

FINANCIAL INDUSTRY REGULATORY AUTHORITY¹
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT

Complainant,

v.

RICHARD W. MENTZ
(CRD No. 2150829),

Respondent.

Disciplinary Proceeding
No. 2005001087801

Hearing Officer – AWH

DEFAULT DECISION

September 13, 2007

Formerly registered representative barred from association with any member firm in any capacity for recommending and effecting unsuitable transactions in a customer's account, in violation of NASD Conduct Rules 2110 and 2310 and IM-2310-2, and churning that customer's account, in violation of Section 10(b) of the Securities Exchange Act and SEC Rule 10b-5 promulgated thereunder, and NASD Conduct Rules 2120 and 2110.

Appearances:

Jill L. Jablonow, Esq., for the Department of Enforcement.

No appearance by or for Richard W. Mentz.

DECISION

Background

On April 11, 2007, the Department of Enforcement ("Enforcement") filed the Complaint in this proceeding, alleging that Richard W. Mentz recommended and effected unsuitable transactions in a customer's account, in violation of NASD Conduct Rules 2110 and 2310 and IM-2310-2, and churned that same customer's account, in violation of

¹ Effective July 30, 2007, the corporate successor to NASD is the Financial Industry Regulatory Authority (FINRA). The Rules at issue continue to be designated as NASD Rules.

Section 10(b) of the Securities Exchange Act and SEC Rule 10b-5 promulgated thereunder, and NASD Conduct Rules 2120 and 2110. Mentz failed to answer the Complaint. He also failed to file an Answer to the Second Notice of Complaint and Complaint that Enforcement filed on May 11, 2007. As a result, on July 5, 2007, Enforcement filed a Motion for Entry of Default Decision. Mentz did not respond to that Motion. Pursuant to NASD Procedural Rules 9215(f) and 9269, the Motion will be granted, and the allegations in the Complaint, which is attached to this decision, will be deemed admitted.

Findings of Fact²

The Respondent

Mentz first became registered with FINRA in August 1991. From that time through August 2003, he was registered through seven different firms. As pertinent to the Complaint, from August 18, 2003, through August 23, 2004, he was registered as a General Securities Principal and a General Securities Representative with FINRA member firm Emmet A. Larkin Company, Inc. ("Emmet Larkin"). From September 14, 2004, through April 19, 2005, Mentz was similarly registered through another FINRA member firm. He is not currently associated with any FINRA member firm.

Unsuitability of the Transactions and Churning of the Account

In August 2003, WJ was in his mid-fifties when he opened an individual securities brokerage account with Mentz at Emmet Larkin. WJ was an automotive repair technician, operating a small car repair and restoration business out of rented warehouse space. His annual income during 2001 through 2003 ranged from \$21,000 to \$24,000.

² All findings of fact are based on the admitted allegations in the Complaint, the Declaration of Jill L. Jablonow in Support of Motion for Entry of Default and Default Decision, and the exhibits attached thereto.

After he opened his own auto repair business in 2003, his annual income was \$15,000. He did not own his own home, and his net worth was about \$25,000. His investment objective for his Emmet Larkin account was income.

Mentz provided WJ with a Client Account Application which WJ signed. WJ relied on Mentz to fill out the Application with accurate information. However, the Application listed WJ's net worth as between \$75,001 and \$200,000; his annual income as ranging from \$40,000 to \$64,999; and his investment objective as "growth." On October 15, 2003, Mentz opened a margin account for WJ, listing the same inaccurate information about WJ's annual income, net worth, and investment objectives. WJ signed the margin account form, but did not understand that he was authorizing Mentz to execute transactions through the use of margin. WJ thought that the margin account form was necessary to transfer his account from Mentz's prior firm to Emmet Larkin.

WJ was an unsophisticated investor whose only prior investment experience had been the purchase of a \$20,000 Bank Certificate of Deposit. He bought the CD from Mentz in 2002 while Mentz was registered with another FINRA member firm. In September 2003, WJ made an initial deposit to his Emmet Larkin account with the CD, which, at that time, had a market value of \$18,100. On October 3, 2003, Mentz liquidated the CD, and WJ's account was credited in the amount of \$18,076.64. The account represented 100% of WJ's savings.

