

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF STATE  
BUREAU OF SECURITIES REGULATION**

IN THE MATTER OF:

Joseph Michael Palermo

Respondent

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)  
) FINDINGS, RULINGS AND ORDER  
) COM11-0013  
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**Procedural History**

On November 26, 2013, the Bureau of Securities Regulation (hereinafter referred to as "the Bureau") filed a Staff Petition for Relief against the above-captioned Respondent alleging violations of New Hampshire RSA 421-B and requesting relief, including issuance of a cease and desist order and payment of fines and restitution. The Bureau alleged that in 2005 Joseph Michael Palermo (hereinafter referred to as "Palermo") offered Investor #1 and a friend shares that Palermo owned in a company called Pinnacle Resources, Inc. (hereinafter referred to as "Pinnacle"), saying he expected the price to "go through the roof." Palermo promised in writing to buy back the Pinnacle shares at the higher price of twenty-four cents per share if Investor #1 elected to sell. Palermo also stated to Investor #1 that the shares were restricted and could not be resold until May 2006. Based on these representations, Investor #1 paid \$50,000 for 1.2 million of Palermo's shares, while Investor #1's friend purchased shares for \$15,000. This was evidenced in a share certificate dated May 25, 2005. Investor #1 reported to the Bureau he discovered that Palermo later sold his Pinnacle shares to a nephew in Florida. According to the Staff Petition, further investigation by the Bureau revealed that Palermo had 550,000 shares of Pinnacle stock issued to him on May 25, 2005 that was transferred to a relative in Florida on May 25, 2006.

A Cease and Desist Order was issued on December 3, 2013, commencing the adjudicative proceeding in this matter. Palermo submitted a letter to the Bureau on December 19, 2013 requesting a hearing. Due to his incarceration in Massachusetts, Palermo waived the ten-day requirement for holding a hearing on a cease and desist order and requested the hearing be held after his release date of March 26, 2014. In addition, the letter contained various allegations against Investor #1, Terrence Casey (hereinafter referred to as "Casey"). On

December 20, 2013, a Hearing Order was issued setting the date for the hearing in this matter for March 31, 2014.

On January 21, 2014, the Bureau submitted a Motion to Impeach by Evidence of Convictions and to Admit Evidence of Prior Bad Acts, stating that Palermo's allegations against Casey in his December 9, 2013 letter placed Palermo's credibility clearly at issue. On February 20, 2014, an order granting the Bureau's Motion was issued, subject to Palermo's right to object to the introduction of such evidence at hearing. On January 29, 2014, the Bureau submitted a Motion to Compel Production, stating that Palermo had not produced any documents or a witness list and requesting that the presiding officer order Palermo to produce documents and a witness list. An Order Compelling Production was issued on February 4, 2014 requiring Palermo to produce documents requested by the Bureau and to provide a witness list. In a letter dated February 7, 2014, Palermo submitted a list of witnesses he intended to call. He also requested a short delay in the hearing so that he could have time to gather documents, to which the Bureau assented. There is no evidence that Palermo complied with the requirement of the Order Compelling Production that he produce to the Bureau documents he intended to introduce at hearing. On February 20, 2014, the Bureau submitted a Notice of Assent to Palermo's request for a short delay and also requested a structuring conference.

An Order to Continue the Hearing was issued on February 21, 2014. As part of this Order, the parties were ordered to attend a prehearing structuring conference set for April 7, 2014. On March 19, 2014, the Bureau submitted a Motion for Discovery Sanctions, a Motion in Limine, and a Motion to Allow Testimony Telephonically. On March 31, 2014, an Order Regarding Bureau Motions was issued instructing the parties to be prepared to address the Bureau's pending Motions at the prehearing structuring conference on April 7, 2014. The prehearing structuring conference was held as scheduled, but Palermo failed to appear. The Bureau presented arguments in support of their motions and asked the presiding officer to find Palermo in default on this matter for not attending the prehearing conference. On April 22, 2014, the hearing in this matter was opened as scheduled. Palermo did not appear on this date. However, the Bureau reported at the hearing that Palermo would not be appearing and had telephoned the Bureau on April 21, 2014 representing that he had a medical issue and would not be able to attend the hearing. According to the Bureau, Palermo was advised to submit a written request for a continuance and was provided the Bureau's fax number. In addition, Palermo provided new contact information to the Bureau, which was provided to this presiding officer.

