

FINANCIAL INDUSTRY REGULATORY AUTHORITY¹
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

KENNETH J. PUJDAK
(CRD No. 3154417)

Respondent.

Disciplinary Proceeding
No. 20050022104-01

Hearing Officer – AWH

DEFAULT DECISION

October 29, 2007

Formerly registered representative engaged in free-riding transactions, in violation of NASD Conduct Rules 2520 and 2110; caused his member firm to extend credit to his cash account, in violation of Section 7(f) of the Securities Exchange Act of 1934 and NASD Conduct Rule 2110; and failed to respond to Staff requests for information and testimony, in violation of NASD Procedural Rule 8210 and Conduct Rule 2110. Respondent barred for failing to respond to Staff requests for information and testimony. In light of the bar, no further sanctions imposed for free-riding and unlawful use of an extension of credit.

Appearances:

Mark A. Graves, Esq., for the Department of Enforcement.

No appearance by or for Kenneth J. Pujdak.

DECISION

Background

On June 14, 2007, the Department of Enforcement ("Enforcement") filed the Amended Complaint in this proceeding, alleging that Kenneth J. Pujdak engaged in free-riding in a cash account, in violation of NASD Conduct Rules 2520 and 2110; made unlawful use of an extension of credit, in violation of Section 7(F) of the Securities

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.

Exchange Act of 1934 and NASD Conduct Rule 2110; and failed to respond to FINRA Staff requests for information, in violation of NASD Procedural Rule 8210 and Conduct Rule 2110. Pujdak failed to answer the Amended Complaint. He also failed to file an Answer to the Second Notice of Amended Complaint and Amended Complaint that Enforcement filed on July 13, 2007. As a result, on September 14, 2007, Enforcement filed a Motion for Entry of Default Decision. Pujdak 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

Pujdak first entered the securities industry in October 1998. During the time period pertinent to the Amended Complaint, June 9, 2005 through July 26, 2005, he was associated and then registered with two FINRA member firms: he was registered as an Investment Company/Variable Contracts Products Representative, a General Securities Representative, and a General Securities Principal through Advantage Investment Strategies, Inc. ("AIS") in which he had an ownership interest, and Traders Advantage. Both AIS and Traders Advantage were affiliated with North American Clearing, Inc. ("NAC") at the time of the alleged violations. Pujdak was discharged on August 2, 2005, by Traders Advantage for free-riding and violating day-trading rules. He left AIS on August 23, 2005.

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

Pujdak's last registration with FINRA was through Workman Securities Corporation from August 11, 2005, to February 15, 2006, when that firm filed a Form U5 terminating his registration. He is not currently associated with any member firm.

At all times pertinent to the Amended Complaint, Pujdak owned Advantage Advisory Services ("AAS"), a state registered investment advisor which maintained a "block trading account," introduced by Traders Advantage and cleared through NAC.³ Through that account, Pujdak would enter a single block trade and subsequently send NAC a spreadsheet allocating various shares to numerous customer accounts at AAS. Pujdak also had a personal cash "inventory" account with NAC.

Free-riding in a Cash Account

Purchase and Sale of Apple Computer, Inc., Shares

On June 9, 2005, Pujdak purchased a block of shares in Apple Computer, Inc. through the block-trading account. He sent NAC a spreadsheet that allocated 236 shares of Apple to his personal inventory account. At the time of the allocation, the inventory account had a \$0 balance. Pujdak never deposited any cash into the inventory account to fund the \$8,999.80 purchase of the Apple shares.

On July 19, 2005, Pujdak sold the 236 shares of Apple for a total of \$9,689.72. The proceeds were then used to pay for the June 9, 2005, purchase of those shares of Apple.

Purchase and Sale of Yahoo! Incorporated Shares

On July 25, 2005, Pujdak purchased a block of shares in Yahoo! Incorporated through the block-trading account. He sent NAC a spreadsheet that allocated 10,000

³ The block trading account allowed Pujdak to enter large orders for his investment advisor clients and get better executions and lower fees.

shares of Yahoo! to his personal inventory account. At the time of the allocation, the inventory account held \$318.05 in cash. The Yahoo! shares were purchased for a total cost of \$335,724.95. Pujdak never deposited any cash into the inventory account to fund the purchase of the Yahoo! shares.

