

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

WALTER J. BECKER
(CRD No. 16443),

RESPONDENT.

**DISCIPLINARY PROCEEDING
No. 20050025094**

HEARING OFFICER —

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From at least March 15, 2001, through at least January 17, 2003, Walter J. Becker solicited monies and issued promissory notes to customers of his NASD member firm, Walt Becker & Associates, Inc., for the ostensible purpose of investing in various manufacturing projects. In reality, however, Becker has been using the money raised through the promissory notes to pay his own personal expenses and/or to satisfy other promissory notes holders. These activities constitute violations of NASD Conduct Rules 2310, IM-2310-2, 2330(a), 2120, and 2410, and Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder by Becker.

JURISDICTION

2. Respondent Walter J. Becker entered the securities industry through a member of NASD prior to May 14, 1968. Becker became licensed as a Registered

Representative (Series 1 exam) on or about May 14, 1968; a Principal (Series 00 exam) on or about July 28, 1970; and a Financial Principal (Series F04 exam) on or about March 8, 1976.

3. From on or about February 9, 1976, through the present, Becker has been registered with NASD member firm Walt Becker & Associates, Inc. (CRD No. 7014) and is the sole owner of that firm.

BACKGROUND

4. From at least September 28, 1987, through at least August 1, 2006, Becker has offered investments to both customers of his NASD member firm, Walt Becker & Associates, Inc. (WBA), and non-customers (together, the Becker noteholders). The investments are not offered by or through WBA.
5. These investments generally have been evidenced by promissory notes signed by Becker in his personal capacity (Becker Notes). Becker was the only obligor on the Becker Notes. The Becker Notes typically paid above-market rates. The Becker Notes were securities.
6. Some of the investors were informed by Becker that the proceeds of the Becker Notes would be invested in one of several manufacturing projects based upon the inventions of VM, a friend of Becker.
7. Becker has offered the Becker Notes to other investors without specifying the venture or enterprise in which their funds would be invested.
8. According to Becker, he has sold the Becker Notes to people that he had known over many years, some as long as 50 years. Becker did not provide the Becker noteholders with detailed information about the intended use of the note proceeds

and, because of these long-standing relationships, the Becker noteholders did not press Becker for such information. Rather, they trusted that Becker was acting in their best interests when he recommended the note purchases.

9. Because Becker is the obligor on the Becker Notes, he makes all payments of interest and principal personally with checks drawn on his personal bank accounts.
10. Becker has no economic interest in any of the various manufacturing projects affiliated with VM, nor have the VM projects resulted in any revenues.
11. Becker has not been affiliated with any income generating enterprises, other than WBA, for at least the past five years. To a material extent, the source of any payments to the Becker noteholders has been the proceeds of Becker Notes sold to later investors.
12. According to Becker, he does not receive a salary from WBA, nor does he take commissions from WBA. Rather, Becker primarily pays his living expenses through the proceeds of the Becker Notes. Although he borrows funds from WBA at times to meet various obligations, including interest and/or principal payments to the Becker noteholders, he later directs funds raised through the Becker Notes to repay the money he borrowed from WBA.
13. According to Becker, by 2001 his expense obligations outstripped his earnings by approximately four-to-one; in 2001 he earned approximately \$133,000, yet his payment obligations were approximately \$530,000.
14. In order to continue to meet these payment obligations, among other things, Becker solicited both customers of his member firm and non-customers to invest

their funds with him in return for the Becker Notes that he executed. By raising these investment funds through the Becker Notes, Becker has generally continued to raise enough money to cover his obligations to the Becker noteholders and his personal creditors.

15. From on or about January 1, 2000, through on or about October 10, 2005, Becker raised at least \$1,873,003.66 from at least 34 investors that were customers of WBA through the issuance of approximately 93 Becker Notes.
16. From on or about January 1, 2000, through on or about October 10, 2005, Becker raised at least \$224,330.35 from at least 15 investors that were not customers of WBA through the issuance of approximately 31 Becker Notes.
17. Since at least 2001, therefore, Becker has effectively been using new investor Becker Note funds to pay principal and interest payments to previous Becker Note investors.

FIRST CAUSE OF ACTION

UNSUITABLE RECOMMENDATIONS (VIOLATION OF NASD CONDUCT RULES 2310 AND 2110)

18. The Department realleges and incorporates by reference paragraphs 2 through 17 above.
19. In or about March 2001, Becker had discussions with IM, a WBA customer, regarding her investment funds. At the time of these discussions, IM was over 60 years old and retired. Becker recommended that IM purchase a Becker Note paying 15% per annum.
20. On or about March 15, 2001, in reliance upon Becker's recommendation, IM provided Becker with \$100,000 in return for a promissory note signed by Becker.

The promissory note does not have a due date, but promises to pay back the \$100,000 investment with interest at the rate of 15% per annum. Becker also handwrote on the promissory note "special note: interest will be paid monthly (\$1,250/mo.) unless I am instructed otherwise by [IM]."