From August 2003 through July 2004, Mentz recommended and effected 164 transactions in WJ's account. Of those transactions, 75 were purchases on margin, which totaled \$571,389, and 89 were sales, which totaled \$570,551. The average monthly

equity in WJ's account over that period of time was \$12,141.³ The annualized turnover rate in WJ's account was 47.06.⁴

During that same period of time, WJ paid commissions of \$21,595, other ticket and clearing charges of \$4,455, and margin interest of \$615, for a total of \$26,665. The annualized cost-to-equity ratio was 219.6%.⁵

WJ relied on Mentz to make the appropriate investment decisions in his account. Mentz would effect a transaction and then call WJ for approval. WJ consistently followed Mentz's recommendations. WJ made no unsolicited purchases or sales in his account.

In July 2004, WJ requested that Emmet Larkin liquidate all securities and close his account. WJ received a check for \$7,575, the balance remaining in his account. On March 25, 2005, WJ settled an arbitration claim alleging unsuitable recommendations, excessive trading, and churning. As a result of the settlement, Emmet Larkin and Mentz agreed to be held liable, jointly and severally, for an award of \$23,000, payable to WJ.

Service of the Complaint

On April 11, 2007, Enforcement served the Complaint and Notice of Complaint on Mentz via first class and certified mail at his last known residential address listed in CRD, as well as an additional possible address obtained through LEXIS during the Staff's investigation. On May 10, 2007, Enforcement served the Second Notice of Complaint and Complaint on Mentz in the same manner. The first class mailings to the

³ In May 2004, WJ made a cash deposit of \$10,000, which he earned from an automobile restoration project, into his account.

⁴ The total cost of purchases divided by the average monthly investment. See *Looper & Co.*, 38 S.E.C. 294 (1958).

⁵ The cost-equity ratio is the percentage return that is necessary to make a profit in light of the fees associated with the trading activity. Here, for the 12 months involved, the account would have to earn a return of 219.6% in order to pay the transaction costs.

CRD Address were returned marked "Returned to Sender – Attempted Not Known." The certified mailings to that address were returned, marked "Returned to Sender – Unclaimed." Both mailings of the First Notice of Complaint and Complaint to the other address were not returned. The certified mailing for the Second Notice of Complaint and Complaint to the other address was returned, marked "Return to Sender-Unclaimed." Mentz failed to file an Answer to the Complaint.

Discussions and Conclusions

FINRA Jurisdiction Over Formerly Associated Persons

Article V, Section 4 of the FINRA By-Laws provides for a two-year period of retained jurisdiction over a formerly registered person after the effective date of the individual's termination of registration. During this period of retained jurisdiction, FINRA may file a complaint based upon conduct that occurred while the individual was registered through a member firm, or based upon such person's failure to provide information requested pursuant to Procedural Rule 8210, if the request was made, and the complaint is filed, during the foregoing period of retained jurisdiction.

Enforcement filed the Complaint on April 11, 2007, within two years of the termination of Mentz's registration. The Complaint is based upon conduct which occurred while he was registered with a FINRA member firm. Therefore, FINRA has jurisdiction over this proceeding.

Respondent's Default

Enforcement properly served the Complaint on Mentz by sending it via first class and certified mail to his address listed in CRD and to an additional possible address obtained by Enforcement. Pursuant to NASD Procedural Rule 9134, the mailings

establish that he had valid constructive notice of the Complaint. Because Mentz failed to respond to the Complaint, Procedural Rules 9215(f) and 9269 authorize entry of a default decision against him. Accordingly, the allegations in the Complaint are deemed admitted.

Unsuitability of the Transactions

A registered representative who exercises control over an account is deemed to have implicitly recommended the transactions that he executes in the account.⁶ Control may be established where, as here, the customer is unsophisticated, does not understand the trading activity, and routinely follows the representative's advice.⁷

NASD Conduct Rule 2310(a) requires that, in recommending the purchase or sale of a security, a registered person must have "reasonable grounds for believing that the recommendation is suitable for [the] customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs."⁸ Moreover, NASD Conduct Rule 2310 encompasses a "fundamental responsibility for fair dealing" that a registered representative has to his or her customers.⁹ A violation of Conduct Rule 2310 is also a violation of Rule 2110, in contravention of "just and equitable principles of trade."¹⁰

⁶ *Clyde J. Bruff*, Exchange Act Release No. 40,583, 1998 SEC LEXIS 2266 (Oct. 21, 1998).

⁷ *District Bus. Conduct Comm. v. Glikzman*, No. C02960039, 1999 NASD Discip. LEXIS 12, at *24 (NAC Mar. 31, 1999), *aff'd*, Exchange Act Release No. 42,255, 1999 SEC LEXIS 2685 (Dec. 20, 1999).