Pujdak sold the Yahoo! shares on the same day, July 25, 2005, for a total of \$339,163.89. The proceeds of the sale were then used to fund the purchase of the Yahoo! shares earlier in the day.

Purchase and Sale of eBay, Inc., Shares

On July 26, 2005, Pujdak purchased a block of shares in eBay, Inc. through the block-trading account. He sent NAC a spreadsheet that allocated 10,000 shares of eBay to his personal inventory account. At the time of the allocation, the inventory account held \$3,756.99 in cash. The eBay shares were purchased for a total cost of \$402,524.95. Pujdak never deposited any cash into the inventory account to fund the purchase of the eBay shares.

Pujdak sold the eBay shares on the same day, July 26, 2005, for a total of \$407,461.64. The proceeds of the sale were then used to fund the purchase of the eBay shares earlier in the day.

Unlawful use of an Extension of Credit

As detailed above, Pujdak did not have sufficient cash in his personal inventory account to cover the purchases and sales of Apple, Yahoo!, and eBay shares. As a result, he caused a member firm to extend credit to him for those purchases and sales.

Failure to Respond to Staff Requests for Information

Based upon the Form U5 filed by Traders Advantage, FINRA initiated an investigation into the reasons for his termination by Traders Advantage. The investigation included, but was not limited to his trading activity and the allegations of free-riding. As detailed below, pursuant to Procedural Rule 8210, FINRA sent Pujdak a letter request for information, to which he responded with some, but not all of the information requested. FINRA then sent Pujdak two requests that he appear for on-the-record testimony ("OTR"), pursuant to Rule 8210. Pujdak failed to appear for testimony. Finally, FINRA sent Pujdak a second Rule 8210 letter request for information, to which he failed completely to respond.

First Letter Request for Information

On February 3, 2006, FINRA Staff sent Pujdak a request that he provide information, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. The request was sent to his two CRD addresses and his employment address by first class and certified mail. A signed certified mail receipt indicated that the letter had been received at the employment address. The certified mail receipts for the letters sent to the two CRD addresses were returned, marked "Return to Sender – Unable to Deliver as Addressed." The first class mailings sent to the CRD addresses were not returned.

On February 17, 2006, FINRA Staff received a response from Pujdak, written on AAS letterhead that displayed his employment address. In his response, Pujdak provided background information regarding his employment history, but failed to provide details regarding the transactions at issue. As a result, Enforcement determined that on-the-

record testimony was necessary to develop the information missing from his letter response.

First Request for Testimony

On May 31, 2006, FINRA Staff sent a letter to Pujdak, requesting that he appear for testimony on July 11, 2006. The letter was sent to him at both CRD addresses and his employment address. The first class mailings to the first CRD address and the employment address were not returned. The first class mailing to the second CRD address was returned as undeliverable. The certified mailings were returned as unclaimed or undeliverable, and not able to be forwarded. Pujdak failed to appear for testimony on July 11, 2006.

Second Request for Testimony

On July 11, 2006, the Staff sent Pujdak a second request that he appear for an OTR interview. The request was sent in the same manner as the first request for testimony, except that it was also sent to Pujdak at another address that the Staff obtained through a database search ("the search address"). The first class mailings to the first CRD address and the employment address were not returned; the one to the second CRD address was returned as undeliverable and unable to be forwarded; and the one sent to the search address was returned, marked "Attempted - Not Known, Unable to Forward." The certified mailing to the first CRD address was returned, signed by K. Pujdak. The certified mailing to the second CRD address was returned, marked not deliverable as addressed. The certified mailing to the employment address was signed by Dennis Krazan. The certified mailing to the search address was returned with an illegible signature. Pujdak failed to appear for testimony as requested.

Second Letter Request for Information

Following Pujdak's failures to appear for testimony, on September 12, 2006, the Staff sent Pujdak another written request for the information it had been seeking. The first class mailings to the first CRD address and the employment address were not returned. The first class mailings to the second CRD address and the search address were not deliverable or able to be forwarded. The certified mailings sent to the first CRD address and the search address were returned as undeliverable and unable to be forwarded. The certified mailing to the employment address was signed and received by "Richard Benich." Pujdak failed to respond to the second request letter.

