

1 STATE OF ALASKA
2 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
3 DIVISION OF BANKING, SECURITIES, AND CORPORATIONS
4 P.O. BOX 110807
5 JUNEAU, ALASKA 99811-0807

6 In the matter of)
7 BEAR, STEARNS & CO. INC.,) Alaska Order 04-01 S
8 Respondent.)
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11 **CONSENT ORDER**

12 WHEREAS, Bear, Stearns & Co. Inc. (Bear Stearns or the Firm) is a broker-dealer
13 registered in the State of Alaska; and

14 WHEREAS, coordinated investigations into Bear Stearns' activities in connection
15 with certain conflicts of interest that research analysts were subject to during the period of
16 July 1, 1999 through June 30, 2001 have been conducted by a multi-state task force and a
17 joint task force of the U.S. Securities and Exchange Commission, the New York Stock
18 Exchange, and the National Association of Securities Dealers (collectively, the regulators);
19 and

20 WHEREAS, Bear Stearns has cooperated with regulators conducting the
21 investigations by responding to inquiries, providing documentary evidence and other
22 materials, and providing regulators with access to facts relating to the investigations; and

23 WHEREAS, Bear Stearns has advised regulators of its agreement to resolve the
24 investigations relating to its research practices; and

25 WHEREAS, Bear Stearns agrees to implement certain changes with respect to its
research and banking practices, and to make certain payments; and

WHEREAS, Bear Stearns elects to permanently waive any right to a hearing and
appeal under AS 45.55.935 and 3 AAC 08.930 with respect to this Consent Order (the
Order);

NOW, THEREFORE, the Alaska Securities Administrator, as administrator of the
Alaska Securities Act, hereby enters this Order:

STATE OF ALASKA
DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
DIVISION OF BANKING, SECURITIES, AND CORPORATIONS
P.O. BOX 110807
JUNEAU, ALASKA 99811-0807

1 **I. JURISDICTION/CONSENT**

2 Bear Stearns admits the jurisdiction of the division of banking, securities, and
3 corporations (division), neither admits nor denies the Findings of Fact and Conclusions of
4 Law contained in this Order, and consents to the entry of this Order by the Alaska
5 Securities Administrator.

6 **II. FINDINGS OF FACT**

7 **A. Background and Jurisdiction**

- 8 1. Bear Stearns, a Delaware corporation with its principal place of business in
9 New York, New York, is a subsidiary of The Bear Stearns Companies, Inc.
10 Bear Stearns provides equity research, sales, and trading services; merger
11 and acquisition advisory services; venture capital services; and underwriting
12 services on a global basis.
- 13 2. Bear Stearns is registered with the Securities and Exchange Commission
14 ("Commission"), is a member of the New York Stock Exchange, Inc.
15 ("Exchange") and the NASD Inc. ("NASD") and is licensed to conduct
16 securities business on a nationwide basis.
- 17 3. Bear Stearns is currently registered with the division as a broker-dealer, and
18 has been so registered since 1979.
- 19 4. This action concerns the time period of July 1, 1999 to June 30, 2001 (the
20 relevant period). During that time, Bear Stearns engaged in both research
21 and investment banking (IB) activities.

22 **B. Overview**

- 23 1. During the relevant period, the Firm sought and did IB business with many
24 companies covered by its research. Research analysts were encouraged to
25 participate in IB activities, and that was a factor considered in the analysts'
compensation system. In addition, the decision to initiate and maintain
research coverage of certain companies was in some cases coordinated with
the IB Department and influenced by IB interests.
2. As a result of the foregoing, certain research analysts at the Firm were
subjected to IB influences and conflicts of interest between supporting the IB
business at the Firm and publishing objective research.
3. The Firm had knowledge of these IB influences and conflicts of interest yet
failed to establish and maintain adequate policies, systems and procedures
that were reasonably designed to detect and prevent the influences and
manage the conflicts.

26 **C. Research Analyst Participation in Investment Banking Activities**

- 27 1. Research analysts were responsible for providing analyses of the financial
28 outlook of particular companies in the context of the business sectors in which
29 those companies operated and the securities market as a whole.
- 30 2. Research analysts evaluated companies by, among other things, examining
31 financial information contained in public filings, questioning company
32 management, investigating customer and supplier relationships, evaluating
33 companies' business plans and the products or services offered, building
34 financial models and analyzing competitive trends.
- 35 3. After synthesizing and analyzing this information, analysts produced research
in the form of full reports and more abbreviated formats that typically
contained a recommendation, a price target, and a summary and analysis of
the factors relied upon by the analyst.

