

STATE OF NORTH DAKOTA

BEFORE THE

COUNTY OF BURLEIGH

SECURITIES COMMISSIONER

In the Matter of Baxter, Banks & Smith,)
LTD.; Mikhail S. Shklovsky; Oleg A.)
Feldman; Francis M. McDermott;)
Maurizio V. Grammatica; Kevin J.)
Ruggiero; and John Does 1-3;)
Respondents)

**ADMINISTRATIVE COMPLIANT,
PROPOSED CIVIL PENALTY,
AND NOTICE OF RIGHT TO
REQUEST A HEARING**

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ADMINISTRATIVE COMPLAINT

The North Dakota Securities Commissioner has conducted an investigation into the above-captioned matter and has determined that there is sufficient evidence to conclude that each of the respondents have engaged in violations of the North Dakota Securities Laws and that the Commissioner can lawfully assess civil penalties based on those violations.

1. The Respondent, Baxter, Banks & Smith, LTD. (Baxter) is a securities broker/dealer firm headquartered in the state of Florida. Baxter (CRD # 40771) is not now and has never been registered as a broker/dealer in North Dakota and has never applied to be registered as a broker/dealer in North Dakota.
2. The Respondent, Mikhail S. Shklovsky (Shklovsky), is an agent for Baxter who for all times relevant to this matter has worked in branch office number 12 of Baxter located at 140 Fulton Street, 4th Floor, New York, NY 10038. Shklovsky (CRD # 2820083) is not currently registered as an agent in the state of North Dakota, nor has he ever applied to be registered as an agent in North Dakota with Baxter or with any other firm.

3. The Respondent, Oleg A. Feldman (Feldman), is an agent for Baxter who for all times relevant to this matter has worked in branch office number 12 of Baxter located at 140 Fulton Street, 4th Floor, New York, NY 10038. Feldman (CRD # 2850069) is not currently registered as an agent in the state of North Dakota, nor has he ever applied to be registered as an agent in North Dakota with Baxter.

4. The Respondent, Kevin J. Ruggiero (Ruggiero), is an agent for Baxter who, prior to November 16, 1998, worked as the supervisor in branch office #12 of Baxter, Banks & Smith located at 140 Fulton Street, 4th Floor, New York, NY 10038. Ruggiero (CRD # 2765188) is not currently registered as an agent in the state of North Dakota, nor has he ever applied to be registered as an agent in North Dakota with Baxter or with any other firm.

5. The Respondent, Francis M. McDermott (McDermott), is the majority owner and Chief Executive Officer of Baxter. McDermott (CRD # 1013320) is not currently registered as an agent in the state of North Dakota, nor has he ever applied to be registered as an agent in North Dakota with Baxter or with any other firm.

6. The Respondent, Maurizio V. Grammatica (Grammatica), is a minority owner and President of Baxter. Grammatica (CRD # 1845020) is not currently registered as an agent in the state of North Dakota, nor has he ever applied to be registered as an agent in North Dakota with Baxter or with any other firm.

7. John Doe 1 is an agent of Baxter who was employed at Baxter at an office in Pompano Beach, Florida. John Doe 1 is not registered as a securities agent in

the state of North Dakota with Baxter. John Doe 1 may be more than one person.

8. John Doe 2 is an agent of Baxter who was employed at a Baxter office in Pompano Beach, Florida and who has been the supervisor of the branch office and/or the direct supervisor of John Doe 1. John Doe 2 is not registered as a securities agent in the state of North Dakota with Baxter. John Doe 2 may be more than one person.

9. John Doe 3 is an agent of Baxter who was employed at Baxter's branch office number 12 in New York, NY and who has been the supervisor of the branch office and/or the direct supervisor of Shklovsky. John Doe 3 is not registered as a securities agent in the state of North Dakota with Baxter. John Doe 3 may be more than one person.

