

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF MARKET REGULATION,

COMPLAINANT,

v.

EKN FINANCIAL SERVICES INC.
(CRD No. 113525),

RESPONDENT.

DISCIPLINARY PROCEEDING
No. 2005002259501

COMPLAINT

The Department of Market Regulation alleges as follows:

SUMMARY

1. In five instances, Respondent EKN Financial Services Inc. ("EKNS" or the "firm") entered into corporate bond transactions with retail customers at prices that were not fair under the relevant circumstances. The firm also failed to preserve the memorandum of the brokerage order for each transaction. As a result, the firm violated NASD Rules 2110, 2440, IM-2440-1, and 3110 and SEC Rule 17a-4.

2. In 31 instances, EKNS failed to use reasonable diligence and provide its customers with a price that was as favorable as possible under prevailing market conditions, in violation of NASD Rules 2110 and 2320.

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RESPONDENT AND JURISDICTION

3. EKNS became a member of FINRA on November 27, 2001. In May 2006, EKNS changed its name from Ehrenkrantz King Nussbaum, Inc. to EKN Financial Services Inc. At all times relevant to this Complaint, the firm was a member of FINRA and remains subject to the jurisdiction of FINRA under Article IV, Section 1, of FINRA's By-Laws.

FIRST CAUSE OF ACTION

Violations of NASD Rules 2110, 2440, and IM-2440-1 (Unfair and Unreasonable Pricing on Corporate Bond Transactions)

4. The Department re-alleges and incorporates by reference all prior paragraphs.

5. EKNS effected the following security transactions:

- a. On April 8, 2005, at or about 13:46:41, EKNS purchased 50 General Motors Corporate Notes, 7.70 percent, due 4/15/2016, from another member firm for \$86.00. That same day, at or about 13:48:08, the firm sold the bonds to a retail customer for \$90.50, thereby charging the customer a markup of 5.23 percent.
- b. On April 21, 2005, at or about 14:55:04, EKNS purchased 20 General Motors Corporate Notes, 7.70 percent, due 4/15/2016, from another member firm for \$82.625. That same day, at or about 14:59:43, the firm sold the bonds to a retail customer for \$87.125, thereby charging the customer a markup of 5.45 percent.

- c. On April 21, 2005, at or about 12:34:42, EKNS purchased 25 General Motors Corporation Senior Unsecured Notes, 7.2 percent, due 1/15/2011, from another member firm at \$87.50. That same day, at or about 12:38:54, the firm sold the bonds to a retail customer for \$92.00, thereby charging the customer a markup of 5.14 percent.
- d. On May 17, 2005, at or about 11:57:42, EKNS purchased 10 General Motors Corporate Notes, 7.70 percent, due 4/15/2016, from another member firm for \$76.50. That same day, at or about 12:03:18, the firm sold the bonds to a retail customer for \$81.00, thereby charging the customer a markup of 5.88 percent.
- e. On May 20, 2005, at or about 12:06:08, EKNS purchased 55 General Motors Corporation Senior Unsecured Notes, 7.2 percent, due 1/15/2011, from another member firm at \$84.50. That same day, at or about 13:40:46, the firm sold the bonds to a retail customer for \$88.50, thereby charging the customer a markup of 4.73 percent.

6. In effecting the five retail bond transactions identified above, EKNS sold from its own account to its retail customers at prices that were not fair taking into consideration *all relevant circumstances, including the factors set forth in IM-2440-1*. Nothing in the nature of the firm's business or the securities transactions justified the markups at these levels. The transactions are identified on Exhibit A, which is attached hereto and incorporated by reference.

7. By reason of the foregoing, EKNS violated NASD Rules 2110, 2440, and IM-2440-1, with each failure to charge a retail customer a fair and reasonable markup constituting a separate and distinct violation.

SECOND CAUSE OF ACTION

Violations of NASD Rule 3110 and SEC Rule 17a-4 (Books and Records)

8. The Department re-alleges and incorporates by reference all prior paragraphs.

9. EKNS failed to preserve for a period of not less than three years, the first two in an accessible place, the memorandum of five brokerage orders, specifically, the order tickets for the five bond transactions at issue.

10. By reason of the foregoing, EKNS violated NASD Rule 3110 and SEC Rule 17a-4, with each failure to maintain or preserve a memorandum constituting a separate and distinct violation.

THIRD CAUSE OF ACTION

Violations of NASD Rules 2110 and 2320 (Best Execution)

11. The Department re-alleges and incorporates by reference all prior paragraphs.

12. From October 1 to December 31, 2005, EKNS failed, in 31 instances, to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customer was as favorable as possible under

prevailing market conditions. The 31 transactions are identified on Exhibit B, which is attached hereto and incorporated by reference.

13. By reason of the foregoing, EKNS violated NASD Rules 2110 and 2320, with each failure to provide the customer with the best price under the prevailing market conditions constituting a separate and distinct violation.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that EKNS committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under Rule 8310(a) be imposed, including that EKNS be required to disgorge all ill-gotten gains and make full and complete restitution, together with interest;
- C. order that EKNS bear such costs of this proceeding as are deemed fair and appropriate under the circumstances in accordance with Rule 8330; and
- D. order all further relief, legal or equitable, that is warranted under the circumstances.

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Cause One

(Violations of NASD Rules 2110, 2440 and IM-2440)

Item No.	Trade Date	Symbol / CUSIP	Qty.	Execution Time 1st Trade	Purchase Price	Execution Time 2nd Trade	Price to Customer	Markup %	Profit
1	4/8/2005	GM.GH / 370442AU9	50	13:46:41	\$86.00	13:48:08	\$90.50	5.23%	\$2,250.00
2	4/21/2005	GM.GH / 370442AU9	20	14:55:04	\$86.63	14:59:43	\$87.13	5.45%	\$900.00
3	4/21/2005	GM.GM / 370442BBO	25	12:34:42	\$87.50	12:38:54	\$92.00	5.14%	\$1,125.00
4	5/17/2005	GM.GH / 370442AU9	10	11:57:42	\$76.50	12:03:18	\$81.00	5.88%	\$450.00
5	5/20/2005	GM.GM / 370442BBO	55	12:06:08	\$84.50	13:40:46	\$88.50	4.73%	\$2,200.00

Cause Three

(Violations of NASD Rules 2110 and 2320)

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