- 1 4. The Firm distributed its analysts' research internally to various departments at
2 the Firm and externally to the Firm's retail and institutional investing clients.
3 In addition, the Firm sold some of its research directly to non-clients,
4 disseminated it through distribution agreements with other broker dealers,
5 made it available to third party subscription services such as First Call, and
6 offered it for sale via market websites such as MultexInvestor.
- 7 5. In addition to performing research functions, certain research analysts
8 participated or assisted in IB activities. These IB activities included identifying
9 companies as prospects for IB services, participating in "pitches"¹ of IB
10 services to companies, attending "road shows"² associated with underwriting
11 transactions, and speaking to investors to generate interest in underwriting
12 transactions.
- 13 6. In preparation for each "pitch," the bankers, with the analyst's input, prepared
14 a "pitch book" which was distributed at the meeting and contained a summary
15 of the Firm's presentation.
- 16 7. The pitch books, in some instances, identified the covering analyst by name,
17 provided information about that analyst's background and reputation,
18 sometimes characterizing the analyst as the "ax" in his or her coverage
19 sector, and highlighted the success of Bear Stearns' underwritten IPOs
20 covered by the analyst. The pitch books also highlighted such factors as the
21 number of lead and co-managed IPOs that the Firm currently had under
22 research coverage. This information was intended to convey to the issuer
23 that such treatment would be accorded to it if Bear Stearns received the
24 mandate for the IB transaction.
- 25 8. The analyst's reputation played a role in pitching the Firm's IB services to
potential clients. Issuers often chose an investment bank because of the
reputation of the analyst that would cover the company's stock.
9. The pitch to an issuer by the research analyst contributed to Bear Stearns'
ability to win investment banking deals and receive investment banking fees
from that and subsequent investment banking relationships.
10. The investment banking division at Bear Stearns advised corporate clients
and helped them execute various financial transactions, including the
issuance of stock and other securities. Bear Stearns frequently served as the
lead or as a co-lead underwriter in initial public offerings ("IPOs") -- the first
public issuance of stock of a company that has not previously been publicly
traded -- and follow-on offering of securities.
11. During the relevant period, investment banking was an important source of
revenues and profits for Bear Stearns. In 2000, investment banking
generated more than \$965 million in net revenues, or approximately eighteen

¹ A "pitch" is a presentation made by bankers and research analysts to a potential IB client in order to obtain the mandate for an upcoming IB transaction. In competing for an IB mandate, the Firm typically sent bankers and the analyst to meet with company management to persuade the company to select the Firm as one of the investment bankers in a contemplated transaction. At these "pitch" meetings Firm bankers would present their level of expertise in the company's sector and discuss their previous experience with other such companies, as well as their view of the company's merits and likelihood of success.

² A "road show" is a series of presentations made to potential investors in conjunction with the marketing of an upcoming underwriting.

- 1 percent of Bear Stearns' total net revenues.
- 2 12. The IB activities in which analysts participated also included participating in
3 commitment committee³ and due diligence activities in connection with
4 underwriting transactions and from time to time assisting the IB Department in
5 providing merger and acquisition ("M&A") and other advisory services to
6 companies.
- 7 13. The Firm encouraged research analysts to support the IB and other
8 businesses of the Firm. With regard to IB, research analysts were
9 encouraged to work in partnership with the IB Department by participating in
10 the foregoing IB activities, and the level of certain research analysts'
11 participation in these IB activities was sometimes significant.
- 12 a. On September 23, 1999, the Head of Research provided research
13 analysts with guidelines to follow in drafting their business plans. The
14 guidelines stated they were "designed to help [the research analysts]
15 focus on executing and delivering [their] goals, improving [their] overall
16 contribution to the firm and enhancing [their] relationships with [their]
17 partners throughout the firm." These guidelines requested the
18 research analysts to describe their contributions to nine separate areas
19 of the Firm's business. With respect to the area identified as
20 "Banking," the guidelines stated: "After your business plan meeting
21 with your bankers please discuss any ideas you have generated for
22 deal origination and timing of coverage for existing or proposed
23 corporate relationships. Include or attach to your business plan a list
24 of stocks you and your corporate finance team have agreed upon as
25 priorities. Include plans to help market transactions or to introduce
M&A activity. Discuss any plans to drop coverage where there is no
longer a strategic fit."
- b. In her 1997/1998 business plan, an analyst stated, "If I were any more
aggressive in the banking area, my office would be on the third floor
[location of IB offices of the Firm]."
14. In connection with their participation in IB activities, certain research analysts
and investment bankers (bankers) communicated, in various frequency and
extent, through meetings and via telephone and electronic mail (e-mail).
15. The IB department at the Firm was organized into industry groups that
corresponded to certain research sectors. Research analysts were aware
that, in certain circumstances, their positive and continued coverage of
particular companies was an important factor for the generation of investment
banking business. Thus, some research analysts and bankers coordinated
the initiation and maintenance of research coverage, based upon, among
other things, investment banking considerations.
- a. On February 9, 2000, two bankers and an analyst submitted a joint
business plan to the co-heads of the IB technology group. The stated
purpose of the memorandum was to "describe a strategy for
investment banking and research coverage and coordination of
companies which provide Internet enabling technologies. The near-