⁸ See also *District Bus. Conduct Comm. v. Kunz*, No. C3A96009, 1999 NASD Discip. LEXIS 20, at *62 (NAC July 7, 1999) ("Conduct Rule 2310 provides that a representative may make only such recommendations as would be consistent with a customer's financial situation and needs."), *aff'd*, *Kevin D. Kunz*, Exchange Act Release No. 45,290, 2002 SEC LEXIS 104 (Jan. 16, 2002).

⁹ *Larry Ira Klein*, Exchange Act Release No. 37,835, 1996 SEC LEXIS 2922, at **16-17 (Oct. 17, 1996) (citing *John M. Reynolds*, Exchange Act Release No. 30,036, 1991 SEC LEXIS 2725, at *10, n.13 (Dec. 4, 1991)).

¹⁰ *Daniel Richard Holland*, Exchange Act Release No. 46,269, 2002 SEC LEXIS 1909 (July 26, 2002).

The suitability requirement of Conduct Rule 2310 is violated when the representative's recommendations are quantitatively unsuitable, *i.e.*, when they generate excessive trading in the account in light of the customer's investment objectives and needs.¹¹ While there is no single test to determine whether trading is excessive, the turnover rate in the customer's account, the cost-to-equity ratio, the number and frequency of trades in the account, and "in-and-out" trading in the account may all provide a basis for a finding of excessive trading.¹² Where a broker has *de facto* control over a customer's account, a high turnover rate by itself may be sufficient to establish excessive trading.¹³ The Securities and Exchange Commission has held that "a turnover rate of 6 or a cost-to-equity ratio in excess of 20% generally indicates that excessive trading has occurred."¹⁴

Here, both the turnover rate and the cost-equity ratio far exceed those parameters. There is no evidence that would justify that quantity of trading, given WJ's age, financial situation, and investment objective of income. Therefore, Mentz engaged in unsuitable trading in WJ's account, in violation of Conduct Rules 2110 and 2310 and IM-2310-2.

Churning the Account

"Churning occurs when a securities broker buys and sells securities for a customer's account, without regard to the customer's investment interests, for the

¹¹ *Dep't of Enforcement v. Stein*, No. C07000003, 2001 NASD Discip. LEXIS 38, at *9 (NAC Dec. 3, 2001).

¹² "The term 'in and out' trading denotes the sale of all or part of a customer's portfolio, with the money reinvested in other securities, followed by the sale of the newly acquired securities. In and out trading is a practice extremely difficult for a broker to justify." *Gliksmann*, 1999 SEC LEXIS 2685, at *12 (citations omitted).

¹³ *Rafael Pinchas*, Exchange Act Release No. 41,816, 1999 SEC LEXIS 1754, at *18 (Sept. 1, 1999) (citation omitted).

¹⁴ *Daniel Richard Howard*, 2002 SEC LEXIS 1909, at *8. See also *David Wong*, Exchange Act Release No. 45,426, 2002 SEC LEXIS 339, at *14, n.18 (Feb. 8, 2002); *Peter C. Bucchieri*, 1996 SEC LEXIS 1331, at *11, n.11, citing *Mihara v. Dean Witter & Co., Inc.*, 619 F.2d 814, 821 (9th Cir. 1980); *Pinchas*, 1999 SEC LEXIS 1754, at *18.

purpose of generating commissions.”¹⁵ Churning violates the antifraud provisions of the Securities Exchange Act and NASD Conduct Rules 2120 and 2110.¹⁶ Churning may be found where the broker exercised control over an account, trading was excessive in light of the investment objectives, and the broker acted with intent to defraud or with reckless disregard for the interests of the customer.¹⁷ As noted above, Mentz exercised control over WJ’s account, and his trading in the account was excessive in light of WJ’s investment objectives. The question remaining is whether the volume of transactions, in light of the nature and objectives of the account, was so excessive as to indicate that Mentz intended to profit at his customer’s expense.¹⁸ For the reasons that follow, the Hearing Officer concludes that the volume was excessive.

