

STATE OF ALABAMA
ALABAMA SECURITIES COMMISSION

IN THE MATTER OF:

MACKROW ASSET MANAGEMENT GROUP
JOHN N. CUCINELLA
RESPONDENTS

)
)
)
ADMINISTRATIVE ORDER
NO. CD 2017 - 0009

CEASE AND DESIST ORDER

The Alabama Securities Commission ("Commission"), having the authority to administer and provide for the enforcement of all provisions of Title 8, Chapter 6, Code of Alabama 1975, the Alabama Securities Act ("Act"), upon due consideration of the subject matter hereof, and having confirmed information of the offers for sale and/or sale of securities into, within or from the state of Alabama, has determined as follows:

RESPONDENTS

1. **MACKROW ASSET MANAGEMENT GROUP ("MACKROW")**, during all times involving the offer and sale of the securities relevant to this order, was a New York company with a principal business address of 83 Bay 28th Street, 2nd Floor, Brooklyn, New York 11214.

2. **JOHN N. CUCINELLA ("CUCINELLA")**, during all times involving the offer and sale of the securities relevant to this order, was the Investment Manager of **MACKROW** with a principal business address of 83 Bay 28th Street, 2nd Floor, Brooklyn, New York 11214.

STATEMENT OF FACTS

3. On June 2, 2017, the Commission staff received information that **CUCINELLA**, as the Investment Manager for **MACKROW**, cold called an Alabama resident ("Investor")

and solicited an investment in a “pre-initial public offering” of shares in the company that makes Raid bug spray. **CUCINELLA** said that the Investor could purchase 1000 shares for \$16,000.00. This call took place on or about May 7, 2017.

4. On May 8, 2017, **CUCINELLA** sent documents to the Investor by way of FedEx. These documents included new account paperwork and a letter advising the Investor to make his check payable to **MACKROW**. The letter listed the total investment amount as \$16,000.00. The letter also stated, “Due to the volume of checks we receive daily, please only print your account number in the memo section of check.”

5. On or about May 11, 2017, the Investor sent a personal check to **CUCINELLA** and **MACKROW** by way of FedEx in the amount of \$16,000.00.

6. On May 15, 2017, the Investor received through U.S. mail a “Buy Trade Confirmation” on **MACKROW** letterhead from **CUCINELLA** and **MACKROW** showing that the Investor now owned 775 shares of “Domestic Guard Advantage One.” The trade amount was listed as \$16,027.00. The commission was listed at \$100, and there was a “ticket charge” of \$47.00.

7. Approximately two weeks after the Investor made the investment, the Investor called **CUCINELLA** and asked him about the value of the Raid stock. **CUCINELLA** told the Investor that the Raid stock was not available, and **CUCINELLA** had purchased the Domestic Guard Advantage One stock, which was not associated with the Raid company. The Investor told **CUCINELLA** that he did not have the Investor’s permission to purchase the Domestic Guard Advantage One stock. The Investor then told **CUCINELLA** to sell the Domestic Guard Advantage One stock and refund his investment.

8. On or about June 5, 2017, the Investor received through U.S. mail a “Sell Trade Confirmation”, on **MACKROW** letterhead, from **CUCINELLA** and **MACKROW** showing that **CUCINELLA** had sold 775 shares of Domestic Guard Advantage One stock for a total of \$9,137.25. This represented a loss of \$6,889.75 for the Investor. The Investor also received a check from **CUCINELLA** and **MACKROW** in the amount of \$8,644.14.

CUCINELLA and **MACKROW** billed the Investor \$493.11 in fees and commission.

9. An internet search through Google as well as several stock market sites, including OTC markets, showed no listing for any stock in the name of Domestic Guard Advantage One.

10. On October 24, 2017, a review of the Commission's registration files disclosed no current record of registration for **CUCINELLA** and no record for **MACKROW** as a broker dealer, broker dealer agent, investment advisor, or investment advisor representative in the state of Alabama. **CUCINELLA** was previously registered in Alabama as a broker dealer agent with several different entities as far back as 1997 and as recent as November 15, 2013.

11. On October 24, 2017, a review of the Commission's registration files disclosed no record of registration nor any filing for an exemption from registration in the state of Alabama for any securities in the name of Domestic Guard Advantage One.

CONCLUSIONS OF LAW

12. Pursuant to Section 8-6-2(10) Code of Alabama 1975, the definition of a security includes stock. The stock of Domestic Guard Advantage One purportedly offered and sold by **CUCINELLA** and **MACKROW** to the Alabama resident is a security as defined in the Act.

13. Pursuant to Section 8-6-2(3) Code of Alabama 1975, the definition of a Dealer includes any person engaged in the business of effecting transactions in securities for the accounts of others. **MACKROW** effected securities transactions in the account of an Alabama resident and is a Dealer as defined in the Act.

14. Pursuant to Section 8-6-2(2) Code of Alabama 1975, the definition of Agent includes any individual other than a Dealer who represents a Dealer or Issuer in effecting or attempting to effect sales of securities. **CUCINELLA**, represented **MACKROW** in

effecting sales of securities, to wit: the stock of Domestic Guard Advantage One, and is an Agent as defined in the Act.

15. Pursuant to Section 8-6-4, Code of Alabama 1975, it is unlawful for any person to offer or sell any security in this state unless said security: (1) is registered under the Act; (2) the security is exempt from registration under section 8-6-10; or (3) the transaction is exempt from registration under section 8-6-11. The securities offered by **CUCINELLA** and **MACKROW**; to wit: the stock of Domestic Guard Advantage One, are neither registered nor subject to a perfected exemption from registration in Alabama and were offered and sold in Alabama in violation of the Act.

16. Pursuant to Section 8-6-3(a), Code of Alabama 1975, it is unlawful for any person to transact business in the state as a dealer or agent for securities unless registered under the Act. **MACKROW**, through their agent **CUCINELLA** offered securities, to wit: the stock of Domestic Guard Advantage One, to an Alabama resident without being registered as a Dealer, in violation of the Act.

17. Pursuant to Section 8-6-3(a), Code of Alabama 1975, it is unlawful for any person to transact business in the state as a dealer or agent for securities unless registered under the Act. **CUCINELLA**, while representing **MACKROW** as an agent, offered securities, to wit: the stock of Domestic Guard Advantage One, to an Alabama resident without being registered as an Agent, in violation of the Act.

18. Pursuant to Section 8-6-3(a), Code of Alabama 1975, it is unlawful for any dealer or issuer to employ an agent to effect or attempt to effect securities transactions unless the agent is registered in this state. **MACKROW** employed **CUCINELLA** as an agent to solicit securities transactions in this state while not registered in violation of the Act.

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

Additionally, if the allegations set forth herein are found to be true, through either administrative adjudication, failure of the **RESPONDENTS** to make a timely request for hearing, or default of the **RESPONDENTS**, it is the intention of the Commission to impose sanctions upon the **RESPONDENTS**. Such sanctions may include, *inter alia*, an administrative assessment imposed on **RESPONDENTS**, an additional administrative assessment for investigative costs arising from the investigation of the violation(s) described herein against **RESPONDENTS**, and a permanent order to bar **RESPONDENTS** from participation in any securities related industry in the state of Alabama.

ACCORDINGLY, IT IS HEREBY ORDERED that **RESPONDENTS** immediately **CEASE AND DESIST** from further offers or sales of any security into, within or from the state of Alabama.

Entered at Montgomery, AL, this 31st day of October, 2017.

ALABAMA SECURITIES COMMISSION
401 Adams Avenue, Suite 280
Montgomery, AL 36104
(334) 242-2984

BY:

Joseph P. Borg
Director