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³ The "commitment committee" was responsible for, among other things, evaluating and determining the Firm's participation in IPOs and other IB transactions.

1 term goal is to establish an organized and prioritized calling effort with
2 an emphasis on cultivating fewer and deeper, lead managed
3 relationships." [Emphasis in original.]

4 D. Participation in Investment Banking Activities was a Factor in Evaluating and
5 Compensating Research Analysts

- 6 1. The compensation system at the Firm provided an incentive for research
7 analysts to contribute to all areas of the Firm's business, including
8 participating in IB activities and assisting in generating IB business for the
9 Firm. Research analysts' participation in IB activities was one of several
10 factors considered in determining their compensation. Notes of staff
11 meetings reflect the following statements by the Head of Research to
12 analysts:
- 13 a. "I'd like to remind everyone how you get paid at Bear Stearns. It is
14 based on your contribution to your team and your contribution to the
15 firm . . . Notice that being a partner with banking is part of the analyst
16 job description. You are not compared or matrixed or in any way paid
17 on a formula. Working on transactions is not incremental to your
18 compensation, it is an expected part of it."
- 19 b. "I need to remind you that investment banking revenues are not
20 incremental to your bonus. Being a partner to banking is part of your
21 job. You are paid on performance and based on your contribution to
22 the firm."
- 23 2. The performance of research analysts was evaluated through an annual
24 review process. Where not set by contract, the research analyst's salary and
25 annual bonus were also determined through this process.
3. Information on the analyst's job performance was gathered through annual
self-evaluations, analyst's business plans, surveys of management, and
trading and institutional sales department personnel, e-mail and oral feedback
from employees in the IB and other departments at the Firm, and the Firm's
institutional clients.
4. The research analysts' annual business plans contained, among other things,
their contributions to various areas of the Firm, including IB, for the past year,
and their plans for improving their contribution to these areas of the Firm,
including IB, in the coming year.
5. In their self-evaluations, which were used to communicate their
accomplishments to and petition management for increased compensation
analysts discussed such areas as their rankings in independent research
polls, the scope of their research coverage, their participation in industry
conferences, and the Firm's Autex rankings in stocks they covered. Certain
research analysts provided extensive information regarding their assistance
to IB, including accomplishments, goals, and participation in lead- and co-

1 managed underwritings, and sometimes also including the revenues to the
2 Firm associated with the IB transactions on which the analyst worked. In
3 addition, analysts were occasionally requested to inform research
4 management of fees generated by the IB transactions on which they worked.

5 a. In an October 24, 2000 e-mail to the Head of Research, a senior
6 analyst summarized his 9 key accomplishments during fiscal year
7 2000. The first and largest point, which dealt with his contributions to
8 IB, stated as follows: "*Corporate finance: generated over \$23 million
9 in fees to the firm in nine separate transactions: *Storage networking:
10 identified a new financial opportunity for the firm, which resulted in six
11 transactions... I should be designated as a finder for Ancor [Ancor
12 Communications], JNI [JNI Corp.] and Vixel [Vixel Corp.]. *Appliances:
13 identified a new industry category ...which was a source of two IPOs...
14 *Agilent [Agilent Technologies]: I should be designated as a finder --
15 or at least a save for Agilent. BS pitched the business and lost. I went
16 in and re-won the business, generated fees of around \$2.5 million to
17 the firm." The e-mail to the Head of Research included a spreadsheet
18 listing the IB transactions on which he had worked and the associated
19 revenues to the Firm. The Head of Research praised the format of the
20 summary and suggested she might have all research analysts submit
21 theirs in the same form.