WJ was an unsophisticated investor with a modest income and net worth. He had somewhat less than \$20,000 – his life savings – to invest. Although WJ did not understand the concept of margin, Mentz induced him to open a margin account. In slightly less than a year, Mentz made more in commissions than WJ’s initial investment. In order to pay transaction costs, WJ’s account would have to have earned almost 220 percent. The 164 transactions constituted an annualized turnover rate of 47.06. That volume was egregiously excessive and demonstrates that Mentz intended to enrich himself at his customer’s expense. Accordingly, the Hearing Officer concludes that Mentz acted with scienter and churned WJ’s account, in violation of Section 10(b) of the

¹⁵ *Sandra K. Simpson*, Exchange Act Release No. 45,923, 2002 SEC LEXIS 1278, at *52 (May 14, 2002), quoting *Olson v. E.F. Hutton & Co.*, 957 F.2d 622, 628 (8th Cir. 1992).

¹⁶ *Donald A. Roche*, Exchange Act Release No. 38,742, 1997 SEC LEXIS 1283 (June 17, 1997); *Dep’t of Enforcement v. U.S. Rica Financial, Inc.*, No. C0100003, 2003 NASD Discip. LEXIS 24, at *14, n.5 (NAC Sept. 9, 2003).

¹⁷ See *Dep’t of Enforcement v. Castle Securities*, No. C3A010036, 2004 NASD Discip. LEXIS 1, at *14 (NAC Feb. 19, 2004); *Roche*, 1997 SEC LEXIS 1283, at **12-13.

¹⁸ *Castle Securities*, 2004 NASD Discip. LEXIS 1, at **14-15, (NAC Feb. 19, 2004), citing *Costello v. Oppenheimer & Co.*, 711 F.2d 1361, 1368 (7th Cir. 1983).

Securities Exchange Act and Rule 10-b5 thereunder, as well as NASD Conduct Rules 2120 and 2110.

Sanctions

Enforcement seeks a bar for each charge in the Complaint. It does not seek the imposition of a fine for the violations, should Mentz be barred. Enforcement does not request restitution because the customer has been made whole by the firm.

For unsuitable recommendations, the FINRA Sanction Guidelines recommend a fine of \$2,500 to \$75,000, and a lengthy suspension or bar for egregious violations of Conduct Rules 2110 and 2310.¹⁹ For churning or excessive trading, the Sanction Guidelines recommend a fine of \$5,000 to \$75,000, and, in egregious cases, a suspension of up to two years or a bar.²⁰ Mentz's misconduct was egregious. As noted above, over the course of less than a year, he recommended and effected 164 purchases or sales of equities in WJ's account without having any reasonable basis for believing that the trades were suitable for WJ. Mentz was motivated solely by the opportunity to enrich himself through commissions. He gave no consideration to WJ's needs, financial situation, or investment objectives. Accordingly, a bar is the appropriate sanction for each of these violations.

Conclusion

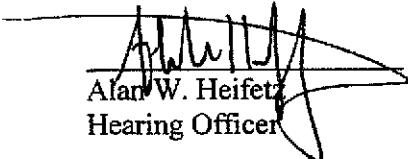
Richard W. Mentz is barred from association with any member firm in any capacity for recommending and effecting unsuitable transactions in a customer's account, in violation of NASD Conduct Rules 2110 and 2310 and IM-2310-2, and for churning that customer's account, in violation of Section 10(b) of the Securities Exchange Act and

¹⁹ FINRA SANCTION GUIDELINES, p. 99 (2007 ed.).

²⁰ *Id.*, p. 82.

Rule 10-b5 thereunder, as well as NASD Conduct Rules 2120 and 2110. The bars shall become effective immediately if this Decision becomes the final disciplinary action of FINRA.

SO ORDERED.



Alan W. Heifetz
Hearing Officer

Copies to:

Richard W. Mentz *(via first class mail & overnight courier)*

Jill L. Jablonow, Esq. *(via first class & electronic mail)*

Mark P. Dauer, Esq. *(via first class & electronic mail)*

Rory C. Flynn, Esq. *(via first class & electronic mail)*

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

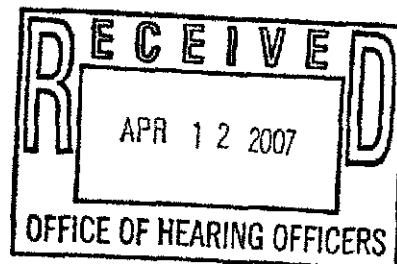
Complainant,

v.

RICHARD W. MENTZ
(CRD No. 2150829),

Respondent.

