

#2003-137

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY**

_____)	
In the Matter of:)	
)	
Capital Management Investors Holdings, Inc.)	
Chicago, Illinois)	
)	AA-EC-2003-32
A Controlling Shareholder of:)	
)	
Security Trust Company, N.A.)	
Phoenix, Arizona)	
_____)	

CONSENT ORDER

The Comptroller of the Currency of the United States of America (Comptroller or OCC), through his National Bank Examiner, has examined Security Trust Company, N.A., Phoenix, Arizona (Bank).

The Comptroller issued a Notice of Charges for an Order to Cease and Desist against Capital Management Investors Holdings, Inc. (CMIH) on October 29, 2003.

The Bank and the Comptroller have entered into a Consent Order dated October 29, 2003 (Bank Order).

CMIH is a controlling shareholder of the Bank within the meaning of 12 U.S.C. § 1813(u).

CMIH, by and through its authorized representative of the Board of Directors (Board), has executed a "Stipulation and Consent to the Issuance of a Consent Order," dated October 29, 2003, that is accepted by the Comptroller. By this Stipulation and Consent, that is incorporated

by this reference, CMIH has consented to the issuance of this Consent Order (Order) by the Comptroller.

Pursuant to the authority vested in him by the Federal Deposit Insurance Act, as amended, 12 U.S.C. § 1818(b), the Comptroller hereby orders that:

ARTICLE I

MARKET-TIMING, PIGGY-BACKING, AND LATE TRADING

(1) Effective immediately, CMIH shall not engage or participate in, and shall ensure that the Bank does not engage or participate in, any of the following activities or practices (as defined in Article VIII of this Order):

- (a) Market-Timing or Timing in connection with trades of mutual fund shares;
- (b) Piggy-Backing or other activity designed to facilitate Market-timing; and
- (c) Late Trading in connection with trades of mutual fund shares.

(2) Effective immediately, CMIH shall not participate or engage in, and shall ensure that the Bank does not participate or engage in, any transactions or business with any person or entity that engages in any of the three (3) prohibited activities detailed in Paragraph (1) of this Article.

(3) CMIH shall not, without the prior written supervisory non-objection of the OCC, engage or participate in, and shall ensure that the Bank does not participate or engage in, any transactions or business with the Canary Entities (as defined in Article VI), and/or Samaritan Asset Management.

ARTICLE II

PRESERVATION OF ASSETS

(1) Effective immediately, and until further notice by the OCC, CMIH shall cease and desist from declaring or paying any dividends, or making any redemption or repurchase of common or preferred shares or other capital distributions.

(2) Effective immediately, CMIH shall not, without the prior written determination of supervisory non-objection of the Director of the OCC's Special Supervision Division (Director) sell, divest, encumber or transfer any of its assets valued at more than ten thousand dollars (\$10,000).

(3) CMIH shall immediately, and until further notice by the OCC, cease and desist from the payment of any profit or revenue-sharing arrangements, bonuses, commissions, severance benefits, golden parachutes, excessive compensation or similar obligations. Effective immediately, and until further notice by the OCC, CMIH shall not make any payments for products or services, except such obligations that arise in the ordinary course of business. All such payments in excess of \$50,000, shall be subject to the prior review and supervisory non-objection of the Director. Nothing herein shall prevent the OCC from approving in advance arrangements for compensating accountants, advisors or attorneys in amounts exceeding \$50,000. In addition, CMIH shall not make a payment or incur any obligation to any third party (including affiliates), unless the funds are paid out or the obligation is incurred pursuant to a written agreement or contract that is documented in the books and records of CMIH and supported by documentation in the books and records of CMIH which demonstrates that the contract or agreement represents an arm's length transaction.

(4) Effective immediately, any new contract or agreement, including employment contracts, entered into between CMIH and any third party for the sale or purchase of products or the performance of services shall be in writing, documented in the books and records of CMIH,

and supported by documentation that demonstrates that the contract or agreement represents an arm's length transaction. Any contract or agreement involving a product or service valued at more than ten thousand dollars (\$10,000) shall be subject to the prior review and supervisory non-objection of the Director.