10. The Respondents have offered for sale and sold securities to residents of North Dakota. Such securities were sold to at least three North Dakota residents in at least four North Dakota accounts. Some of these transactions are itemized below.

a. On November 5, 1998, respondent, Feldman, solicited the purchase of 200 shares of Star Telecommunications, Inc. stock to Kenneth and Ardyne Hoffert, residents of North Dakota. At the time of the transaction, the branch officer manager overseeing the activities of Feldman was respondent, Ruggiero.

b. On April 5, 1999, respondent, Shklovsky, executed a purchase order in the cash account of Rod and Tim Nordick, residents of North

Dakota, wherein he purchased 100 shares of Level 3 Communications, Inc. stock. At the time of the transaction, the branch manager overseeing the activities of Shklovsky was respondent, John Doe 3.

c. On April 9, 1999, respondent, Shklovsky, executed a purchase order in the cash account of Rod and Tim Nordick, residents of North Dakota, wherein he purchased 300 shares of Level 3 Communications, Inc. stock. At the time of the transaction, the branch manager overseeing the activities of Shklovsky was respondent, John Doe 3.

d. On April 16, 1999, respondent, Shklovsky, executed a purchase order in the margin account of Rod and Tim Nordick, residents of North Dakota, wherein he purchased 250 shares of Intervu, Inc. stock. At the time of the transaction, the branch manager overseeing the activities of Shklovsky was respondent, John Doe 3.

e. On April 21, 1999, respondent, Shklovsky, executed a purchase order in the margin account of Rod and Tim Nordick, residents of North Dakota, wherein he purchased 250 shares of Intervu, Inc. stock. At the time of the transaction, the branch manager overseeing the activities of Shklovsky was respondent, John Doe 3.

f. On April 22, 1999, respondent, Shklovsky, executed a purchase order in the margin account of Rod and Tim Nordick, residents of North Dakota, wherein he purchased 250 shares of Dell Computers, Inc. stock. At the time of the transaction, the branch manager overseeing the activities of Shklovsky was respondent, John Doe 3.

g. On May 7, 1999, each of the securities purchased in the accounts of Rod and Tim Nordick were sold by Shklovsky. At the time of the transaction, the branch manager overseeing the activities of Shklovsky was respondent, John Doe 3.

h. On May 24, 1999, Greg and Barbara Mayo, residents of North Dakota, sold Navarre Corporation stock through a House Account at the Pompano Beach, Florida branch office. The transaction was executed by respondent, John Doe 1. At the time of the transaction, the branch manager overseeing the activities of John Doe 1 was respondent, John Doe 2.

i. On May 24, 1999, Greg and Barbara Mayo, residents of North Dakota, sold Rowecom, Inc. stock through a House Account at the Pompano Beach, Florida branch office. The transaction was executed by respondent, John Doe 1. At the time of the transaction, the branch manager overseeing the activities of John Doe 1 was respondent, John Doe 2.

j. On May 24, 1999, Greg and Barbara Mayo, residents of North Dakota, sold Networks Associates, Inc. stock through a House Account at the Pompano Beach, Florida branch office. The transaction was executed by respondent, John Doe 1. At the time of the transaction, the branch manager overseeing the activities of John Doe 1 was respondent, John Doe 2.

k. On May 26, 1999, John Doe 1, whose identity is not recorded on the trade confirmation, solicited the purchase of 1000 shares of Vianet Technologies, Inc. stock to Greg and Barbara Mayo, residents of North Dakota. Vianet Technologies, Inc. stock is not registered as a security in North Dakota, and respondents have produced no information that the securities are exempt from registration in North Dakota. At the time of the transaction, the branch manager overseeing the activities of John Doe 1 was respondent, John Doe 2.

l. On May 26, 1999, an agent, whose name is not recorded on the trade confirmation, solicited the purchase of 4000 shares of Vianet Technologies, Inc. stock to Greg and Barbara Mayo, residents of North Dakota. Vianet Technologies, Inc. stock is not registered as a security in North Dakota, and respondents have produced no information that the securities are exempt from registration in North Dakota. At the time of the transaction, the branch manager overseeing the activities of John Doe 1 was respondent, John Doe 2.