Disciplinary Proceeding
No. 2005001087801



COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between August 2003 and July 2004, Richard W. Mentz, while registered with NASD member Emmett A. Larkin Company, Inc., executed 164 transactions in customer WJ's account, using margin. This account activity yielded a modified Looper annualized turnover rate of 47, and an annualized cost-to-equity ratio of approximately 220%. The total charges WJ paid on the transactions in his account amounted to approximately \$26,665, which included commission costs of \$21,595, other ticket and clearing charges of \$4,455 and margin interest of \$615. WJ was an auto mechanic in his mid-fifties with annual income ranging from \$15,000 to \$24,000 per year and a net worth of approximately \$25,000. He had no prior securities experience. The account, which opened with \$18,100, closed with \$7,575. The transactions in

WJ's account recommended by Mentz and executed using margin were excessive, and therefore unsuitable in light of WJ's financial situation and needs, his account objective of growth and his complete lack of prior investment experience. In short, Mentz's reckless or intentional conduct was intended to generate commissions for himself and entirely disregarded WJ's best interests.

2. Mentz's conduct violated Section 10(b) of the Securities and Exchange Act of 1934, Rule 10b-5 promulgated thereunder, as well as NASD Conduct Rules 2310, 2120, 2110 and IM-2310-2.

RESPONDENT

3. From on or about August 2003 through August 2004, Mentz was associated with NASD member Emmett Larkin as a General Securities Principal and General Securities Representative. Prior to joining Emmett Larkin, between August 2002 and August 2003, Mentz was employed with NASD member Morgan Stanley DW Inc. From on or about September 2004 through April 2005, Mentz was associated with NASD member Brokersxpress LLC in the foregoing capacities. Although Mentz is not presently associated with or registered through another NASD member, NASD has jurisdiction over Mentz to issue this complaint until April 18, 2007, pursuant to Article V, Section 4 of the NASD By-Laws.

FIRST CAUSE OF ACTION

Unsuitable Recommendations Resulting in Excessive Trading by Mentz (NASD Conduct Rules 2110 and 2310 and IM-2310-2)

4. The Department realleges and incorporates by reference paragraphs 1 through 3 above.

5. In or about August 2003, customer WJ opened an individual securities brokerage account at Emmett Larkin. Mentz was the registered representative who serviced WJ's account.

6. At the time the account was opened, WJ was in his mid-fifties. He was an

automotive repair technician operating a small car repair and restoration business out of a rented warehouse space. WJ did not own a home and his net worth was about \$25,000. WJ's annual income during 2001 through 2003 ranged from approximately \$21,000 to \$24,000 per year. In or about 2003, after WJ started his own auto repair business, his approximate annual income was \$15,000. WJ's investment objective for his Emmett Larkin account was income.

7. WJ did not complete the new account documents to open his account at Emmett Larkin. Instead, Mentz provided WJ with new account documents to sign that contained inaccurate financial information and misstated his investment objectives. Specifically, the new Client Account Application incorrectly listed WJ's net worth as ranging between \$75,001 and \$200,000, his annual income as ranging between \$40,000 and \$64,999; and his investment objective as "growth." WJ did not realize that the new Client Account Application contained inaccuracies at the time he signed the form.

8. WJ was an unsophisticated investor whose only prior investment experience was the purchase of a \$20,000 Bank Certificate of Deposit, in 2002, while Mentz was WJ's account representative associated with another NASD member firm.

9. In or about September 2003, WJ made an initial deposit into his individual Emmett Larkin account using his prior CD investment, which had a market value of \$18,100. On or about October 3, 2003, Mentz liquidated this CD and WJ's account was credited in the amount of \$18,076.64. The funds in WJ's individual Emmett Larkin account represented 100% of WJ's savings.

10. On October 15, 2003, Mentz opened a margin account for WJ's account. WJ did not complete the information contained on the margin account application. The margin account application had the same inaccurate information about WJ's annual income, net worth and

investment objectives that was also misstated on the client account application form. WJ was not aware of the inaccuracies on the margin account application at the time he signed the document. WJ thought the margin account application was necessary to transfer his account. WJ did not realize that the form he signed authorized Mentz to execute transactions through the use of margin.

Mentz's Control of WJ's Account, Account Activity and Costs

11. From in or about August 2003 through in or about July 2004, while exercising effective control over WJ's account, Mentz recommended and executed, or caused the execution of, approximately 164 transactions in WJ's account. The average monthly equity in WJ's account, over the 12 months between August 2003 and July 2004, was approximately \$12,141.

