

**STATE OF ARKANSAS**  
**SECURITIES DEPARTMENT**

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IN THE MATTER OF

ORDER REVOKING  
REGISTRATION OF , AND  
IMPOSING FINES ON,  
MEYERS-POLLOCK-ROBBINS, INC.  
AND MICHAEL PLOSHNICK

MEYERS-POLLOCK-ROBBINS, INC.

AND MICHAEL PLOSHNICK

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ORDER NO. 98-012-S

**ORDER**

On February 25, 1998, came on to be heard Complaint Numbered 97-257-S by the staff of the Arkansas Securities Department (the "Department") which was filed on January 30, 1998, against Meyers-Pollock-Robbins, Inc., CRD Number 13436 ("Meyers"), and Michael Ploshnick, CRD Number 1014589 ("Ploshnick"). This proceeding was instituted pursuant to the Arkansas Securities Act [Ark. Code Ann. § 23-42-101 *et seq.*] (the "Act") the Rules of the Arkansas Securities Commissioner promulgated thereunder (the "Rules"), and the Arkansas Administrative Procedure Act [Ark. Code Ann. § 25-15-201 *et seq.*] to determine what action is appropriate in the public interest with respect to the registration of the respondents named herein.

Appearing at the hearing on behalf of the Arkansas Securities Department was its attorney, Bruce H. Bokony. Although respondents received notice of the hearing of the complaint, they did not attend and did not have a representative at the hearing.

Upon consideration of the evidence presented at the hearing, the statements of counsel and other matters of proof, and pursuant to the authority given by the Act, as the Securities Commissioner, I make the following Findings of Fact:

**FINDINGS OF FACT**

1. The hearing of this matter was held pursuant to the provisions of the Act, Ark. Code Ann. § 23-42-308, and the Arkansas Administrative Procedure Act [Ark. Code Ann. § 25-15-213].
2. Jurisdiction over Meyers, Polshnick, and the subject matter of this proceeding is proper pursuant to the Act, Ark. Code Ann. §§ 23-42-103 and 23-42-308.
3. Meyers and Ploshnick were duly served with notice of this hearing.
4. Meyers has its principal place of business at One World Trade Center, Suite 9151, New York, New York, 10048. Meyers became registered as a broker-dealer in Arkansas on October 21, 1994, and remained registered until December 31, 1997, when it failed to renew its registration for 1998.

5. Ploshnick is Meyers' President, Principal, and Financial Operations Principal. On October 21, 1994, he became registered in Arkansas as an agent.
6. On October 21, 1994, the Department accepted Meyers' designation of Ploshnick as the Arkansas principal who has direct supervision over the purchase and sale of securities in Arkansas for Meyers.
7. Ploshnick remained registered in Arkansas, and remained designated as the Arkansas principal, until December 31, 1997, when Meyers did not renew its registration for 1998.
8. The Department staff conducted an investigation into the Arkansas registrations of Meyers' agents who are agents over Arkansas resident accounts. These Arkansas accounts and their corresponding agent identification codes were obtained from Meyers' clearing firms. The examination covered the active registration period from October 21, 1994, to December 31, 1997. (Exhibits 1 and 2)
9. On January 23, 1998, the Department served notice on Meyers and Ploshnick (via facsimile and certified mail) of the Department's intent to file a complaint against Meyers and Ploshnick by 4:30 PM on January 30, 1998, and a copy of the proposed complaint was attached to each notice. (Exhibit 6)
10. Having received no response from Meyers or Ploshnick, the Department filed the complaint on January 30, 1998 via Federal Express delivery with confirmation of receipt of the complaint at the principal address in paragraph 4 (above). The complaint specified a hearing scheduled in offices of the Commissioner at the Arkansas Securities Department, 201 East Markham, Third Floor, Little Rock, AR 72201, at 10:00 AM (CST) on Wednesday, the 25th day of February, 1998. (Exhibit 7)
11. At the appointed place and time, the hearing was convened. Neither Meyers, nor Ploshnick, nor any representative of Meyers or Ploshnick were present for the hearing. No response to the notice of intent to file a complaint, to the filing of the complaint, or to the scheduled hearing was received from Meyers, Ploshnick, or any representative.

## **I. FAILURE TO PRODUCE RECORDS**

12. The Department sent a letter, dated August 13, 1997, to Susan M. Diamond, Director of Compliance for Meyers ("Diamond") requesting the names of agents corresponding to the agent codes on Arkansas accounts. Diamond responded with names in letters dated August 19, 1997 and September 3, 1997. The names of the agents who have handled accounts 191-51174 (Southwest Securities Corp.) and 648-12120 (U.S. Clearing) were not provided. (Exhibits 3 and 4)
13. The Department then sent a letter, dated December 3, 1997, to Diamond requesting information on the above two accounts, and an explanation for the lack of, or delay in, registration of agents identified as agents on Arkansas accounts. The staff required Diamond to respond by January 5, 1998. (Exhibit 5)
14. The Department did not receive a response to its December 3, 1997 letter.
15. Meyers and Ploshnick have failed to produce records as required by the Act.

## **II. FAILURE TO REGISTER AGENTS**

16. The Department staff examined the registration histories (in Department records) of the agents' names as provided by Diamond, and determined that six agents over Arkansas

resident accounts were never registered in Arkansas as agents, and ten other agents over Arkansas resident accounts were not registered as agents until after the accounts had been opened. (Exhibit 5)

17. Meyers and Ploshnick permitted or caused certain agents to effect transactions in Arkansas accounts during a period of time the agents were not registered in Arkansas.