22 b. In a June 21, 2001 e-mail from a member of the research management
23 staff, the research analysts were requested to submit information
24 regarding all banking transactions that had closed or that were pending
25 in their sectors during the prior 6 month period.

6. Certain research analysts perceived that the amount of their bonus would be
influenced by their contribution to and impact on the firm's IB business, and
the fees generated by IB transactions on which they worked.

7. Research analysts were encouraged to support and assist all areas of the
Firm and to participate in IB activities and activities that enhanced the
reputation of the Firm's IB business. Based upon statements by research
management indicating that partnership with banking was part of their job as
research analysts, the inclusion of a "Banking" section in their annual
business plans, information regarding IB transactions in their self-evaluations,
and requests from research management for specific information regarding IB
transactions in their coverage sectors, certain research analysts believed that
the revenues generated by their participation in IB activities was an important
factor in their evaluations and compensation. Accordingly, some research
analysts were encouraged to participate in IB activities, increase IB revenues,
and enhance the reputation of the Firm, including its IB business.

8. Research Analysts' salaries and bonuses were determined by a multiple
factor-based approach. Among other things, analysts were judged for
compensation purposes based on the performance of their stock picks, their
impact on the buy-side accounts as measured by votes, the Firm's market

1 share in trading volume in the stocks they covered, their participation in IB
2 activities, and the fees and secondary trading commissions generated from
3 those activities were considered.

4 **E. Investment Banking Interests Influenced the Firm's Decisions to Initiate and
5 Maintain Research Coverage**

- 6 1. In general, the Firm determined whether to initiate and maintain research
7 coverage based upon institutional investors' interest in the company, and the
8 company's importance to the sector or IB considerations, such as attracting
9 companies to the Firm to generate IB business or maintaining a positive
10 relationship with existing IB clients.
- 11 2. The nature and duration of research coverage were important criteria for a
12 company's choice of a broker dealer for IB services. The pitch books typically
13 contained information stating, among other things, that: "an important
14 element to successfully executing an IPO is having an assurance that the
15 Firm will provide research coverage to the IPO candidate in the offering and
16 in the aftermarket."
- 17 3. The Firm generally initiated coverage on companies that engaged the Firm in
18 an IB transaction. In pitching for IB business, the Firm sometimes
19 represented to the company the frequency with which reports would be
20 issued.
- 21 4. The Firm's ratings system, which was intended to reflect the long-term
22 prospects of a rated stock, allowed research analysts to assign one of five
23 ratings to a stock: (1) "Buy" - Expected to outperform the local market by
24 20% in the next 12 months. Strong conviction and typically accompanied by
25 an identifiable catalyst; (2) "Attractive" - Expected to outperform the local
market by 10% or more, it is usually more difficult to identify the catalyst; (3)
"Neutral" - Expected to perform in line with the local market; (4) "Unattractive"
- Expected to underperform the local market; and (5) "Sell" - Avoid the stock.
5. During the relevant period, there was a sharp downturn in the stock market
and stocks in certain sectors performed poorly. During this period, the Firm
did not issue ratings of "Unattractive" or "Sell" in connection with any covered
companies in these sectors.
6. Research management communicated with IB management to ensure that
research opportunities were appropriately aligned with identified IB
opportunities.
7. The Stock Selection Committee was ultimately responsible for making the
determination to initiate coverage of a given company. The Head of
Research was ultimately responsible for making the determination to maintain
research coverage. Nonetheless, IB considerations sometimes influenced

1 the decision to initiate and maintain coverage.

2 8. Some research analysts and bankers actively coordinated the initiation and
3 maintenance of research coverage based upon, among other things, IB
4 considerations. This coordination consisted of meetings and communications
5 by telephone and e-mail.

6 9. In some circumstances, research coverage was initiated based on IB
7 considerations.

8 a. In an April 19, 2000 e-mail from a member of his staff, the head of the
9 IB Technology Group communicated the following to the Heads of
10 Research and IB as well as numerous analysts and bankers: "[Analyst
11 A] and [Analyst B] agree that [Analyst B] will be the analyst covering
12 CacheFlo [Cacheflow]. [Banker] and [Analyst B] will discuss with
13 CacheFlo what the planned timing of their offering will be so as to
14 insure that if we initiate coverage in advance of the transaction we will
15 not be prohibited from being an underwriter. [Analyst B] and [Banker]
16 will also stress to the company that if we initiate coverage we expect
17 our position in the company's future financing and strategy actions to
18 be materially improved."