Service of the Complaint

On June 14, 2007, Enforcement served the Amended Complaint and Notice of Amended Complaint on Pujdak via first class certified mail sent to his two CRD addresses, the employment address, and the search address. The certified mailings to the first CRD address, the employment address, and the search address were returned with the notation "Unclaimed." The certified mailing to the second CRD address was returned with the notation "Not Deliverable as Addressed; Unable to Forward." Pujdak did not file an Answer to the Amended Complaint.

On July 13, 2007, Enforcement served the Second Notice of Amended Complaint and Amended Complaint on Pujdak in the same manner. The certified mailings to the first CRD address and the employment address were returned with the notation "Unclaimed." The certified mailings to the second CRD address and the search address were returned, marked "Not Deliverable as Addressed" and "Unable to Forward." Pujdak failed to file an Answer to the Amended Complaint.

Discussions and Conclusions

Jurisdiction

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 NASD Procedural Rule 8210, if the request was made, and the complaint is filed, during the foregoing period of retained jurisdiction.

Enforcement filed the Amended Complaint on June 14, 2007, within two years of the termination of Pujdak's registration. The Amended Complaint is based upon conduct that occurred while he was registered through a FINRA member firm, and his failure to respond to requests for information that were issued during the period of retained jurisdiction. Therefore, FINRA has jurisdiction over this proceeding.

Respondent's Default

Enforcement properly served the Amended Complaint on Pujdak by sending it via first class certified mail to his CRD addresses, his employment address, and another address that the Staff found by a database search. Pursuant to NASD Procedural Rule 9134, the mailings establish that he had valid constructive notice of the Amended Complaint. Because Pujdak failed to respond to the Amended Complaint, Procedural Rules 9215(f) and 9269 authorize entry of a default decision against him. Accordingly, the allegations in the Amended Complaint are deemed admitted.

Free-riding in a Cash Account

NASD Conduct Rule 2520(f)(9), Free-Riding in Cash Accounts Prohibited, states, in pertinent part:

No member shall permit a customer . . . to make a practice, directly or indirectly, of effecting transactions in a cash account where the cost of securities purchased is met by the sale of the same securities. . . .

Here, Pujdak violated Rule 2520(f)(9) by purchasing shares of Apple Computer, Yahoo!, and eBay when he did not have sufficient cash in his personal inventory account to cover those purchases and funded those purchases from proceeds of the sale of those securities. By violating the Free-Riding Rule, he violated Conduct Rule 2110, which mandates that registered representatives observe “high standards of commercial honor and just and equitable principles of trade.”

Unlawful Use of an Extension of Credit

Section 7(f) of the Securities Exchange Act makes it unlawful for any person to receive an extension of credit that is expressly prohibited by Regulation T. Regulation T, promulgated by the Federal Reserve Board under Section 7(a) of the Exchange Act, prohibits a customer from buying or selling securities in a cash account when that account does not maintain sufficient funds to cover the purchase price, unless the firm has a good-faith agreement with the customer to promptly make a full cash payment for the securities before selling them and the customer does not contemplate selling the securities before paying for them. Section 7(d) applies that same prohibition to registered representatives such as Pujdak.

When he purchased shares of Apple, Yahoo!, and eBay, Pujdak failed to maintain sufficient funds in his inventory account to cover those purchases. He paid for those

purchases from the proceeds of the sale of those securities. By so doing, he caused a member firm unlawfully to extend credit to him, in violation of Regulation T, Section 7(f) of the Securities Exchange Act, and, accordingly, NASD Conduct Rule 2110.

Failure to Respond to FINRA Requests for Information

Procedural Rule 8210 authorizes FINRA to require any person subject to its jurisdiction to provide information and testimony related to any matter under investigation. The Rule serves as a key element in FINRA's oversight function and allows FINRA to carry out its regulatory functions without subpoena power.⁴ When an individual fails to respond to information requests, FINRA's ability to perform its regulatory responsibilities is subverted.⁵

Pursuant to Procedural Rule 8210, notice of a request for information is considered received if the request is mailed or otherwise transmitted to the person's last known CRD business or residential address, and any known more current address. Enforcement mailed requests for information and requests for testimony to Pujdak at his last known CRD residential and business addresses, as well as the search address that Enforcement found. Accordingly, Pujdak received constructive notice of the requests for information and testimony. His failures to respond in any way to those requests for information violated Procedural Rule 8210 and Conduct Rule 2110.