(5) Within sixty (60) days from the effective date of this Order, CMIH shall review all existing contracts and agreements with any of its current or former officers, directors, shareholders, or any of its affiliates, to determine whether each contract or agreement represents an arm's length transaction whose terms and conditions are fair and reasonable to CMIH. The Board or a designated committee of CMIH shall document its conclusions from each review and shall provide a copy of each review to the Director. In addition, CMIH shall terminate, within ninety (90) days from the effective date of this Order, all such contracts or agreements not reached on an arm's length basis and shall similarly terminate all such contracts or agreements whose terms and conditions are not demonstrably fair and reasonable to CMIH. In addition, within seven (7) days from the effective date of this Order, CMIH shall terminate or rescind any obligation of CMIH owed to Grant Seeger or William Kenyon arising by virtue of contract or otherwise.

(6) The provisions of paragraphs (1), (2), (3) and the last sentence of paragraph (4) of this Article II shall terminate at the time the OCC determines, in its sole discretion, that the Bank is no longer designated to be in troubled condition, or until the OCC otherwise agrees to terminate such provisions.

ARTICLE III

CAPITAL AND LIQUIDITY MAINTENANCE

(1) Within one (1) calendar day from the effective date of this Order, CMIH shall provide a capital infusion into the Bank in the form of cash in an amount sufficient to bring the Bank's Tier I capital level to three million dollars (\$3,000,000), as required by Article III, paragraph 1 of the Bank Order, but in no event in an amount less than \$1.016 million.

(2) Within one (1) calendar day from the effective date of this Order, CMIH shall reimburse to the Bank all dividends paid from and after May, 2000 to the date of this Order by the Bank and received, directly or indirectly, by CMIH, and any entity controlled by CMIH, but in no event in an amount less than \$3,190,385.

(3) Within five (5) days from the effective date of this Order, CMIH shall execute a Capital Assurances and Liquidity Maintenance Agreement ("CALMA") in a form which the OCC has no supervisory objection that: (i) ensures the maintenance of the Bank's Tier 1 capital at three million dollars (\$3,000,000) in accordance with Article III, paragraph (1) of the Bank Order; (ii) ensures the maintenance of daily liquidity needs of the Bank as provided for in Article III, paragraph (3) of the Bank Order; and (iii) provides a general pledge of assets to the Bank, in an amount and type acceptable to the Bank and to which the OCC does not have a supervisory objection, to guaranty the performance of CMIH's obligations under the CALMA. The CALMA shall terminate on March 31, 2004.

(4) Within ten (10) days from the effective date of this Agreement, CMIH shall provide the OCC with: (i) the fully executed CALMA entered into by and between the Bank and CMIH; (ii) the resolution adopted by the Board of CMIH evidencing the Board's approval and authorization to enter into and be bound by the CALMA; and (iii) a certification from CMIH that the pledge requirement in the CALMA has been satisfied.

ARTICLE IV

BANK'S FIDUCIARY ACCOUNTS

(1) CMIH shall take all steps necessary to ensure that the Bank develops and implements the Fiduciary Plan required by Article IV of the Bank Order.

ARTICLE V

BANK'S STRATEGIC PLAN

(1) CMIH shall take all steps necessary to ensure that the Bank develops, implements and adheres to the Strategic Plan required by Article V of the Bank Order.

(2) If, pursuant to Article V, paragraphs (6) and (7) of the Bank Order, the Bank is required to submit a Contingency Plan, CMIH shall take all steps necessary to ensure that the Bank develops, implements and adheres to the Contingency Plan for which the Director has provided no supervisory objection. CMIH shall take all corporate actions that may be necessary to authorize or permit the Bank to develop, implement or adhere to the Contingency Plan.

ARTICLE VI

DEFINITIONS

(1) The term "Late Trading" is intended to mean the illegal trading of mutual fund shares after the market closes at that day's closing price, so as to take advantage of events that may move the market, but have not yet been reflected in the price paid for a fund's shares.

(2) The terms "Timing" or "Market-timing" are intended to mean the short-term entering (buying into) and exiting (selling off) of mutual fund shares so as to obtain a short-term profit.

(3) The term "Piggy-backing" is intended to mean a process of avoiding the detection of "timing" activities in trades of mutual fund shares by hiding such trades through other clients' accounts.

(4) The term “Net Asset Value (NAV)” is intended to mean the per share price of a mutual fund, which is determined once each business day, as of 4:00 p.m. Eastern time.