19 10. Given that research analysts participated in determining in which IB
20 transactions in their sectors the Firm would participate, if the Firm determined
21 to participate in an equity offering for a company, it was expected the
22 company would qualify for an initial "Buy" rating.

23 11. An analyst who anticipated initiating coverage of such a company with less
24 than a "Buy" rating informed IB in advance as follows.

25 a. In a February 8, 2000 e-mail to bankers and the Head of Research,
this analyst stated: "Just wanted to be sure that everyone knows that
we will be using an Attractive rating on go.com. If anyone has any
comments or issues, please let me know."

b. In a March 17, 2000 e-mail to research analysts, an associate analyst
stated: "I talked to [the liaison between research and IB] and we have
the go ahead to initiate on IPET [Pets.com] with an Attractive rating.
According to [the liaison] we should explain somewhere in the text,
why our opinion about the company's prospects have changed from
the time we initiated coverage."⁴

c. In his annual evaluation, this analyst was criticized as follows: "Has
been working poorly w/bankers - in changing opinions after the firm
has committed to co. mgmts". The analyst testified that he believed

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⁴ In fact, Bear Stearns had not yet initiated coverage on IPET at the time this e-mail was sent.

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the statement related to his communicating his opinions regarding companies to bankers in a timely manner, and that if his opinion regarding a company changed from a more positive opinion to a more negative opinion about a company after a banker had already made some sort of commitment to a company, it made life difficult for the banker and was not ideal from his standpoint. He went on to testify that, particularly in his highly volatile sector, companies often changed a lot between the time of the first organizational meeting and the date of the IPO.

12. In some circumstances, the determination to maintain research was influenced by IB considerations.
 - a. Due to IB influences a supervisory analyst perceived and communicated to others that IB approval was required before coverage could be dropped. In response to an inquiry by an associate analyst regarding dropping coverage of 2 companies, a supervisory analyst stated in an April 19, 2002 e-mail: "[The Head of Research] says before dropping coverage, you need to get permission from both: 1. the market makers on the trading desk, 2. the bankers."
 - b. In an April 3, 2000 e-mail to the Heads of Research and IB as well as numerous members of both departments, a banker discussed a company's decision to exclude the Firm from a follow-on offering. He stated: "I expressed significant disappointment with the fact that they left us no choice but to drop research coverage and trading, since they obviously did not value our support to date. [Analyst] - As we discussed, feel free to drop at any time. I told the CFO that you would likely put out a note, but did not know when." In a follow-up e-mail the Head of Research stated that she agreed with the decision to drop coverage. The analyst ultimately determined not to drop coverage.
1. Issuers also considered investment banks' aftermarket trading support as a factor in selecting an investment bank. The Firm's trading volume and trading rank were factors it promoted to IB clients in pitch presentations.
2. The Firm distributed to sales and trading personnel and research analysts the "Trading Focus List," which contained stocks of companies from which the Firm was seeking or with which the Firm had IB business.
3. A research analyst actively marketed companies on the Trading Focus List in order to obtain IB business.
 - a. In a December 10, 1999 e-mail, an analyst wrote the following to Equity Trading copied to the Heads of Research and IB: "Subject: Pls make the trading of Packeteer a top priority. I spent two days with Packeteer ('PKTR') management this week visiting investors."

1 Management are extremely happy with our research coverage and
2 banking services. But they have repeatedly indicated to me that our
3 trading stat. is not satisfactory...CEO hinted to me many times that we
4 have a chance for the books for the secondary if we improve the
5 trading...They are likely to do a secondary in Q1 - mostly likely late
6 January/early February; could be as much as \$200 MM deal. Please
7 help us in improving our trading immediately. We will do whatever it
8 takes from the research side."

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10 b. In a September 14, 2000 e-mail to Equity Trading the same analyst
11 wrote the following regarding banking client SonicWall ("SNWL"): "We
12 need help in boosting our trading stat for SNWL. Both management
13 and their VC called me yesterday complaining about our trading - #2 in
14 August and #3 so far in September. More importantly, they argued that
15 we are not supporting the stock when it is weak...I made a positive call
16 on Monday but am not getting much support. Pls help us here since
17 this important technology client indicated to me that if we do not
18 improve, it will hurt our banking relationship with the company."

