

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,
COMPLAINANT,

V.

JAMES ECKES (CRD NO. 4158141),

RESPONDENT.

DISCIPLINARY PROCEEDING
No. 20070084019

RECEIVED
2009 JAN 21 A 7 08
REGISTRATION & DISCLOSURE

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Eckes committed three separate violations of NASD rules. First, he violated NASD Rule 2110 by effecting an unauthorized sale and purchase of securities in the account of J.P. Turner & Company, LLC (BD No. 43177) ("J.P. Turner") customer AB, on August 24, 2006, six days after AB had requested the transfer of his account from J.P. Turner.
2. Second, in late 2005 and early 2006, Eckes violated NASD Rule 2110 by communicating with a Westrock Advisors, Inc. (BD No. 114338) ("Westrock") customer via an outside email account without first obtaining permission from the firm to use this account.
3. Third, Eckes violated NASD Rules 8210 and 2110 by failing to provide information and to appear and provide testimony as requested by FINRA staff, pursuant to NASD Procedural Rule 8210, on five separate occasions between July and October of 2007.

000059021 2009

4. By engaging in the conduct summarized above and more particularly described below, Eckes violated NASD Conduct Rule 2110 and NASD Procedural Rule 8210.

JURISDICTION

5. Eckes first became registered with FINRA in March 2000 with a member firm as a General Securities Representative.
6. Eckes was then registered at J.P. Turner from October 2001 until April 2005 when he became registered at Westrock. Eckes then left Westrock and returned to J.P. Turner in March 2006. During his second tenure with J.P. Turner, Eckes obtained his General Principal registration.
7. Eckes's registration with J.P. Turner was terminated on June 28, 2007.
8. Eckes is no longer employed in the securities industry. FINRA retains jurisdiction over Eckes pursuant to Article V, Section 4 of the By-Laws.

FIRST CAUSE OF COMPLAINT

(Unauthorized Trading)

Violation of NASD Conduct Rule 2110

9. Paragraphs 1 through 8 of this Complaint are realleged and incorporated herein by reference.
10. Customer AB opened an account with Eckes at J.P. Turner in March 2006.
11. After losing about \$15,000 in this account, AB decided he no longer wanted to have Eckes manage his funds. On August 18, 2006, AB submitted a request to the National Securities Corporation, J.P. Turner's clearing firm, to transfer his account from J.P.

Turner. AB did not inform Eckes of his decision to close his account. Six days later, on August 24, 2006, Eckes initiated the following two trades in AB's account:

- Sale of \$1,510 shares of Infosonics Corp, generating \$8,643 in proceeds
- Purchase of 3,000 shares of Home Solutions America, ("HSOA") at a cost of \$17,739.

12. AB states that he never spoke to Eckes that day and did not give him authorization or consent to effect these two transactions.
13. AB learned of these two trades when the proceeds he received from closing his account were less than he anticipated based on his knowledge of his holdings. Ultimately, when he complained to J.P. Turner and did not receive any satisfaction, he sold his HSOA position, sustaining a loss of \$1,611.
14. By reason of the foregoing, Eckes violated NASD Conduct Rule 2110.

SECOND CAUSE OF COMPLAINT

(Unauthorized E-Mail Communications)

Violation of NASD Conduct Rule 2110

15. Paragraphs 1 through 14 of this Complaint are realleged and incorporated herein by reference.
16. In 2005 and 2006, during Eckes employment with the firm, Westrock maintained a policy that required employees to refrain from using outside e-mail accounts without first seeking and obtaining permission from Westrock's compliance department and connecting the outside email account to the firm's server. The firm communicated this policy through e-mails sent periodically to all its employees. The firm sent one such e-mail on August 24, 2005.

17. In violation of this policy, on December 9, 2005, December 10, 2005, December 13, 2005, December 17, 2005, January 11, 2006, and March 13, 2006, Eckes sent e-mails to Westrock customer, PW, from a personal email address.
18. In the e-mail of January 11, 2006, Eckes instructed PW not to respond to him through his Westrock e-mail address because his wife had been diagnosed with breast cancer and he did not want it to become public knowledge at his firm. In this e-mail, Eckes explained how he had frozen PW's account to permit only liquidating transactions and how a particular issuer will be striking a deal within the next few days. This email was sent in response to PW's expression of dissatisfaction to Eckes regarding Eckes's handling of his account.
19. Eckes never sought nor obtained the permission of Westrock's compliance department regarding his use of his private Yahoo e-mail account to communicate with firm customers.
20. By reason of the foregoing, Eckes violated NASD Conduct Rule 2110.

THIRD CAUSE OF COMPLAINT

(Failure to Respond)

Violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110

21. Paragraphs 1 through 20 of this Complaint are realleged and incorporated herein by reference.
22. On July 23, 2007, FINRA staff sent Eckes a written request via first class mail to provide information pursuant to Rule 8210. This request set an August 6, 2007 response date and was sent to the residential address listed for Eckes in CRD, [REDACTED] (the "CRD address").

23. When the staff did not receive a response from Eckes by the stated deadline, it sent a second request to Eckes's CRD address on August 8, 2007, setting an August 16 response deadline.
24. Eckes failed to meet this deadline and on August 17, 2007, the staff sent a third request.
25. Each of these Rule 8210 requests for information were sent by both certified and first class mail. The letters sent by first class mail were not returned. Each certified letter was returned marked "unclaimed."
26. On September 25, 2007, the staff sent Eckes via both first class and certified mail a request that he appear and provide testimony on October 11, 2007. The letter sent first class mail was not returned. The certified letter was returned "unclaimed." Eckes did not appear on October 11.
27. On that date, the staff sent Eckes a second request to appear and provide testimony for October 26, again via certified and first class mail. Once again, the letter sent via regular mail was not returned and the certified letter was returned "unclaimed." Eckes did not appear on October 26.
28. All of the requests for information and requests to appear and provide testimony were sent to Eckes's CRD address. To date, 2008 Eckes has failed to respond to any of FINRA's Rule 8210 requests.
29. By reason of the foregoing, Eckes violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

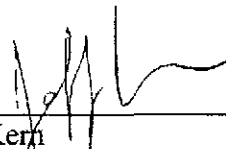
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

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

FINRA DEPARTMENT OF ENFORCEMENT

Date: December 22, 2008



Jeff Kern
Senior Regional Counsel
FINRA, District 10
One Liberty Plaza
New York, New York 10006
(212) 858-4080; Fax: (212) 858-4770
jeff.kern@finra.org

David Jaffe, Esq.
Regional Chief Counsel
FINRA, District 10
One Liberty Plaza
New York, New York 10006
(212) 858-4762; Fax: (212) 858-4770
david.jaffe@finra.org