(5) The term “Canary Entities” includes Canary Capital, Inc., Canary Management, LLC, Canary Investment Management, LLC, Goldfinch Capital Partners, Ltd., Finch Capital Partners, LTD, Canary Alternative Strategies Holding Ltd., Canary Alternative Holding Strategies Ltd. Bermuda, Canary Alternative Strategies Plus Ltd., Paradise Point Associates LLC, Stern Investment Holdings Bermuda, Hartz Group, Inc., Hartz Trading, Plaza Drive, Tripod, LLC, Nichols Point Associates, Nicholas Point Associates, Aurora Capital, Inc., CAS Master Fund Ltd., CAS Plus Master Fund Ltd., Cockatoo Capital, LLC, and Cockatiel Capital, LLC, and their respective predecessors or successors or any of the affiliates of the foregoing.

(6) The term “affiliate” shall be defined as set forth in 12 U.S.C. §371c(b)(1).

(7) The term “fiduciary account” shall mean an account for which the Bank acts in a “fiduciary capacity” as defined in 12 C.F.R. § 9.2(e).

(8) The term “mutual fund” shall mean a registered investment company under the Investment Company Act of 1940.

ARTICLE VII

PROGRESS REPORTS

(1) Within thirty (30) days of the effective date of this Order, and every month thereafter, the Board of CMIH shall submit a written progress report to the Director setting forth in detail: (i) actions taken to comply with each Article of this Order; and (ii) the results of those actions.

ARTICLE VIII

NOTICES AND REQUESTS

(1) Any notice, report or requests for supervisory non-objection that CMIH is required to make to the OCC under this Order shall be provided in writing to:

Ronald G. Schneck
Director, Special Supervision Division
Office of the Comptroller of the Currency
250 E Street, S.W.; Mail Stop 6-4
Washington, DC 20219
202-874-4450
202-874-5214 (fax)

with a copy sent to the OCC's Phoenix Field Office at:

9633 South 48th Street, Suite 265
Phoenix, AZ 85044-8629

ARTICLE IX

CLOSING

(1) Although the Board is by this Order required to submit certain proposed actions and programs for the review or prior determination of no supervisory objection of the Director, the Board has the ultimate responsibility for proper and sound management of CMIH.

(2) It is expressly and clearly understood that if, at any time, the Comptroller deems it appropriate in fulfilling the responsibilities placed upon him/her by the several laws of the United States of America to undertake any action affecting CMIH, nothing in this Order shall in any way inhibit, estop, bar or otherwise prevent the Comptroller from so doing.

(3) Any time limitations imposed by this Order shall begin to run from the effective date of this Order. Such time limitations may be extended in writing by the Director for good cause upon written application by the Board.

(4) The provisions of this Order are effective upon issuance of this Order by the Comptroller (the effective date of the Order), through his authorized representative whose hand appears below, and shall remain effective and enforceable, except to the extent that, and until

such time as, any provisions of this Order shall have been amended, suspended, waived, or terminated in writing by the Comptroller, or otherwise expire in accordance with the terms of the provisions of this Order.

(5) In each instance in this Order in which the Board is required to ensure adherence to, and undertake to perform certain obligations of CMIH, it is intended to mean that the Board shall: (i) authorize and adopt such actions on behalf of CMIH as may be necessary for the Bank to perform its obligations and undertakings under the terms of this Order; (ii) require the timely reporting by CMIH management of such actions directed by the Board to be taken under the terms of this Order; (iii) follow-up on any non-compliance with such actions in a timely and appropriate manner; and (iv) require corrective action be taken in a timely manner of any non-compliance with such actions.

(6) This Order is intended to be, and shall be construed to be, a final order issued pursuant to 12 U.S.C. § 1818(b), and expressly does not form, and may not be construed to form, a contract binding on the Comptroller or the United States.

(7) The terms of this Order, including this paragraph, are not subject to amendment or modification by any extraneous expression, prior agreements or prior arrangements between the parties, whether oral or written.

IT IS SO ORDERED, this 29th day of October, 2003.