19 c. In a March 8, 2001 e-mail the same analyst again wrote to Equity
20 Trading regarding two IB clients he covered: "Subject: MUSE
21 [Micromuse] and ISSX [Internet Security Systems] autex - both on
22 focus list. On MUSE - we dropped from #3 or 4 in 2000 to #10 in Feb
23 and March to date. I just called the trader to see what we can do. I
24 have been extremely active on the name- took management to Boston,
25 Denver, Minneapolis and KC in February alone. Do not quite
understand. Pls follow up. ISSX - we dropped from #2 or #3...to #11 in
March. I am very active on ISSX also. Thanks for your help on this."
Equity Trading responded: "What do you want me to do? Get some
orders on the stock yourself. Generate some order flow!!" The analyst
replied: "I am trying...but are the traders on these two stocks good?"

7. In order to raise or maintain the Firm's visibility on stocks with which the Firm
wanted to do IB business, certain research analysts nominated companies to
participate at Firm sponsored conferences, took company managements on
non-deal road shows, hosted field trips for institutional investors to
companies' headquarters and arranged other meetings between institutional
investor clients and companies.

8. Research analysts were visible on stocks of companies with which the Firm
wanted to do IB business in order to generate IB business.

1. Certain research analysts communicated regularly with employees of the
companies that they covered, including executive and senior management of
those companies. These communications occurred through telephone and e-
mail exchanges, company-sponsored events, and analyst calls.

1 2. Research analysts were sometimes subject to pressure from companies they
2 covered to issue better ratings and recommendations. Research analysts
3 understood that negative ratings and recommendations could adversely affect
4 the Firm's ability to attract and retain IB business from those companies.

5 a. On November 2, 2000, in his 2000 self-evaluation an analyst wrote in a
6 section entitled "Areas to Improve: We want our banking clients to
7 know that our research is objective and independent but always
8 sensitive to their best interests. There have been instances in my
9 career where certain banking clients felt that our research and public
10 comments weren't sensitive to their interests. This is a very important
11 issue for us and we take it most seriously. We will continue to make
12 every effort to be sensitive to our clients and our banking partners."

13 3. When research analysts downgraded or issued a negative comment on a
14 banking client, they sometimes received direct feedback from high-ranking
15 company officials.

16 a. In an August 24, 2000 e-mail, a banking client responding to a downgrade
17 of his company wrote: "Your earnings estimates are on track, however,
18 given the downgrade, I sure would have liked to see you give us a lower
19 bar on revenue...[W]hile we affirmed the revenue estimate, they were
20 definitely a stretch. Seems a shame to waste a downgrade by not buying
21 the opportunity for us both to over-perform going forward..."

22 **In Certain Instances, the Firm Published Exaggerated or Unwarranted**
23 **Research**

24 1. On several occasions, the conflicts of interest discussed above resulted in
25 analysts publishing recommendations and/or ratings that were exaggerated or
unwarranted, and/or contained opinions for which there was no reasonable
basis. The following are examples of how these conflicts affected the
research.

a. Bear Stearns lead managed the IPO and secondary offerings for
SonicWall in November 1999 and March 2000 respectively. An analyst
rated the stock a "Buy" from the IPO until April 2002. In January 25,
2001 while they were participating in a SonicWall conference call the
analyst stated to his associate: "I am trying to make them look
good...on the dso and the growth etc." A few minutes later he added:
"we got paid for this...and I am going to Cancun tomorrow b/c of them!"

b. Bear Stearns initiated coverage of MUSE with an "Attractive" rating in
September 1999, raised the rating to a "Buy" in January 2000 and
maintained a "Buy" rating on the stock until July 2002. While listening
to a MUSE analyst call on July 18, 2001, an analyst suggested to his
associate that he was going to downgrade his rating on the stock to
"Attractive". The associate disagreed with the suggestion and the
analyst responded that the stock was "dead money!" However, the

1 analyst did not downgrade his rating on the stock, instead issuing
2 research the same day maintaining his "Buy" rating.