12. In or about September 2003, the equity in WJ's account was approximately \$17,979. On or about May 2004, WJ made a cash deposit of \$10,000 into his account which were proceeds he earned from a car restoration project.

13. Between October 2003 and July 2004, Mentz executed or caused the execution of approximately 164 transactions in the WJ account. Mentz exercised effective control over the WJ account. It was Mentz's practice to effect the transactions and then call WJ to seek approval for the transactions. WJ consistently followed his recommendations. WJ relied on Mentz to make the appropriate investment decisions in WJ's account. WJ made no unsolicited purchases or sales in his account.

14. The transactions comprised approximately 75 purchases on margin, which totaled about \$571,389; and 89 sales, which totaled about \$570, 551. The net result of the activity in WJ's account yielded a modified Looper annualized turnover rate of approximately 47.

15. The trading activity Mentz effected in WJ's account generated transaction-based commissions of approximately \$21,595. This represented approximately 37% of the total commissions Mentz generated from all of his accounts at Emmett Larkin between approximately October 2003 and July 2004.

16. Between October 2003 and July 2004, WJ paid commissions of approximately \$21,595, other ticket and clearing charges of approximately \$4,455 and margin interest of approximately \$615. The total charges WJ paid on the transactions in his account amounted to approximately \$26,665. The annualized cost-to-equity ratio for these expenses was 220%.

17. By in or about June 2004, the equity in WJ's account was approximately \$8,925. In or about July 2004, WJ requested Emmett Larkin to liquidate all securities and close his account, whereupon WJ received a check for the balance of the remaining funds in the approximate amount of \$7,575.

Recommended Transactions Were Unsuitable

18. The transactions Mentz executed in WJ's account were unsuitable for WJ because they were excessive in number and frequency and the purchases were made with the use of margin. As a result of the costs associated with that level of activity and the margin costs, WJ's account would have had to realize a return of approximately 220% to break even. This rate of return was unlikely to be achieved and the loss of some, or all, of WJ's principal, reasonably could be foreseen.

19. Mentz did not have a reasonable basis for believing that his expressed and implicit recommendations for the frequent purchase and sale of securities on margin to WJ were suitable in light of WJ's financial situation and needs, his investment objectives and his other security holdings. Each unsuitable recommendation he made constituted a separate and distinct

violation of NASD Conduct Rule 2310 and IM-2310-2 by Mentz. Further, each such recommendation was inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of NASD Conduct Rule 2110 by Mentz.

SECOND CAUSE OF ACTION

Churning by Mentz (Section 10(b) of the Securities and Exchange Act and SEC Rule 10b-5 promulgated thereunder, and NASD Conduct Rules 2120 and 2110)

20. The Department realleges and incorporates by reference paragraphs 1 through 19 above.

21. In connection with the course of conduct described in First Cause of Action above, Mentz, directly or indirectly, by the use of the means or instrumentalities of interstate commerce or of the mails, knowingly or recklessly used or employed, in connection with the purchase or sale of securities, manipulative or deceptive devices or contrivances; and knowingly or recklessly effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive or other fraudulent devices or contrivances.

22. The foregoing acts, practices and conduct constitute separate and distinct violations of Section 10(b) of the Securities and Exchange Act of 1934 and Rule 10b-5 promulgated thereunder, and NASD Conduct Rules 2120 and 2110.

PRAYER

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Rule 8310(a) be imposed, including that the Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest; and

B. order that the Respondent bear such costs of the proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

DATED: April 11, 2007

NASD DEPARTMENT OF ENFORCEMENT



Jill L. Jablonow, Regional Counsel
Lewis Taylor Egan, Regional Chief Counsel
NASD Department of Enforcement
300 S. Grand Avenue, Suite 1600
Los Angeles, CA 90071
(213) 613-2659; Fax: (213) 617-1570

NASD DISTRICT DIRECTOR

Joseph M. McCarthy,
Vice President and Regional Director
NASD, District 3-Denver
370 -17th Street, Suite 2900
Denver, CO 80202

OF COUNSEL

Rory C. Flynn, Of Counsel
NASD Department of Enforcement
1801 K Street, N.W., Suite 800
Washington, D.C. 20006
(202) 974-2974; Fax: (202) 721-8381

Mark P. Dauer, Of Counsel
NASD Department of Enforcement
1100 Poydras Street,
Energy Center, Suite 850
New Orleans, LA 70163
(504) 522-6527; Fax No. (504) 522-4077