⁴ See, e.g., *Dep't of Enforcement v. Valentino*, No. FPI010004, 2003 NASD Discip. LEXIS 15, at *12 (NAC May 21, 2003), *aff'd*, 2004 SEC LEXIS 330 (Feb. 13, 2004) ("It is well established that because NASD lacks subpoena power over its members, a failure to provide information fully and promptly undermines NASD's ability to carry out its regulatory mandate.") (citation omitted); *Joseph G. Chitulli*, Exchange Act Release No. 42,359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000) (noting that Rule 8210 provides a means for the FINRA effectively to conduct its investigations, and emphasizing that FINRA members and associated persons must fully cooperate with requests for information).

⁵ *Joseph P. Hannan*, Exchange Act Release No. 40,438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998). Further, a violation of Procedural Rule 8210 is also a violation of Conduct Rule 2110, contravening "high standards of commercial honor." *Dep't of Enforcement v. Baxter*, No. C07990016, 2000 NASD Discip. LEXIS 3, at *25 (NAC Apr. 19, 2000).

Sanctions

For failing to respond in any way to requests for information made pursuant to Rule 8210, FINRA Sanction Guidelines provide that a bar is standard.⁶ Here, Pujdak's failures to respond were clearly intentional and impeded Enforcement's investigation into his trading activities. There are no mitigating circumstances that would warrant a lesser sanction. Accordingly, Pujdak will be barred in all capacities for failing to respond to requests for information and testimony, made pursuant to Procedural Rule 8210.

For violations of Regulation T and Rule 2520, the Sanction Guidelines recommend a fine of \$1,000 to \$50,000, and a suspension of up to 30 business days in cases that do not involve egregious violations.⁷ Here, because the free-riding and extensions of credit arise out of a single course of conduct, sanctions for those violations will be considered together. Although the violations were not numerous, the extensions of credit put Traders Advantage at significant risk had the market value of the securities declined. The risk of loss posed by the two large transactions was reduced because the positions were not held overnight; and, although the position in Apple Computer was held open for more than a month, the size of the position was less than \$10,000, far smaller than the other two transactions. Accordingly, the Hearing Officer concludes that the violations were serious enough to warrant a fine of \$20,000 and a suspension in all capacities for 30 business days. However, in light of the bar for failing to respond to requests for information and testimony, no further sanctions will be imposed for free-riding and unlawful receipt of extensions of credit.

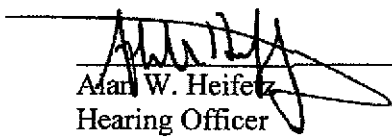
⁶ FINRA SANCTION GUIDELINES, at 35 (2007 ed.).

⁷ *Id.*, at 31.

Conclusion

Kenneth J. Pujdak is barred from association with any member firm in any capacity for failing to respond to requests for information and testimony, in violation of NASD Procedural Rule 8210 and Conduct Rule 2110. In light of the bar, no further sanctions are imposed for free-riding and unlawful receipt of extensions of credit, in violation of NASD Conduct Rules 2520 and 2110, and Section 7(f) of the Securities Exchange Act of 1934 and Federal Reserve Board Regulation T. The bar shall become effective immediately if this Decision becomes the final disciplinary action of FINRA.

SO ORDERED.


Adam W. Heifetz
Hearing Officer

Copies to:

Kenneth J. Pujdak (*Via First Class Mail & Overnight Courier*)
Mark A. Graves, Esq. (*Via First Class & Electronic Mail*)

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

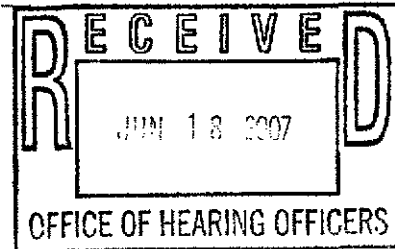
v.

KENNETH J. PUJDAK
(CRD No. 3154417),

RESPONDENT.

