

STATE OF NORTH DAKOTA

BEFORE THE

COUNTY OF BURLEIGH

SECURITIES COMMISSIONER

In the Matter of Piper Jaffray & Co., )  
and Brady Vollmers, )  
Respondents. )

ORDER FOR AND NOTICE  
OF CIVIL PENALTY AND  
NOTICE OF RIGHT TO  
REQUEST A HEARING

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The North Dakota Securities Commissioner has conducted an investigation into the above-referenced matter and has determined that the Respondents have engaged in acts, practices or transactions, as more fully described below, which are prohibited under Chapter 10-04 of the North Dakota Century Code (N.D.C.C.). These factual findings, as well as the relevant legal conclusions, are outlined below.

1. Respondent, Piper Jaffray & Co. (CRD # 665), is a broker dealer headquartered in Minnesota, and registered in North Dakota. For all times relevant to this matter, Piper Jaffray & Co. (Piper Jaffray) has been registered as a broker dealer.
2. Respondent, Brady Vollmers (CRD # 2093564), is a North Dakota resident and is a registered agent of Piper Jaffray. For all times relevant to this matter, Vollmers has been registered as an agent of Piper Jaffray.
3. In November of 2004, the Securities Department opened an investigation into the above-captioned matter based on a complaint from Myron Rosene and Joyce Rosene (together, "Rosenes"), a married couple both of whom reside in North Dakota. The investigation revealed as follows:
  - a. On or around October 18, 2001, Vollmers met with the Rosenes and advised the couple to sell several securities and to purchase two

variable annuities issued by GE Life & Annuity Assurance Company (GE). The securities that were sold are described as follows:

- (1) Fortis variable annuity owned by Myron Rosene.
- (2) Fortis variable annuity owned by Joyce Rosene.
- (3) Six Mutual Funds owned by Joyce Rosene. (Four of the funds were class B shares, which were subject to contingent deferred sales charges.)

- b. The Rosenes were concerned about losses in their accounts resulting from the market decline immediately following September 11, 2001. Vollmers did not suggest a reallocation of the holdings in the Fortis annuities, which could have resulted in a reduction of the market risk of the Rosenes holdings, but would have not resulted in any fees or commissions to Piper Jaffray or Vollmers. Instead, Vollmers recommended the liquidation of the Rosenes' variable annuities and Joyce Rosene's mutual funds.
- c. Based on the recommendation of Vollmers, the Rosenes liquidated their securities holdings and purchased two annuities issued by GE. The sales of the mutual funds were marked "unsolicited" on the trade confirmation statements of Piper Jaffray. The Rosenes incurred surrender penalties as a result of the liquidation of the variable annuities and the mutual funds, in an amount exceeding \$2,600 in the aggregate. Vollmers and Piper Jaffray shared more than \$4,000 in commissions based on the transaction. The new variable annuities

purchased by the Rosenes also had a new schedule of surrender penalties.

d. Piper Jaffray's compliance procedures in effect at the time required the creation of an "annuity/insurance transaction letter" and an "annuity worksheet" for any annuity switch. The purpose of these documents is to ensure that the supervisor has sufficient information to determine whether the switch is suitable for the client.

(1) Piper Jaffray was unable to produce either an annuity/insurance transaction letter or an annuity worksheet for the annuity switch involving Mr. Rosene. Either these documents were never created, or they were not maintained by Piper Jaffray.

(2) With respect to the annuity switch involving Ms. Rosene, Piper Jaffray produced the annuity/insurance transaction letter and the annuity worksheet. The purpose of the transaction, as stated on those documents, was as follows: "Client wants opportunity for more growth, annual step up, with nursing home waiver." This explanation contradicts both the statement of Ms. Rosene and the statement of Vollmers.

Additionally, Volmer's supervisor did not use to these documents to approve the transaction. These documents were not approved prior to the transaction, but were initialed

by Vollmers' supervisor approximately 6 weeks after the transaction was completed.

4. The Respondents conducted ten transactions (eight securities sales and two securities purchases) that were not suitable to their clients, in violation of Sections 73-02-09-02(3) and 73-02-09-03(6) N.D.A.C.
5. The Respondents engaged in the sale of six mutual funds, the trade confirmation statements of which were falsely marked to indicate that each transaction was "unsolicited" when the transactions were actually solicited, in violation of Section 73-02-09-02(25) and 73-02-09-03(6) N.D.A.C., and Section 10-04-15 N.D.C.C.
6. The following Order is necessary and appropriate in the public interest and for the protection of investors.

#### **ORDER FOR AND NOTICE OF CIVIL PENALTY**

NOW, THEREFORE, it is hereby Ordered that the Respondents are assessed, jointly and severally, and shall pay a civil penalty of \$16,000 to the North Dakota Securities Commissioner. The civil penalty shall be due and payable immediately upon receipt of this Order.

#### **NOTICE OF RIGHT TO REQUEST HEARING**

**YOU ARE NOTIFIED** that pursuant to Section 10-04-12 N.D.C.C. you may request a hearing before the Securities Commissioner if such a request is made in

writing WITHIN FIFTEEN (15) DAYS AFTER THE RECEIPT OF THIS ORDER.

The respondent has the right to be represented by legal counsel at the hearing.

Dated at Bismarck, North Dakota on this 29<sup>th</sup> day of August, 2005.



  
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Karen J. Tyler, Securities Commissioner  
North Dakota Securities Department  
State Capitol, Fifth Floor  
600 East Boulevard  
Bismarck, ND 58505-0510  
Ph. # (701) 328-2900

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**AFFIDAVIT OF SERVICE  
BY MAIL**

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I, Jacqui Ferderer, being first duly sworn, state that I am a citizen of the United States over the age of twenty-one years and not a party to or interested in the above-entitled proceeding.

On August 29, 2005, I deposited in the Central Mailing Bureau of the United States Post Office Department in the State Capitol in Bismarck, North Dakota, true and correct copies of the following document:


**ORDER FOR AND NOTICE OF CIVIL PENALTY,  
AND NOTICE OF RIGHT TO REQUEST A HEARING**

A copy of the above document was securely enclosed in an envelope with postage duly prepaid, sent via certified mail, return receipt requested, addressed to each of the following:


Piper Jaffray  
800 Nicollet Mall, Suite 800  
Minneapolis, MN 55402-7020

Brady J. Vollmers  
Piper Jaffray  
1400 W Century Ave  
Bismarck, ND 58501

To the best of my knowledge, information, and belief, the address given above is the actual mailing address for the party intended to be served or of the attorney representing that party.

  
\_\_\_\_\_  
Jacquie Ferderer

Subscribed and sworn to before me this 29 day of August, 2005.

  
\_\_\_\_\_  
Diane B. G. Kambeitz, Notary Public  
Burleigh County, North Dakota  
My commission expires 4/25/2006

