

STATE OF ALABAMA  
ALABAMA SECURITIES COMMISSION

IN THE MATTER OF: )  
MICHAEL A. FORTUGNO )  
RESPONDENT )  
 )  
 )  
ADMINISTRATIVE ORDER  
NO. OB-2002-00 07

## ORDER OF BAR

The Alabama Securities Commission ("Commission"), having the power to administer and provide for the enforcement of all provisions of Title 8, Chapter 6, Code of Alabama 1975, the Alabama Securities Act, upon due consideration of the subject matter hereof, has determined as follows:

**RESPONDENT**

1. MICHAEL A. FORTUGNO ("RESPONDENT"), during all times relevant to this order was an unregistered agent in the State of Alabama employed with Sterne, Agee & Lech, Inc., ("SA&L") with a business address of 800 Shades Creek Parkway Suite 700 Birmingham, Alabama 35209. Respondent is currently not registered with the Commission. His last known residential address is 161 highway 39 Chelsea, Alabama 35043

**STATEMENT OF FACTS**

2. On November 8, 2001, the National Association of Securities Dealers Regulation ("NASDR") furnished information that RESPONDENT's employment with SA&L Inc., was terminated in April of 2001, as a result of his connection with the theft of funds and stocks from a suspense account. The RESPONDENT's co-conspirator was Michael Joseph. Esposito. On February 26, 2001, an investigation by the Alabama

Securities Commission concluded, which substantially included the following:

The investigation revealed that the theft began August 1, 1995 and continued until April 2001. The stolen funds were divided between stock splits, settlement checks, unclaimed dividends and unclaimed stock. It was determined that the RESPONDENT and his co-conspirator camouflaged the theft of the unclaimed dividends and the settlement checks by converting them to stock and then transferred it out to the RESPONDENT's Fidelity account. The total amount of cash stolen was \$855,466.13. The remainder of the property taken was in the form of stock. After the stock was transferred to Fidelity, the co-conspirator would liquidate it and send the proceeds to his AmSouth checking account. He then would split the money with his co-conspirator, Esposito.

It was determined that between \$1.2 and \$1.5 million was stolen from the suspense account.

#### CONCLUSIONS OF LAW

3. Pursuant to the provisions of Section 8-6-3(j), Code of Alabama 1975, the Alabama Securities Commission may suspend, revoke, deny, censor or bar any applicant or registrant or any officer, director, partner, or person occupying a similar status or performing similar functions if the Commission finds that the Order is in the public interest and the applicant or registrant has willfully violated or willfully failed to comply with any provisions of this article, or a predecessor act, or any rule or order under this article or a predecessor act.

4. RESPONDENT has engaged in dishonest or unethical practices business in violation of the Alabama Securities Act 8-6-3(j)-7 Code of Alabama 1975.

This Order is appropriate in the public interest for the protection of investors and consistent with the purposes of the Alabama Securities Act.

**ACCORDINGLY, IT IS HEREBY ORDERED** that Michael A. Fortugno be **BARRED** from registration or engaging in securities activities into, within or from the state of Alabama.

Entered at Montgomery, Alabama this 26<sup>th</sup> day of MARCH, 2002.



ALABAMA SECURITIES COMMISSION  
770 Washington Avenue, Suite 570  
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(334) 242-2984

BY:

JOSEPH P. BORG  
Director

A handwritten signature in black ink, appearing to read "JOSEPH P. BORG", is written over the typed name and title. The signature is fluid and cursive.