

MEMORANDUM

TO: All Members, Member Organizations, Participants and Participant Organizations

FROM: Office of the Secretary

RE: Judgment entered for Defendants in Pennmont v. DiDonato, et al litigation

DATE: March 28, 2008

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In the matter PennMont Securities v. DiDonato, Wallace and Frucher, summary judgment has been entered in favor of Defendants Pasquale DiDonato, Sandy Frucher and John Wallace by the U.S. District Court for the Eastern District of Pennsylvania.

Plaintiff PennMont had brought an insider trading action against Mr. DiDonato alleging that he failed to disclose material non-public information before purchasing 100 shares of Phlx stock from PennMont. PennMont further alleged that Mr. Wallace had provided material non-public information to Mr. DiDonato and that Mr. Frucher committed securities fraud by making false and misleading statements that depressed the price of Phlx's stock.

In its opinion, the Court found that all of PennMont's claims were without merit. With regard to Mr. Frucher, the court stated that "without proof of any material misstatements or scienter, Plaintiff has also failed to establish reliance and causation" and that "there are simply no facts supporting a securities fraud claim against Defendant Frucher." PennMont consented voluntarily to summary judgment with regard to Mr. Wallace, having conceded that it had discovered no evidence supporting its claim against him.