DISCIPLINARY PROCEEDING
No. 20050022104-01

HEARING OFFICER



AMENDED COMPLAINT

Upon information and belief, the Department of Enforcement (Department)
alleges as follows:

SUMMARY

1. From on or about June 9, 2005, through on or about July 26, 2005, Kenneth J. Pujdak engaged in several "free-riding" transactions by effecting transactions in a cash account where the cost of the securities purchased were met by the sale of the same securities. It is alleged that this conduct constitutes violations of NASD Conduct Rules 2520 and 2110.
2. By engaging in the free-riding transactions, Pujdak caused his member firm to extend credit to his cash account, in violation of Regulation T. It is alleged that this conduct constitutes violations of Section 7(f) of the Securities Exchange Act of 1934 and NASD Conduct Rule 2110.
3. During the course of NASD staff's investigation into the free-riding allegations, the staff sent two written letters to Pujdak that requested him to appear and

provide information through on-the-record (OTR) testimony, pursuant to NASD Procedural Rule 8210, and an additional letter requesting information that was sent pursuant to Rule 8210. Pujdak failed to respond to the request for information and failed to appear for the OTR testimony. It is alleged that this conduct constitutes violations of Procedural Rule 8210 and Conduct Rule 2110.

JURISDICTION

4. Respondent Kenneth J. Pujdak entered the securities industry through a member of NASD on or about October 25, 1998. Pujdak became licensed as an Investment Company Products / Variable Contracts Representative (IR) on or about December 5, 1998; a General Securities Representative (GS) on or about May 22, 2003; a General Securities Principal (GP) on or about October 17, 2003; and an Investment Advisor Representative (IA) on or about November 5, 2003.
5. From on or about June 21, 2004, through on or about August 23, 2005, Pujdak was registered with NASD member firm Advantage Investment Strategies, Inc. (Advantage Investment) (CRD No. 41462) as an IR, GS and GP.
6. From on or about July 1, 2005, through on or about August 2, 2005, Pujdak was registered with NASD member firm Traders Advantage (n/k/a JW Richards, Inc.) (CRD No. 42763) as an IR, GS and GP.
7. From on or about August 8, 2005, through on or about February 15, 2006, Pujdak was registered with NASD member firm Workman Securities Corporation (CRD No. 31898) as a GS and GP. Workman Securities filed a Uniform Termination Notice for Securities Industry Registration (Form U-5) with NASD, notifying

NASD that Pujdak had voluntarily terminated his registrations with the firm on February 15, 2006.

8. NASD retains jurisdiction over Pujdak through February 14, 2008, pursuant to Article V, Section 4 of its By-Laws.

FIRST CAUSE OF ACTION

FREE-RIDING IN A CASH ACCOUNT (VIOLATION OF NASD CONDUCT RULES 2520 AND 2110 BY RESPONDENT PUJDAK)

9. Paragraphs 4 through 8, above, are realleged and incorporated herein by reference.
10. On or about May 12, 1999, Advantage Advisory Services, Inc. (AAS) was incorporated in South Carolina. As of May 21, 2007, AAS was still in good standing as a corporation in South Carolina.
11. On or about December 1, 2003, Pujdak acquired AAS and began operating the company as an investment advisory firm, registered with the state of South Carolina. Pujdak was the chief executive officer and chief compliance officer of AAS and provided customers with investment advisory services through the company.
12. In order to serve his investment advisor clients, Pujdak had a "block trading" account with North American Clearing, Inc. The block trading account was serviced through Georgia Capital Partners, Inc. (d/b/a Traders Advantage), a NASD member firm affiliate of North American Clearing.
13. The block trading account allowed Pujdak to enter large orders for his investment advisor clients and get better executions and lower fees. Essentially, Pujdak would enter a single "block" trade in the block trading account and would

subsequently send North American Clearing a spreadsheet allocating the various shares to numerous customer accounts of his registered investment advisor firm, AAS.