### **III. FAILURE TO SUPERVISE AGENTS**

18. Paragraph 16 is incorporated herein.
19. Meyers and Ploshnick failed to properly supervise Meyers' agents by allowing unregistered agents to effect transactions in Arkansas.

### **RELEVANT ARKANSAS STATUTES AND RULES**

20. Ark. Code Ann. § 23-42-205(a). "The commissioner, in his discretion, may (1) Make any public or private investigations within or outside of this state which he deems necessary to determine whether any person has violated or is about to violate any provision of this chapter or any rule or order under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter;"
21. Ark. Code Ann. § 23-42-205 (b). For the purpose of any investigation or proceeding under this chapter, the commissioner or any officer designated by him may . require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the commissioner deems relevant or material to the inquiry.
22. Ark. Code Ann. § 23-42-301 (a). "It is unlawful for any person to transact business in this state as a broker-dealer or agent unless he is registered under this chapter."
23. Ark. Code Ann. § 23-42-301 (b) (1). "It is unlawful for any registered broker-dealer or issuer to employ an unregistered agent except a nonresident agent who is registered by any other state securities administrator and who effects transactions in this state exclusively with registered broker-dealer."
24. Ark. Code Ann. § 23-42-301 (e) (1) provides that at least one officer or partner of the broker-dealer shall have direct supervision over the purchase and sale of securities in Arkansas. That officer or partner must register as an agent and be designated as a principal of the broker-dealer.
25. Ark. Code Ann. § 23-42-308 (a) (2) (B). The commissioner may by order deny, suspend, or revoke any registration if he finds that the registrant has willfully violated or willfully failed to comply with any provision of this chapter or a predecessor act or any rule or order under this chapter or a predecessor act.
26. Ark. Code Ann. § 23-42-308 (a) (2) (J). The commissioner may by order deny, suspend, or revoke any registration if he finds that the registrant has failed reasonably to supervise the agents of the broker-dealer.
27. Ark. Code Ann. § 23-42-308 (e). "Withdrawal from registration as a broker-dealer, agent, investment adviser, or representative becomes effective thirty (30) days after receipt of an application to withdraw, or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within thirty (30) days after the application is filed." further, "(1) If a proceeding is

pending or instituted, then withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines."

28. Ark. Code Ann. § 23-42-308 (g). Upon notice and opportunity for hearing as provided in subsection § 23-42-308 (f), the commissioner may fine any broker-dealer, agent, investment adviser, or representative up to a maximum of five thousand dollars (\$5,000) for each separate violation of this chapter.

### **CONCLUSIONS OF LAW**

#### **COUNT I**

29. The failure of Meyers to provide records constitutes a violation of Ark. Code Ann. § 23-42-205 (b) in that Meyers failed to name two agents who handled two Arkansas accounts, and failed to provide information concerning securities activities of unregistered agents in Arkansas. Such violation constitutes grounds to suspend or revoke the registration of Meyers under Ark. Code Ann. § 23-42-308 (a) (2) (B), and to impose a fine of \$5,000 for the failure to produce.

#### **COUNT II**

30. Meyers, while a broker-dealer registered in Arkansas, willfully allowed sixteen of its agents to effect transactions in Arkansas accounts before registering those agents in Arkansas, constituting a violation of Ark. Code Ann. § 23-42-301 (b) (1). Such violation constitutes grounds to suspend or revoke the registration of Meyers and Ploshnick under Ark. Code Ann. §§ 23-42-308 (a) (2) (B) and 23-42-308 (a) (2) (J), and to impose a fine in the amount of \$5000 for each of the sixteen agents for a total fine of \$80,000.

#### **COUNT III**

31. Meyers and Ploshnick failed to supervise sixteen Meyers' agents in that they allowed those agents to effect transactions in Arkansas accounts before the agents became registered in Arkansas. Such conduct constitutes a violation of Ark. Code Ann. § 23-42-301 (e) (1) and 23-42-308 (a) (2) (J) and is a ground to suspend or revoke the registration of Meyers and Ploshnick under Ark. Code Ann. §§ 23-42-308 (a) (2) and 23-42-308 (a) (2) (J) ), and to impose a fine in the amount of \$5000 for each of the sixteen agents for a total fine of \$80,000.

### **OPINIONS**

For reasons set forth herein, and based upon Findings of Fact and Conclusions of Law recited above, it is the opinion of the Commissioner that the registrations of Meyers and Ploshnick be revoked, and that a fine in the amount of \$165,000 be imposed jointly and severally against Meyers and Ploshnick. Further, it is the opinion of the Commissioner that this order, and the sanctions herein, are in the public interest.

### **ORDER**

Pursuant to the Findings of Fact, Conclusions of Law, and Opinions set forth above, and pursuant to Ark. Code Ann. § 23-42-308 (a),

IT IS THEREFORE ORDERED THAT the registrations of Meyers and Ploshnick be revoked, and,

IT IS FURTHER ORDERED THAT a fine in the amount of \$165,000 be imposed jointly and severally against Meyers and Ploshnick.

WITNESS MY HAND AND SEAL this \_\_\_\_th day of March, 1998

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MAC DODSON

SECURITIES COMMISSIONER