- 3 c. Bear Stearns lead managed the IPO for CAIS Internet, Inc. in May
4 1999. The analyst rated the stock a "Buy" from the IPO through his
5 last report on the company in November 2000. On January 24, 2001,
6 in response to an e-mail reporting extensive service failures at CAIS
7 the analyst stated: "Any other scoop on this piece of shit?" A few days
8 later, in response to an institutional client's request for his thoughts on
9 CAIS' 4th quarter, the analyst stated: "It's up a lot year to date...don't
10 overstay your welcome on this one."
- 11 d. Bear Stearns co-managed the IPO and secondary offerings for Digital
12 River in August and December 1998 respectively. The Firm, via three
13 successive analysts, rated the stock a "Buy" from the IPO until April
14 2002. In an April 1, 2002 e-mail to his IB counterpart an analyst
15 stated: "I have to tell you, I feel a bit compromised today. I have told
16 every client on the phone that they should avoid or short the stock over
17 the last few months. I have been fairly hands-off on DRIV [Digital
18 River, a stock under his coverage], primarily because of the banking
19 prospect that you and [Another Banker] have noted. Today, clearly the
20 stock is down a lot. The artificial Buy rating on the stock, while
21 artificial, still makes me look bad. In the future, I'd like to have more
22 leeway with the ratings, even for companies like Digital River, where
23 we have a relationship on the banking side. I trust it would benefit all
24 of us."

25 I. **The Firm Made A Payment for Research**

1. In August 2000, as part of an offering that took place in May 2000, the Firm
made a payment of \$102,750 to another broker-dealer in connection with
research coverage it provided for Andrx Corp. ("ADRX"), a Bear Stearns'
investment banking client in connection with an underwriting transaction for
which Bear Stearns was a lead manager.
2. Bear Stearns did not take steps to ensure that this broker-dealer disclosed in
its research that it had been paid to issue research on ADRX. Further Bear
Stearns did not disclose or cause to be disclosed the details of this payment.

J. **Bear Stearns Failed to Adequately Supervise Its Research and Investment
Banking Departments**

1. While the role of the research analysts was to produce objective research, the
Firm also encouraged them to participate in IB activities. As a result of the
foregoing, research analysts were subject to IB influences and conflicts of

1 interest between supporting the IB business at the Firm and publishing
2 objective research.

- 3 2. The Firm had knowledge of these IB influences and conflicts of interest yet
4 failed to manage them adequately to protect the objectivity of its published
5 research.
- 6 3. Bear Stearns failed to establish and maintain adequate policies, systems and
7 procedures reasonably designed to ensure the objectivity of its published
8 research. Although Bear Stearns had some policies governing research
9 analyst activities during the relevant period, these policies were inadequate
10 and did not address the conflicts of interest that existed.

11 III. CONCLUSIONS OF LAW

- 12 1. The division has jurisdiction over this matter pursuant to AS 45.55.980.
- 13 2. The Alaska Securities Administrator finds the following relief appropriate and in the
14 public interest.
- 15 a. Bear Stearns failed to ensure that analysts who issued research were
16 adequately insulated from pressures and influences from covered companies
17 and investment banking in violation of AS 45.55.060(a)(7).
- 18 b. Bear Stearns failed to reasonably supervise its employees to ensure that its
19 analysts who issued research were adequately insulated from pressures and
20 influences from covered companies and investment banking as required by
21 AS 45.55.060(b)(1).

22 IV. ORDER

23 On the basis of the Findings of Fact, Conclusions of Law, and Bear Stearns' consent to
24 the entry of this Order, for the sole purpose of settling this matter, prior to a hearing and
25 without admitting or denying any of the Findings of Fact or Conclusions of Law.

IT IS HEREBY ORDERED:

1. This Order concludes the investigation by the division and any other action that the
division could commence under the Alaska Securities Act on behalf of the State of
Alaska as it relates to Bear Stearns, relating to certain research or banking practices at
Bear Stearns.
2. Bear Stearns will CEASE AND DESIST from violating the Alaska Securities Act in
connection with the research practices referenced in this Order and will comply with the

1 Alaska Securities Act in connection with the research practices referenced in this Order
2 and will comply with the undertakings of Addendum A, incorporated herein by
reference.