14. In addition to the block trading account, Pujdak also had a cash "inventory" account with North American Clearing.
15. On or about June 9, 2005, Pujdak purchased a block of shares in Apple Computer, Inc. through the block account for his investment advisor clients. In the allocation spreadsheet that Pujdak sent to North American Clearing, he allocated 236 shares of Apple into his inventory account (the Apple shares). At the time of the allocation, the inventory account had a balance of \$0. The Apple shares were purchased for \$38.05 per share, for a total cost of \$8,999.80.
16. Pujdak never deposited any cash into the inventory account to fund the purchase of the Apple shares.
17. On or about July 19, 2005, Pujdak sold the 236 shares of Apple in his inventory account for \$41.25 per share, for a total amount of \$9,689.72. The proceeds of the sale were then used to pay for the Apple shares purchased on June 9, 2005.
18. On or about July 25, 2005, Pujdak purchased a block of shares in Yahoo! Incorporated through the block account for his investment advisor clients. In his allocation spreadsheet that he sent to North American Clearing, Pujdak allocated 10,000 shares of Yahoo! to his inventory account (the Yahoo! shares). At the time of the allocation, Pujdak's inventory account held approximately \$318.05 in cash. The Yahoo! shares were purchased for \$33.57 per share, for a total cost of \$335,724.95.

19. Pujdak never deposited any cash into the inventory account to fund the purchase of the Yahoo! shares.
20. That same day, July 25, 2005, Pujdak sold the 10,000 shares of Yahoo! in the inventory account at \$33.92 per share, for a total of \$339,163.89. The proceeds of the sale were then used to fund the purchase of the Yahoo! shares earlier in the day.
21. On or about July 26, 2005, Pujdak purchased a block of shares in eBay, Inc. through the block account for his investment advisor clients. In his allocation spreadsheet that he sent to North American Clearing, Pujdak allocated 10,000 shares of eBay (the eBay shares) to his inventory account. At the time of the allocation, Pujdak's inventory account held approximately \$3,756.99 in cash. The eBay shares were purchased for \$40.25 per share, for a total cost of \$402,524.95.
22. Pujdak never deposited any cash into the inventory account to fund the purchase of the eBay shares.
23. That same day, July 26, 2005, Pujdak sold the 10,000 shares of eBay in the inventory account at \$40.75 per share, for a total of \$407,461.64. The proceeds of the sale were then used to fund the purchase of the eBay shares earlier in the day.
24. The foregoing conduct constitutes separate and distinct violations of NASD Conduct Rules 2520 and 2110 by Respondent Pujdak.

SECOND CAUSE OF ACTION

UNLAWFUL USE OF AN EXTENSION OF CREDIT (SECTION 7(F) OF THE SECURITIES EXCHANGE ACT OF 1934¹ AND CONDUCT RULE 2110 BY RESPONDENT PUJDAK)

25. Paragraphs 4 through 8 and 11 through 23, above, are realleged and incorporated herein by reference.
26. Pujdak failed to have sufficient cash in his inventory account to cover the purchase of the Apple shares. Pujdak also failed to fund the inventory account prior to selling the Apple shares. By failing to have sufficient funds in the inventory account when the Apple shares were purchased and by also failing to fund the inventory account prior to selling the Apple shares, Pujdak caused Traders Advantage to extend credit to him, in violation of Regulation T.²
27. Pujdak failed to have sufficient cash in his inventory account to cover the purchase of the Yahoo! shares. Pujdak also failed to fund the inventory account prior to selling the Yahoo! shares. By failing to have sufficient funds in the inventory account when the Yahoo! shares were purchased and by also failing to fund the inventory account prior to selling the Yahoo! shares, Pujdak caused Traders Advantage to extend credit to him, in violation of Regulation T.
28. Pujdak failed to have sufficient cash in his inventory account to cover the purchase of the eBay shares. Pujdak also failed to fund the inventory account prior to selling the eBay shares. By failing to have sufficient funds in the inventory account when the eBay shares were purchased and by also failing to

¹ 15 U.S.C. 78g(f)

² 12 CFR 220.8

fund the inventory account prior to selling the eBay shares, Pujdak caused Traders Advantage to extend credit to him, in violation of Regulation T.

29. By effecting the transactions more fully set forth in Paragraphs 15 through 23, above, Pujdak caused Traders Advantage to violate Regulation T by extending his cash inventory account credit. This conduct comprised violations of Section 7(f) of the Securities Exchange Act of 1934 by Respondent Pujdak.
30. The foregoing conduct constitutes separate and distinct violations of NASD Conduct Rule 2110 by Respondent Pujdak.

