, the working group's proposed policy, which Rice supported, would have prohibited PSI registered representatives from placing more than one trade per quarter or four trades per year.

33. By late 2002, Rice continued to be informed of discussions leading to PCG's issuance on January 8, 2003 of a policy concerning market timing by PSI registered representatives in non-Prudential funds (the “Market Timing Policy”). The Market Timing Policy simply told PSI registered representatives to abide by whatever trading restrictions were imposed by a particular mutual fund company:

> Financial Advisors must adhere to the restrictions placed on the frequency of trading as set forth in a

> particular product's disclosure document or prospectus (*e.g.*, limitations on exchanges set forth in a mutual fund prospectus). Inappropriate timing activities <u>will continue to be monitored by the product manufacturer</u> [emphasis in original].

34. The Market Timing Policy also warned PSI registered representatives against "attempts to circumvent this policy through the use of manipulative techniques" such as opening new customer accounts and obtaining new FA numbers. However, beyond stating that customer accounts and FA numbers should not be used to conceal the identity of the FA or customer, the Market Timing Policy failed to address the number of accounts and FA numbers already in use for market timing. Indeed, by early 2003, PSI's most active market timing registered representatives had opened dozens or, in some cases, hundreds of accounts for their market timing customers and were using dozens of FA numbers to place their mutual fund trades.

35. Further, the Market Timing Policy stated that upon receipt of a fund company block letter, PCG would comply with the manufacturer's requested restrictions, and that the restrictions would be applied to "<u>all</u> associated FA numbers (including joint and also numbers)" [emphasis in original]. If enforced, the Market Timing Policy would have entailed a more effective response to mutual fund company block letters because if a fund company blocked one of a registered representative's FA numbers, PSI would have applied the block to all the registered representative's FA numbers. Although interim drafts of the policy had provided that mutual fund company blocks "may be applied" to all associated FA numbers, the Market Timing Policy as issued clearly stated that fund company blocks "will be applied" to all associated FA numbers. Notwithstanding, Rice told the director of strategic planning at PCG (whom he had put in charge of risk management issues) that the Market Timing Policy should be implemented strictly in accordance with the instructions from the mutual fund company. Although this was consistent with interim drafts of the Market Timing Policy that he reviewed, it was not consistent with the policy as issued. Thus, the policy was implemented more narrowly than suggested by its plain language, which required that restrictions be implemented on "all associated FA numbers." As a result, the Market Timing Policy did not improve on the firm's ineffective practice of adhering to the strict letter of mutual fund company block letters.

Even After PSI Issued the Market Timing Policy, Rice Continued To Become Aware of Red Flags Concerning Some Registered Representatives' <u>Continuing Use of Deceptive Practices</u>

36. On February 5, 2003, the director of strategic planning at PCG forwarded to Rice a string of emails from a mutual fund company complaining that certain PSI registered representatives were using multiple customer accounts and FA numbers for market timing. One email indicated that the registered representatives

had been asked to stop the activity a few times over the past several months and the mutual fund company placed stops on 325 of their accounts, only to see new accounts and “rep id combinations” added daily. Another recounted similar conduct, and noted that the offending registered representatives created almost $3 billion in exchanges the prior year, during which time the mutual fund company placed stops on 350 of their accounts.

37. On February 7, 2003, the director of strategic planning at PCG forwarded to Rice another string of emails from a mutual fund company complaining about market timing by certain PSI registered representatives through multiple FA numbers and seeking PSI's assistance to identify the registered representatives involved, all but one of whom belonged to the office of the New York registered representative. The director of strategic planning informed Rice that the “noose is tightening” on market timers.

38. On February 11, 2003, a PCG risk officer forwarded to Rice an email from a PSI branch manager about the New York registered representative’s market timing practices. The branch manager questioned the effectiveness of the MFO's internal blocking system and raised several other concerns about the registered representative’s activities:

> Blocking of individual accounts by fund companies is extremely short-sighted in consideration of the fact that each entity maintains multiple accounts with our Firm.
>
> There have been repeat offenses, at least in spirit, in [two mutual fund companies].
>
> Fund companies have been misled as to the identity of the FA's of record... Recently, [another mutual fund company] was provided with information which was at best misleading to effect the removal of a block.
>
> [T]here is frequent journaling of funds between accounts.
>
> At the present time, [the New York registered representative and another PSI registered representative] either have or have had a total of 48 FA #s including single, joint and also numbers.

The branch manager's email thus informed Rice that the New York registered representative continued to use multiple customer accounts and FA numbers to evade restrictions on his market timing – the same deceptive practices by the registered representative about which Rice had been warned on prior occasions, including in

May 2002. Although the branch manager's email prompted a review of the New York registered representative's business practices by PSI's Legal, Compliance, and Risk Management divisions, and by several PSI line supervisors, and resulted in a consensus that the New York registered representative should be disciplined for some of his business practices, the New York registered representative never was disciplined for his use of deceptive practices to market time – even though the Market Timing Policy explicitly threatened sanctions for registered representatives who engaged in such activities.