In the weeks following, no request for a continuance was received. Nonetheless, on June 12, 2014, an Order to Continue Hearing was issued, setting the hearing in this matter for June 26, 2014. In addition, on June 12, 2014 an Order to Allow Testimony Telephonically was issued. Notice was issued and delivered via United States Postal Service Certified Mail for both of the June 12<sup>th</sup> orders. At 10:00 a.m. on June 26, 2014, neither Palermo nor counsel representing him appeared. Additional time was allowed for Palermo to appear. He did not, and at 10:15 a.m. on June 26, 2014, the hearing was opened. The hearing was recorded. Before the hearing was closed, the Bureau made an oral motion for default pursuant to N.H. RSA 421-B:26-a, XXII. The presiding officer granted the motion and indicated that a more detailed order would issue thereafter with findings, rulings, and further orders.

### **Findings of Fact**

The Bureau presented several allegations of fact in its Staff Petition for Relief, notably that:

1. Investor #1, Casey, was a resident of New Boston, New Hampshire in 2005.
2. Palermo, a resident of Derry, New Hampshire at the time, offered to sell shares of Pinnacle to Casey and a friend of Casey's for five cents per share.
3. Palermo promised in writing to buy back the Pinnacle shares at twenty-four cents per share if Casey wanted to sell his shares.
4. Palermo told Casey that the shares were restricted and could not be resold until May 2006.
5. Casey reported he paid Palermo \$50,000 to purchase shares from Palermo and that Casey's friend paid \$15,000 to purchase shares.
6. A share certificate numbered 605 and a transfer form dated May 25, 2005 purporting to be from Pinnacle was given to Casey by Palermo, purporting to transfer 1.2 million shares of Pinnacle to Casey.
7. Casey reported in 2011 that he found out later that he had been defrauded by Palermo, as he had heard that Palermo subsequently sold his Pinnacle shares to a nephew in Florida.
8. Pinnacle of Wyoming merged with Pinnacle, Delaware in March 2010 and the name was changed to Iron Eagle Group, Inc. (hereinafter referred to as "Iron") of Englewood, Colorado.
9. Iron's transfer agent was Corporate Stock Transfer (hereinafter referred to as "CST") of Denver, Colorado.
10. CST stated that Palermo was issued 550,000 shares of Pinnacle on May 25, 2005.
11. CST stated that Palermo did not transfer any shares to Casey.
12. CST stated that Palermo transferred his shares to a relative located in Florida on May 25, 2006.

The Respondent, in his letter of December 19, 2013, generally denied the allegations found in the Bureau's Staff Petition for Relief. However, the Respondent did not appear for the hearing on the merits of the matter to actively contest the allegations.

At hearing, the Bureau called Terence Casey as a witness. Casey was sworn in and confirmed that he first met Palermo in Derry, New Hampshire at a friend's hot dog stand. Casey was also a hot dog vendor. Casey said Palermo told him he worked for a foundation associated with the Boston Celtics of the National Basketball Association (hereinafter referred to as "the NBA"). They met initially over a business proposition Palermo first offered to Casey's friend. Palermo said he owned stock, together with several NBA coaches, in Pinnacle, a company he described as owning mineral rights in South African properties and harvesting industrial grade diamonds. According to Casey, Palermo was experiencing some conflict in his role with the Celtics and needed to divest his shares. Palermo offered to transfer to Casey a certificate representing Palermo's ownership of 500,000 shares of Pinnacle stock. Palermo stated that the stock was restricted and could not be sold for a year. Palermo proposed to sell the 500,000 shares to Casey for \$60,000. Casey testified that Palermo said he would buy the shares back at twenty-four cents a share any time Casey wanted.

The Bureau offered a copy of a stock certificate for Pinnacle with CUSIP 723479101 showing Terry Casey as the owner of 1.2 million shares of common stock. The certificate was dated May 25, 2005 and was stamped "Entered Nov 25 2005." The certificate represented

Palermo's 500,000 shares plus an additional 700,000 shares purchased by Palermo, for a total of 1,200,000 shares. The Bureau pointed out that the stock certificate number and the number of shares appear to have been written in on the certificate. In addition, the Bureau noted that the owner is presented on the certificate as "Terry Casey," rather than "Terrence Casey," which is Casey's full legal first and last name. The Bureau stated that this suggests whoever made out the stock certificate was familiar with Casey. Casey and the friend who purchased stock with him did not receive the stock certificate until October 2005.

The Bureau introduced a copy of a check issued by Palermo on October 20, 2005 paid to the order of Pinnacle Resources, Inc. for \$60,000. Casey stated that this represented the purchase of part of the \$65,000 worth of Pinnacle shares Casey and his friend agreed to purchase. Casey stated the copy entered into evidence by the Bureau showed writing signed by Palermo indicating that there was a payment of an additional \$5,000 by separate check for a total of \$65,000. Next to the \$50,000 figure on the copy is written the name of "Terry Casey." The Bureau also entered into evidence a writing dated October 25, 2005 and signed by Joseph Palermo stating Palermo would, on May 25, 2006, repurchase the shares of Pinnacle purchased by Casey and his friend if they chose to sell. According to Case, this was done to "eliminate any probability of financial loss." This document was also signed by Casey and notarized by Alex H. William, Notary Public.