THIRD CAUSE OF ACTION

FAILURE TO RESPOND TO NASD STAFF'S REQUESTS FOR INFORMATION (NASD PROCEDURAL RULE 8210 AND CONDUCT RULE 2110 BY RESPONDENT PUJDAK)

31. Paragraphs 4 through 8, above, are realleged and incorporated herein by reference.
32. In or about August 2005, NASD initiated an investigation concerning Pujdak's termination from Traders Advantage for "freeriding [*sic*] and violating day-trading rules."
33. Pujdak's last known residential addresses, as reflected in the NASD Central Registration Depository, are [REDACTED] ("CRD Address 1"), and [REDACTED] ("CRD Address 2").
34. In addition, Pujdak's non-registered location for his association with H.D. Vest, Advantage Investment and Workman Securities were all located at 103 Pelham Commons Boulevard, Greenville, SC 29615 ("Employment Address").

FIRST REQUEST FOR INFORMATION

35. On or about February 3, 2006, NASD staff sent a request for information letter to Pujdak, pursuant to NASD Procedural Rule 8210, which related to the subject matter of the NASD investigation. The request was sent by U.S. Postal Service first class mail and certified mail, return receipt requested, to CRD Address 1, CRD Address 2, and the Employment Address. The first request letter required a response no later than February 16, 2006.
36. The U.S. Postal Service did not return the envelope sent to CRD Address 1 via first class mail. The U.S. Postal Service returned the envelope sent to CRD Address 1 via certified mail, marked "Unclaimed."
37. The U.S. Postal Service returned the envelope sent to CRD Address 2 via first class mail, marked "'not deliverable as addressed – unable to forward.'" The U.S. Postal Service returned the envelope sent to CRD Address 2 via certified mail, marked "not deliverable as addressed – unable to forward."
38. The U.S. Postal Service did not return the envelope sent to Employment Address via first class mail. The U.S. Postal Service returned the return receipt sent to Employment Address via certified mail on or about February 8, 2006, signed by "Rich Benich" on February 6, 2006.
39. Staff received a written, signed, response to the First Request for Information from Pujdak on or about February 17, 2006. The letter was on letterhead from Advantage Advisory Services, Inc. and listed its address as the Employment Address.

40. Based upon Pujdak's written response to the First Request Letter, staff determined that Pujdak's testimony was necessary.

FIRST REQUEST FOR ON-THE-RECORD INTERVIEW

41. On or about May 31, 2006, NASD staff sent a letter to Pujdak at CRD Address 1, CRD Address 2, and the Employment Address, pursuant to Rule 8210, requesting that he appear for an on-the-record (OTR) interview at 9:30 a.m. on Tuesday, July 11, 2006, at NASD's Boca Raton, Florida, office. The purpose of the OTR interview was to have Pujdak provide information, under oath or affirmation administered by a court reporter, with respect staff's investigation of his termination from Traders Advantage, including the allegations of free-riding.
42. The request was sent via U.S. Postal Service first class mail and certified mail, return receipt requested.
43. The U.S. Postal Service did not return the envelope sent to CRD Address 1 by first class mail. The U.S. Postal Service returned the envelope sent to CRD Address 1 by certified mail, marked "Unclaimed."
44. The U.S. Postal Service returned the envelope sent to CRD Address 2 by first class mail, marked "not deliverable as addressed – unable to forward." The U.S. Postal Service returned the envelope sent to CRD Address 2 by certified mail, marked "not deliverable as addressed – unable to forward."
45. The U.S. Postal Service did not return the envelope sent to Employment Address by first class mail. The U.S. Postal Service returned the envelope sent to Employment Address by certified mail, marked "Unclaimed."

46. On July 11, 2006, Pujdak failed to appear at NASD's Boca Raton office at the appointed time to provide the necessary information.

SECOND REQUEST FOR ON-THE-RECORD INTERVIEW

47. On or about July 11, 2006, NASD staff sent a second letter to Pujdak at CRD Address 1, CRD Address 2, Employment Address, and an additional address that staff discovered through a search: [REDACTED] ("Search Address"), pursuant to Rule 8210, requesting that he appear for an OTR interview at 9:30 a.m. on Tuesday, July 25, 2006, at NASD's Boca Raton, Florida, office. The purpose of the OTR interview was to have Pujdak provide information, under oath or affirmation administered by a court reporter, with respect staff's investigation of his termination from Traders Advantage, including the allegations of free-riding.
48. The request was sent via U.S. Postal Service first class mail and certified mail, return receipt requested.
49. The U.S. Postal Service did not return the envelope sent to CRD Address 1 by first class mail. The U.S. Postal Service returned the return receipt sent to CRD Address 1 by certified mail on or about July 18, 2006, signed by "K. Pujdak" on July 15, 2006.
50. The U.S. Postal Service returned the envelope sent to CRD Address 2 by first class mail, marked "not deliverable as addressed – unable to forward." The U.S. Postal Service returned the envelope sent to CRD Address 2 by certified mail, marked "not deliverable as addressed – unable to forward."