Conclusion

39. As executive director and president of PSI's Private Client Group, Rice was one of the most senior executives in the Private Client Group and had responsibility for PSI retail registered representatives' compliance with applicable regulatory requirements. Among other things, Rice participated in or directed the issuance of policies and procedures concerning the registered representatives' business practices and had the authority to sanction, discipline or terminate registered representatives who used fraudulent and deceptive practices to market time.

40. Even before Rice assumed any supervisory responsibilities concerning PSI's retail registered representatives, he understood that market timing presented potentially serious risks to PSI, that some mutual fund companies were imposing restrictions on market timing by PSI registered representatives, and that some PSI registered representatives opened new customer accounts in order to evade the restrictions and continue trading in the same mutual funds. After Rice assumed the position of executive director, and, later, president of PSI's Private Client Group, he received numerous "red flags" indicating that some PSI registered representatives, including some of the largest business producers at the firm, continued to use fraudulent and deceptive practices – most notably multiple customer accounts and FA numbers – to market time, despite the mutual fund companies' efforts to monitor and curtail their trading.

41. In June 2002 and in January 2003, Rice participated in or directed the issuance of policies ostensibly designed to respond to the use of fraudulent and deceptive practices by PSI registered representatives. These policies were substantially ineffective, however, and did little to identify, let alone prevent, the registered representatives' continuing deceptive use of multiple accounts and FA numbers for market timing.

42. Rice failed reasonably to supervise the PSI registered representatives to prevent or detect their fraudulent and deceptive conduct, which continued largely unabated until at least June 2003.

43. As a result of the conduct described above, Rice failed reasonably to

supervise certain PSI registered representatives, persons subject to his supervision, with a view to preventing or detecting the registered representatives' violations of Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 thereunder. Section 15(b) of the Exchange Act and Section 203(f) of the Advisers Act provide for imposition of sanctions against, respectively, (i) a person associated with a broker or dealer; and (ii) a person associated with an investment adviser, who has failed reasonably to supervise, with a view to preventing or detecting violations of the securities laws, another person who commits such a violation, if such other person is subject to his supervision.

Undertakings

44. Ongoing Cooperation by Rice. Rice undertakes to cooperate fully with the Commission in any and all investigations, litigations or other proceedings relating to or arising from the matters described in this Order. In connection with such cooperation, Rice has undertaken:

A. To produce, without service of a notice or subpoena, any and all documents and other information reasonably requested by the Commission's staff;

B. To be interviewed by the Commission's staff at such times as the staff reasonably may request and to appear and testify truthfully and completely without service of a notice or subpoena in such investigations, depositions, hearings or trials as may be requested by the Commission's staff; and

C. That in connection with any testimony of Rice to be conducted at deposition, hearing or trial pursuant to a notice or subpoena, Rice:

i. Agrees that any such notice or subpoena for his appearance and testimony may be served by regular mail on his counsel, Lee S. Richards III, Esq., Richards, Kibbe & Orbe LLP, One World Financial Center, New York, NY 10281; and

ii. Agrees that any such notice or subpoena for his appearance and testimony in an action pending in a United States District Court may be served, and may require testimony, beyond the territorial limits imposed by the Federal Rules of Civil Procedure or the Commission's Rules of Practice.

45. Respondent shall provide to the Commission, within 30 days after the end of the 12 month suspension period described in this Order, an affidavit that he has complied fully with the sanctions described in Section IV below.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondent Rice's Offer.

Accordingly, pursuant to Section 15(b) of the Exchange Act and Section 203(f) of the Advisers Act, it is hereby ORDERED that:

A. Respondent Rice be, and hereby is suspended from association in a supervisory capacity with any broker, dealer, or investment adviser for a period of twelve months, effective on the second Monday following the entry of this Order.

B. Respondent Rice shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of $100,000 to the United States Treasury. Such payment shall be: (A) made by wire transfer, United States postal money order, certified check, bank cashier's check or bank money order; (B) made payable to the Securities and Exchange Commission; (C) wired, hand-delivered or mailed to the Office of Financial Management, Securities and Exchange Commission, Operations Center, 6432 General Green Way, Stop 0-3, Alexandria, VA 22312; and (D) submitted under cover letter that identifies Rice as a Respondent in these proceedings, the file number of these proceedings, a copy of which wire transfer instruction, money order, or check shall be sent to David P. Bergers, Regional Director, Securities and Exchange Commission, Boston Regional Office, 33 Arch Street, 23rd Floor, Boston, Massachusetts 02110.

C. Respondent shall comply with the undertaking enumerated in Section 45 above.

By the Commission.

Nancy M. Morris
Secretary