m. On July 22, 1999, an agent, whose name is not recorded on the trade confirmation, solicited the purchase of 125 shares of Vianet Technologies, Inc. stock to Greg and Barbara Mayo, residents of North Dakota. Vianet Technologies, Inc. stock is not registered as a security in North Dakota, and respondents have produced no information that the securities are exempt from registration in North Dakota. At the time of the

transaction, the branch manager overseeing the activities of John Doe 1 was respondent, John Doe 2.

n. On August 30, 1999, an agent, whose name is not recorded on the trade confirmation, solicited the purchase of 2325 shares of Vianet Technologies, Inc. stock to Greg and Barbara Mayo, residents of North Dakota. Vianet Technologies, Inc. stock is not registered as a security in North Dakota, and respondents have produced no information that the securities are exempt from registration in North Dakota. At the time of the transaction, the branch manager overseeing the activities of John Doe 1 was respondent, John Doe 2.

11. The transaction set forth in 10 (a), above, demonstrates that respondent, Feldman executed a transaction while he was not registered as securities agent in North Dakota in violation of section 10-04-10(2) N.D.C.C. This transaction also demonstrates that respondents, Ruggiero, McDermott, Grammatica and Baxter failed to properly supervise Feldman in permitting the transaction to occur. This transaction also demonstrates that respondents, Feldman, Ruggiero, McDermott, Grammatica and Baxter engaged one transaction in the securities business in North Dakota when Baxter was not registered as a broker/dealer in North Dakota in violation of section 10-04-10(1) N.D.C.C.

12. The transactions set forth in 10 (b-g), above, demonstrate that respondent, Shklovsky executed eight transactions while he was not registered as securities agent in North Dakota in violation of section 10-04-10(2) N.D.C.C. These transactions also demonstrate that respondents, John Doe 3, McDermott,

Grammatica and Baxter failed to properly supervise Shklovsky in permitting the transactions to occur. These transactions also demonstrate that respondents, Shklovsky, John Doe 3, McDermott, Grammatica and Baxter engaged in eight transactions in the securities business in North Dakota when Baxter was not registered as a broker/dealer in North Dakota in violation of section 10-04-10(1) N.D.C.C.

13. The transactions set forth in 10 (h-n), above, demonstrate that respondent, John Doe 1 executed seven transactions while he was not registered as securities agent in North Dakota in violation of section 10-04-10(2) N.D.C.C. These transactions also demonstrate that respondents, John Doe 2, McDermott, Grammatica and Baxter failed to properly supervise John Doe 1 in permitting the transactions to occur. These transactions also demonstrate that respondents, John Doe 1, John Doe 2, McDermott, Grammatica and Baxter engaged in seven transactions in the securities business in North Dakota when Baxter was not registered as a broker/dealer in North Dakota in violation of section 10-04-10(1) N.D.C.C.

14. The transactions set forth in 10 (k-n), above, demonstrate that respondents, John Doe 1, John Doe 2, McDermott, Grammatica and Baxter engaged four securities transactions in North Dakota when the subject securities were not registered or exempt from registration in violation of section 10-04-04 N.D.C.C.

15. On August 16, 1999, the Commissioner issued a Cease and Desist Order against several of the respondents, including Baxter, Shklovsky and Feldman

based on several violations of North Dakota securities laws. On August 19, 1999, the Cease and Desist Order was received by Baxter, Banks & Smith, LTD. Respondent did not provide a request for hearing, nor did respondent deny any facts relied upon by the Commissioner underlying the Cease and Desist Order dated August 16, 1999.

16. The transaction set forth in 10 (n) above, also demonstrates that respondents, John Doe 1, John Doe 2, McDermott, Grammatica and Baxter engaged in violations of section 1 and section 2 of the Cease and Desist order issued on August 16, 1999.