51. The U.S. Postal Service did not return the envelope sent to Employment Address by first class mail. The U.S. Postal Service returned the return receipt sent to Employment Address by certified mail on or about July 19, 2006, signed by "Dennis Krazan" on July 17, 2006.
52. The U.S. Postal Service returned the envelope sent to Search Address by first class mail, marked "attempted – not known." The U.S. Postal Service returned the return receipt sent to Search Address by certified mail on or about July 19, 2006, signed but unintelligible.
53. On July 25, 2006, Pujdak failed to appear at NASD's Boca Raton office at the appointed time to provide the necessary information.

SECOND REQUEST FOR INFORMATION

54. In light of Pujdak's failure to appear, twice, for OTR interviews, staff made an additional attempt to gather information. On or about September 12, 2006, NASD staff sent a request for information letter to Pujdak, pursuant to NASD Procedural Rule 8210, which related to the subject matter of the NASD investigation. The request was sent by U.S. Postal Service first class mail and certified mail, return receipt requested, to CRD Address 1, CRD Address 2, the Employment Address, and the Search Address. The second request letter required a response no later than September 26, 2006.
55. The U.S. Postal Service did not return the envelope sent to CRD Address 1 via first class mail. The U.S. Postal Service returned the envelope sent to CRD Address 1 via certified mail, marked "not deliverable as addressed – unable to forward."

56. The U.S. Postal Service returned the envelope sent to CRD Address 2 via first class mail, marked "not deliverable as addressed – unable to forward." The U.S. Postal Service returned the envelope sent to CRD Address 2 via certified mail, marked "not deliverable as addressed – unable to forward."
57. The U.S. Postal Service did not return the envelope sent to Employment Address via first class mail. The U.S. Postal Service returned the return receipt sent to Employment Address via certified mail on or about September 20, 2006, signed "Richard Benich" on September 18, 2006.
58. The U.S. Postal Service returned the envelope sent to the Search Address via first class mail, marked "attempted – not known – unable to forward." The U.S. Postal Service returned the envelope sent to the Search Address via certified mail, marked "attempted – not known – unable to forward."
59. To date, NASD has only received a response to the First Request for Information letter on or about February 17, 2006. NASD has not received any response to the subsequent requests for information.
60. Such acts, practices and conduct constitute separate and distinct violations of NASD Procedural Rule 8210. Such conduct is also inconsistent with high standards of commercial honor and just and equitable principles of trade and a violation of Conduct Rule 2110 by Pujdak.

PRAYER

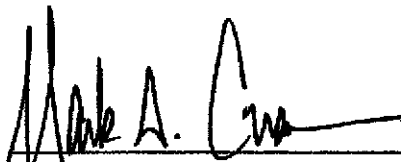
WHEREFORE, the Department respectfully requests that the Panel:

- A. Findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;

- B. Order that one or more of the sanctions provided under NASD Rule 8310(a), including monetary sanctions, be imposed; and
- C. Order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

NASD DEPARTMENT OF ENFORCEMENT

Date: June 12, 2007



Mark A. Graves, Senior Regional Attorney
Lewis Taylor Egan, Regional Chief Counsel
NASD Department of Enforcement
One Montgomery Street, Suite 2100
San Francisco, CA 94104
(415) 217-1100; Fax No. (202) 721-6505

NASD District Director

Mitch Atkins
NASD Florida District
2500 N. Military Trail, Suite 302
Boca Raton, FL 33431-6324
(561) 443-8000; Fax: (561) 443-7995

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) 721-8318

Mark P. Dauer, Of Counsel
NASD Department of Enforcement
1100 Poydras St., Suite 850
New Orleans, LA 70163-0802
(504) 522-6527; Fax No. (504) 522-4077