Casey stated he was told by Palermo that the stock would likely go public and be worth much more. Casey also said Palermo represented that, through his position with the Boston Celtics and other connections, he could get hot dog vending locations at TD Garden and Fenway Park in Boston. Casey said he believes he gave Palermo approximately \$50,000 for access to those locations, but the business opportunities never materialized. Casey also testified that by approximately 2007-2008, he had become suspicious that he had been defrauded after a string of unfulfilled promises and then not hearing from Palermo for an extended period. Casey stated he lost all contact with Palermo in the period of 2010-2011. In 2011, after contacting CST, he found out that Palermo did at one time own the stock but had sold it to someone else. Later, Casey found out that Palermo had been incarcerated in Massachusetts.

The Bureau's second witness was Karen Naughton, Restricted Securities Manger of CST, the transfer agent for Pinnacle. Ms. Naughton confirmed that Pinnacle became Iron Eagle Group, Inc. on April 28, 2010. Ms. Naughton testified telephonically and under oath that CST's records, compiled by Christine R. Guay of Pinnacle, showed that 550,000 shares of Pinnacle were issued to Palermo on May 25, 2005. These shares were transferred to Karen Blair of Palm Harbor, Florida, on August 6, 2006. She confirmed that the CUSIP on CST's records matched the CUSIP on the certificate provided to Casey in October 2005. The Bureau introduced a letter of August 6, 2013 from Christine Guay of Pinnacle reflecting this information.

The Bureau's next witness was Ron Bobeck (hereinafter referred to as "Bobeck") of New Boston, New Hampshire. He became familiar with Casey through mutual activities of their children. Bobeck met Palermo with Casey at a pizza restaurant in Manchester. Bobeck said he last spoke to Palermo by phone approximately one to one-and-a-half years before the hearing. The Bureau introduced a writing dated November 7, 2006 in which Casey provided his purported Pinnacle stock certificate as collateral for a \$12,500 loan from Bobeck. The loan was to be repaid upon redemption of the Pinnacle stock "to begin 11-17-06." The loan represented the amount needed to secure Casey's house at auction. The house had been

foreclosed on. Bobeck testified that Palermo made promises with regard to payment of money around this time, including paying off Casey's house and funding a business with Bobeck. According to Bobeck, Palermo had previously represented to him that Palermo would make funds available to Casey to pay off his house. Bobeck said he took the stock certificate from Casey to provide him some security for the money he loaned to Casey to secure his house at auction. Of the \$12,500 loaned, \$10,000 represented the actual amount needed to secure the house and \$2,500 represented the cost of paperwork and other legal and administrative expenses. In addition, the Bureau offered a writing dated November 2, 2006 in which Casey acknowledged receipt of a personal loan for \$2,500 from Bobeck and "secured" the loan with a 1929 Model A Ford owned by Casey. The loan was to be repaid on November 10, 2006, according to the writing. Bobeck said Palermo borrowed money from him through Casey and stated that he could get \$15,000 for the Model A at auction to repay Bobeck. Bobeck testified that he lost the \$10,000 to secure Casey's house and that he never received any proceeds from the sale of the Model A. Bobeck said he still is in possession of the stock certificate. In addition, Casey has not yet repaid Bobeck the money he owes.

The last witness was Jeffrey Spill, Deputy Director of the Bureau. The Bureau offered into evidence the letter dated February 7, 2014 from Palermo to this hearing officer, which was a response to the Order Compelling Production. The letter stated, in pertinent part, "I have had one purchase of 50,000 shares of Pinnacle + payment to David Blair of same stock as repayment of lone (sic)." Mr. Spill testified regarding a conversation he had by telephone with David Blair on October 1, 2013. Spill testified that his conversation with David Blair came about when spill tried to contact Karen Blair, the owner of record of the shares formerly held by Palermo. Spill further testified that David Blair, who said he was the son of Karen Blair, stated Palermo was a relation of the Blair family and that Palermo had some business dealings with David Blair's stepfather. David Blair corroborated that the Pinnacle stock transferred to Karen Blair was repayment for a debt owed to the Blairs by Palermo. In addition, the Bureau submitted records of convictions of Palermo for larceny over \$250 by false pretense, a felony, involving the sale of Celtic tickets in which Palermo represented that either he or his wife was associated with the Boston Celtics.