- 3 3. If payment is not made by Bear Stearns or if Bear Stearns defaults in any of its
4 obligations set forth in this Order, the division may vacate this Order, at its sole
5 discretion, upon 10 days notice to Bear Stearns and without opportunity for
administrative hearing.
- 6 4. This Order is not intended by the division to subject any Covered Person to any
7 disqualifications under the laws of any state, the District of Columbia or Puerto Rico
8 (collectively, State), including, without limitation, any disqualifications from relying
9 upon the State registration exemptions or State safe harbor provisions. "Covered
Person" means Bear Stearns, or any of its officers, directors, affiliates, current or
former employees, or other persons that would otherwise be disqualified as a result
of the Orders (as defined below).
- 10 5. The SEC Final Judgment, the NYSE Stipulation and Consent, the NASD Letter of
11 Acceptance, Waiver and Consent, this Order and the order of any other State in
12 related proceedings against Bear Stearns (collectively, the Orders) shall not
13 disqualify any Covered Person from any business that they otherwise are qualified,
licensed or permitted to perform under applicable law of the State of Alaska and any
disqualifications from relying upon this state's registration exemptions or safe harbor
provisions that arise from the Orders are hereby waived.
- 14 6. For any person or entity not a party to this Order, this Order does not limit or create any
15 private rights or remedies against Bear Stearns including, without limitation, the use of
16 any e-mails or other documents of Bear Stearns or of others regarding research
practices or limit or create liability of Bear Stearns or limit or create defenses of Bear
Stearns to any claims.
- 17 7. Nothing herein shall preclude the State of Alaska, its departments, agencies, boards,
18 commissions, authorities, political subdivisions and corporations, other than the
19 division and only to the extent set forth in paragraph 1 above, (collectively, State
Entities) and the officers, agents or employees of State Entities from asserting any
20 claims, causes of action, or applications for compensatory, nominal and/or punitive
damages, administrative, civil, criminal, or injunctive relief against Bear Stearns in
connection with certain research and/or banking practices at Bear Stearns.

21 **V. MONETARY SANCTIONS**

22
23 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that:

24 As a result of the Findings of Fact and Conclusions of Law contained in this Order,
25 Bear Stearns shall pay a total amount of \$80,000,000.00. This total amount shall be
paid as specified in the SEC Final Judgment as follows:

1 \$25,000,000 to the states (50 states, plus the District of Columbia and Puerto Rico)
2 (Bear Stearns' offer to the state securities regulators hereinafter shall be called the
3 "state settlement offer"). Upon execution of this Order, Bear Stearns shall pay the
4 sum of \$250,000 of this amount to the State of Alaska as a civil monetary penalty
5 pursuant to agreement of the parties, to be deposited in the general fund. The total
6 amount to be paid by Bear Stearns to state securities regulators pursuant to the
7 state settlement offer may be reduced due to the decision of any state securities
8 regulator not to accept the state settlement offer. In the event another state
9 securities regulator determines not to accept Bear Stearns' state settlement offer,
10 the total amount of the Alaska payment shall not be affected, and shall remain at
11 \$250,000;

12 \$25,000,000 as disgorgement of commissions, fees and other monies as specified in
13 the SEC Final Judgment;

14 \$25,000,000, to be used for the procurement of independent research, as described
15 in the SEC Final Judgment;

16 \$5,000,000, to be used for investor education, as described in Addendum A,
17 incorporated by reference herein.

18 Bear Stearns agrees that it shall not seek or accept, directly or indirectly,
19 reimbursement or indemnification, including, but not limited to payment made
20 pursuant to any insurance policy, with regard to all penalty amounts that Bear
21 Stearns shall pay pursuant to this Order or Section II of the SEC Final Judgment,
22 regardless of whether such penalty amounts or any part thereof are added to the
23 Distribution Fund Account referred to in the SEC Final Judgment or otherwise used
24 for the benefit of investors. Bear Stearns further agrees that it shall not claim,
25 assert, or apply for a tax deduction or tax credit with regard to any state, federal or
local tax for any penalty amounts that Bear Stearns shall pay pursuant to this Order
or Section II of the SEC Final Judgment, regardless of whether such penalty
amounts or any part thereof are added to the Distribution Fund Account referred to
in the SEC Final Judgment or otherwise used for the benefit of investors. Bear
Stearns understands and acknowledges that these provisions are not intended to
imply that the State of Alaska would agree that any other amounts Bear Stearns
shall pay pursuant to the SEC Final Judgment may be reimbursed or indemnified
(whether pursuant to an insurance policy or otherwise) under applicable law or may
be the basis for any tax deduction or tax credit with regard to any state, federal or
local tax.

VI. GENERAL PROVISIONS

This order and any dispute related thereto shall be construed and enforced in
accordance, and governed by, the laws of the State of Alaska.

1 The parties represent, warrant and agree that they have received independent legal
2 advice from their attorneys with respect to the advisability of executing this Order.

3 Dated this 29 day of August, 2003.

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5 By: /s/ Mark R. Davis
6 Mark R. Davis
7 Administrator of Securities
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