PROPOSED PENALTY

Pursuant to section 10-04-16(1) N.D.C.C., the Commissioner has the authority to assess civil penalties in an amount not to exceed \$10,000 for each violation of any provision of chapter 10-04 or any order issued by the commissioner thereunder. Based on that authority, the Commissioner herein proposes that the respondents be assessed civil penalties as follows:

1. Based on the violations set forth in 11 above, respondents, Feldman, Ruggiero, McDermott, Grammatica and Baxter are jointly and severally liable for a civil penalty to the Securities Commissioner in the amount of **\$4,000**.
2. Based on the violations set forth in 12, above, respondents, Shklovsky, John Doe 3, McDermott, Grammatica and Baxter are jointly and severally liable for a civil penalty to the Securities Commissioner in the amount of **\$32,000**.

3. Based on the violations set forth in 13, above, respondents, John Doe 1, John Doe 2, McDermott, Grammatica and Baxter are jointly and severally liable for a civil penalty to the Securities Commissioner in the amount of **\$28,000**.

4. Based on the violations set forth in 14, above, respondents, John Doe 1, John Doe 2, McDermott, Grammatica and Baxter are jointly and severally liable for a civil penalty to the Securities Commissioner in the amount of **\$8,000**.

5. Based on the violations set forth in 16, above, respondents, John Doe 1, John Doe 2, McDermott, Grammatica and Baxter are jointly and severally liable for a civil penalty to the Securities Commissioner in the amount of **\$20,000**.

NOTICE OF RIGHT TO REQUEST HEARING

YOU ARE NOTIFIED that pursuant to §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 EIGHT (10) DAYS AFTER THE RECEIPT OF THIS ORDER. The respondent has the right to be represented by legal counsel at the hearing.

IN TESTIMONY WHEREOF, witness my hand and seal this 1st day of November, 1999.



A handwritten signature in black ink, appearing to read "Syver Vinje".

Syver Vinje, Securities Commissioner
Office of the Securities Commissioner
600 East Boulevard Ave.
State Capitol – Fifth Floor
Bismarck, ND 58505-0510
(701) 328-2910

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 Maurizio V. Grammatica; Kevin J.)
 Ruggiero; and John Does 1-3;)
 Respondents)

AFFIDAVIT OF MAILING

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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 this 2 day of November, 1999, I deposited in the Central Mailing Bureau of the United States Post Office Department in the State Capitol in Bismarck, North Dakota, a true and correct copy of each of the following documents:

**ADMINISTRATIVE COMPLIANT,
 PROPOSED 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:

Todd Berger
 Mouser & Wells, P.A.
 810 63rd Avenue North
 St. Petersburg, FL 33702

Francis M. McDermott
 Baxter, Banks & Smith, LTD.
 309 Fifth Avenue North
 St. Petersburg, FL 33701

Kevin J. Ruggiero
 459 Ridge Road Apt. 2B
 Lyndhurst, NJ 07071

Maurizio V. Grammatica
Baxter, Banks & Smith, LTD.
1514 Stickney Point Road
Sarasota, FL 34231

Maurizio V. Grammatica
5127 Windward Avenue
Sarasota, FL 34242

Michail Shklovsky
Baxter, Banks & Smith, LTD.
140 Fulton Street, 4th Floor
New York, NY 10038

Michail Shklovsky
3605 Van Duren Ave
Fair Lawn, NJ 07410

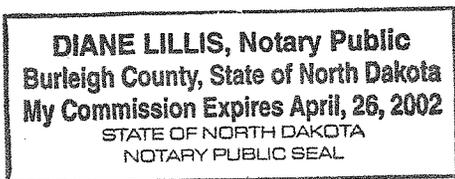
Oleg A. Feldman
Baxter, Banks & Smith, LTD.
140 Fulton Street, 4th Floor
New York, NY 10038

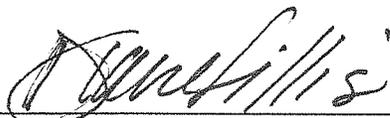
Oleg A. Feldman
2944 West 5th Street, Apt 15D
Brooklyn, NY 11224

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.


Jacqui Ferdejer

Subscribed and sworn to before me this 2nd day of November, 1999.




Diane Lillis, Notary Public
Burleigh County, North Dakota
My commission expires 04/26/2002