The Bureau closed its case by making a motion for default, which this presiding officer granted. The Bureau also requested, in addition to the relief requested in its Staff Petition, an order barring Palermo from conducting a securities business of any kind in New Hampshire.

The presiding officer finds the evidence presented to be relevant, material, and reliable. In addition, after review and given the Respondent's failure to fully comply with the Order Compelling Production, failure to appear at the prehearing conference, failure to request a continuance of the hearing set for April 22, 2014, failure to attend the hearing on June 26, 2014, and failure generally to maintain contact and exchange information with the Bureau, the presiding officer finds as fact the allegations contained in Section I, under the heading "Statement of Facts," in the Bureau's Staff Petition for Relief as supported by the evidence presented by the Bureau at hearing.

### Rulings of Law

The presiding officer makes the following conclusions of law relative to the Bureau's factual allegations:

1. Respondent Palermo is a "person" within the meaning of N.H. RSA 421-B:2, XVI.
2. The stock of Pinnacle is a "security" within the meaning of N.H. RSA 421-B:2, XX.
3. The offer by Palermo to distribute and sell Pinnacle securities constitutes an "offer" and a "sale" within the meaning of N.H. RSA 421-B:2 and RSA 421-B:3.
4. Palermo violated N.H. RSA 421-B:3 by purporting to transfer to Casey through an altered stock certificate his ownership in the shares of Pinnacle common stock in October 2005. In fact, no such transfer occurred, and the shares were subsequently transferred to Karen Blair. Palermo further violated this section by telling Casey the price of Pinnacle stock would "go through the roof," that he would buy back the shares of Pinnacle at a later time for a higher price, and that the Pinnacle shares were restricted for one year. None of this was true.
5. Palermo is subject to an order barring him from securities licensure in New Hampshire pursuant to N.H. RSA 421-B:10, I. Such an order is in the public interest, pursuant to N.H. RSA 421-B:10, I(a). In addition, Palermo's felony convictions within the past 10 years, his dishonest and unethical business practices, and other good cause shown during the hearing, provide further sufficient basis pursuant to N.H. RSA 421-B:10, I(b)(3), RSA 421-B:10, I(b)(7), and RSA 421-B:10, I(b)(14) for such an order.
6. Palermo is subject to an order to cease and desist pursuant to N.H. RSA 421-B:23.
7. Palermo is subject to a penalty of \$2,500 for each violation of N.H. RSA 421-B pursuant to N.H. RSA 421-B:26, III.
8. Pursuant to N.H. RSA 421-B:26, V, Palermo is subject to an order requiring him to pay restitution for violations of N.H. RSA 421-B.

### Discussion

As noted, Respondent Palermo did not submit documents required under the Order Compelling Production and did not appear at the prehearing conference and two hearings, for which notice was forwarded and received. Pursuant to N.H. RSA 421-B:26-a, XXII, "Any party to whom notice has been forwarded pursuant to and in accordance with [N.H. RSA 421-B:26-a] who fails to appear shall have a default judgment rendered against him." The presiding officer finds that the facts as presented in the Bureau's staff petition and at hearing support the conclusions of law enumerated in the Bureau's Staff Petition for Relief by a preponderance of the evidence.

### Order

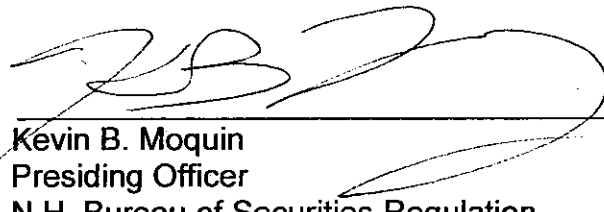
Finding it necessary and appropriate and in the public interest and for the protection of investors and consistent with the intent and purpose of the New Hampshire Securities Act, N.H. RSA 421-B, it is hereby **ORDERED**, that:

1. The Respondent shall cease and desist from further violations of N.H. RSA 421-B pursuant to N.H. RSA 421-B:23.

2. The Respondent shall pay administrative penalties of \$10,000 for four violations of N.H. RSA 421-B:3 pursuant to N.H. RSA 421-B:26, III.
3. The Respondent shall pay restitution to Investor #1, Terrence Casey, in the amount of \$50,000.00 pursuant to N.H. RSA 421-B:26, V.
4. The Respondent is barred from securities licensure in the state of New Hampshire pursuant to RSA 421-B:10, I.

SIGNED,  
William M. Gardner  
Secretary of State  
By His Designee:

Date: 7/31/14

  
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Kevin B. Moquin  
Presiding Officer  
N.H. Bureau of Securities Regulation