21. IM obtained the \$100,000 that she gave to Becker in return for the promissory note by withdrawing \$100,000 from her Living Trust Cash Management account held at WBA.
22. In or about December 2001, IM called Becker to ask how she might invest \$17,000 that she had withdrawn from her individual retirement account (IRA). Becker recommended that IM purchase a second Becker Note paying 15% per annum.
23. On or about December 5, 2001, in reliance upon Becker's recommendation, IM provided Becker with \$17,000 in return for a promissory note signed by Becker. The promissory note does not have a due date, but promises to pay back the \$17,000 investment with interest at the rate of 15% per annum. Becker also handwrote on the promissory note "SPECIAL NOTE: Interest will be paid monthly (\$212.50/mo.) unless I am instructed otherwise by [IM]."
24. In or about January 2003, DT, a customer of Becker at WBA, contacted Becker seeking advice for an investment.
25. In January 2003, DT was 83 years old and retired.
26. On or about January 17, 2003, in reliance upon Becker's recommendation, DT provided Becker with \$15,000 in return for a promissory note signed by Becker. The promissory note does not have a due date, but promises to pay back the

\$15,000 investment with interest at the rate of 15% per annum. Becker represented to DT that the \$15,000 was to be invested in a business involved with "some sort of suspension system for trucks."

27. Becker did not have reasonable grounds for believing the recommendations, described in Paragraphs 19 – 26 above, to be suitable for IM and DT based upon IM's and DT's financial situation and needs. Further, Becker knew, or should have known, that the recommendations he made to IM and DT to invest in the Becker Notes were *unsuitable*. Both IM and DT were retired and the invested funds were for their retirement. Becker knew that their funds would not be invested in any enterprise, but instead would be used to pay his personal expenses or to make payments to prior Becker Note investors. Becker knew, or should have known, that any return of principal or payment of interest to IM or DT was dependent upon the sale of subsequent Becker Notes.

28. Making unsuitable recommendations, as described above, constituted separate and distinct violations of NASD Conduct Rules 2310 and 2110 by Respondent Becker.

SECOND CAUSE OF ACTION

OMISSIONS OF MATERIAL FACTS AND CONDUCT WHICH OPERATES AS A FRAUD OR DECEIT UPON INVESTORS (VIOLATION OF SECTION 10(B) OF THE EXCHANGE ACT¹ AND RULE 10B-5² THEREUNDER AND NASD CONDUCT RULES 2120, IM-2310-2, AND 2110)

29. The Department realleges and incorporates by reference paragraphs 2 through 17 and 19 through 27 above.

¹ 15 U.S.C. §78j(b)

² 17 C.F.R. §240.10b-5

30. In connection with IM's and DT's purchases of Becker Notes, as described above, Becker omitted to disclose to IM and to DT material information regarding these investments. Specifically, Becker omitted to disclose that:

- a. IM's and DT's funds would not be invested in any enterprise that was operating or intended to operate a business, or that generated, or was reasonably likely to generate, revenue from which to return principal and pay interest;
- b. He knew, or should have known, that he would use IM's and DT's funds to pay his personal expenses and/or to make payments of principal and interest to previous Becker Note investors; and
- c. Any return of principal or payment of interest to IM and DT depended upon Becker's continued ability to sell Becker Notes to others in the future.

This information was material, in that a reasonable investor and, in particular, IM and DT, would have considered it significant in determining whether to purchase Becker Notes.

31. By virtue of this conduct, as described above, Respondent Becker, by the use of any means or instrumentality of interstate commerce or of the mails, intentionally or recklessly engaged in manipulative or deceptive devices or contrivances in connection with the purchase or sale of securities, and intentionally or recklessly effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive or other fraudulent devices or contrivances, in violation

of Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, and NASD Conduct Rules 2120, IM-2310-2, and 2110.

THIRD CAUSE OF ACTION

IMPROPER USE OF CUSTOMER FUNDS (VIOLATION OF NASD CONDUCT RULES 2330(A) AND 2110)

32. The Department realleges and incorporates by reference paragraphs 2 through 17, 19 through 27, and 30 above.
33. As more fully described in paragraphs 4 through 17 and 19 through 27, above, Becker applied some or all of the proceeds from IM's and DT's Becker Notes to his personal use, including, but not limited to, payments to personal creditors and previous Becker noteholders. This conduct constituted improper use of customer funds, in violation of NASD Conduct Rules 2330(a) and 2110.

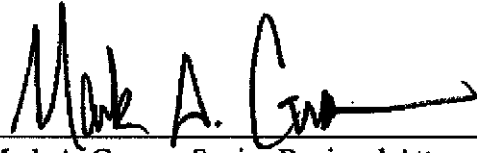
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. Order that one or more of the sanctions provided under FINRA 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 Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: July 31, 2007



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