/s/ David D. Gibbons

David D. Gibbons
Deputy Comptroller
Division of Special Supervision
Office of the Comptroller of the Currency

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
OFFICE OF THE COMPTROLLER OF THE CURRENCY**

_____)	
In the Matter of:)	
)	
Capital Management Investors Holdings, Inc.)	
Chicago, Illinois)	AA-EC-2003-32
)	
A Controlling Shareholder of:)	
)	
Security Trust Company, National Association)	
Phoenix, Arizona)	
_____)	

**STIPULATION AND CONSENT TO THE ISSUANCE
OF A CONSENT ORDER**

The Comptroller of the Currency of the United States of America (Comptroller or OCC) has initiated cease and desist proceedings against Capital Management Investors Holdings, Inc. (CMIH), Chicago, Illinois, a controlling shareholder of Security Trust Bank, Phoenix, Arizona (Bank), pursuant to 12 U.S.C. § 1818(b).

CMIH, in the interest of compliance and cooperation, consented to the issuance of a Consent Order, dated October 29, 2003 (Order);

In consideration of the above premises, the Comptroller, through his authorized representative, and CMIH, through its duly authorized representatives, hereby stipulate and agree to the following:

ARTICLE I

JURISDICTION

(1) The Bank is a national banking association chartered and examined by the Comptroller pursuant to the National Bank Act of 1864, as amended, 12 U.S.C. § 1 *et seq.*

(2) CMIH is a controlling shareholder of the Bank, and therefore is an institution-affiliated party (IAP) of the Bank, within the meaning 12 U.S.C. § 1813(u).

(3) The Comptroller is “the appropriate Federal banking agency” regarding the Bank and CMIH, an IAP of the Bank, pursuant to 12 U.S.C. §§ 1813(q) and 1818(b).

(4) By virtue of 12 U.S.C. § 1818(b)(5), all of the provisions of 12 U.S.C. § 1818 apply to CMIH.

ARTICLE II

AGREEMENT

(1) CMIH, without admitting or denying any wrongdoing, hereby consents and agrees to the issuance of the Order by the Comptroller.

(2) CMIH further agrees that said Order shall be deemed an “order issued with the consent of . . . the institution-affiliated party concerned” as defined in 12 U.S.C. § 1818(h)(2), and consents and agrees that said Order shall become effective upon its issuance and shall be fully enforceable by the Comptroller under the provisions of 12 U.S.C. § 1818(i).

Notwithstanding the absence of mutuality of obligation, or of consideration, or of a contract, the Comptroller may enforce any of the commitments or obligations herein undertaken by the Bank under its supervisory powers, including 12 U.S.C. § 1818(i), and not as a matter of contract law. CMIH expressly acknowledges that neither CMIH nor the Comptroller has any intention to enter into a contract.

(3) CMIH also expressly acknowledges that no officer or employee of the Office of the Comptroller of the Currency has statutory or other authority to bind the United States, the U.S. Treasury Department, the Comptroller, or any other federal bank regulatory agency or

entity, or any officer or employee of any of those entities to a contract affecting the Comptroller's exercise of its supervisory responsibilities.

ARTICLE III

WAIVERS

- (1) CMIH, by signing this Stipulation and Consent, hereby waives:
 - (i) the issuance of a Notice of Charges pursuant to 12 U.S.C. § 1818(b);
 - (ii) any and all procedural rights available in connection with the issuance of the Order;
 - (iii) all rights to seek any type of administrative or judicial review of the Order; and
 - (iv) any and all rights to challenge or contest the validity of the Order.

ARTICLE IV

OTHER ACTION

(1) CMIH agrees that the provisions of this Stipulation and Consent shall not inhibit, estop, bar, or otherwise prevent the Comptroller from taking any other action affecting CMIH and/or the Bank if, at any time, he deems it appropriate to do so to fulfill the responsibilities placed upon him by the several laws of the United States of America.

IN TESTIMONY WHEREOF, the undersigned, authorized by the Comptroller as his representative, has hereunto set his hand on behalf of the Comptroller.

/s/ David D. Gibbons

October 29, 2003

David D. Gibbons
Deputy Comptroller
Special Supervision Division

Date

IN TESTIMONY WHEREOF, the undersigned, as the duly authorized representative of the Board of Directors of CMIH, have hereunto set their hands on behalf of CMIH.

Signed - John Meilner

10/29/03

John Meilner, Director

Date