

RECEIVED

2008 NOV -3 P 3:48

REGISTRATION & DISCLOSURE

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

NOV 3 2008

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Stephen Colley Harris (CRD No. 4016919),

Respondent.

**DISCIPLINARY PROCEEDING
No. 2007010303601**

Hearing Officer LBB

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: November 3, 2008

INTRODUCTION

Disciplinary Proceeding No. 2007010303601 was filed on August 18, 2008 by the Department of Enforcement of the Financial Industry Regulatory Authority ("FINRA") ("Complainant"). Respondent Stephen Colley Harris submitted an Offer of Settlement ("Offer") to Complainant on October 7, 2008. Pursuant to NASD Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC"), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to NASD Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint, and to the imposition of

000099309 2008

the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Stephen Colley Harris entered the securities industry in August 1999 when he associated with a FINRA member firm and, in October 1999, Harris obtained a Series 7 securities license. He registered with member firm Morgan Keegan & Company, Inc., ("Morgan Keegan" or the "Firm") in February 2001. On August 31, 2007, Harris was permitted to resign from Morgan Keegan, and since then Harris has not associated with any other member of FINRA.

Although Harris is not currently associated, he remains subject to the jurisdiction of FINRA until August 31, 2009, pursuant to Article V, Section 4 of FINRA's By-Laws, which provides for a two-year period of retained jurisdiction over formerly registered persons.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

SUMMARY

In August 2006, Stephen Colley Harris falsified a fixed annuity distribution request form (the Distribution Request Form) by cutting off signatures from another document and taping these signatures to the first and second pages of the Distribution Request Form; he then transmitted or caused the Distribution Request Form to be transmitted to the insurance company for payment. In May 2007, Harris obtained a customer's signature on the Subscription Agreement for a Real Estate Investment Trust (REIT) investment and then forged the customer's initials on the Subscription Agreement in ten places without the customer's knowledge, consent or authorization and submitted or caused the Subscription Agreement to be submitted to the

REIT issuer. In addition, FINRA (f/k/a National Association of Securities Dealers or NASD) staff mailed a letter to Harris requesting information from him and a letter requesting that he appear for testimony pursuant to NASD Procedural Rule 8210; however, Harris failed to respond to those request letters.

FIRST CAUSE

(Falsification of a Financial Document—Conduct Rule 2110)

1. In August 2006, and while registered with member firm Morgan Keegan, Harris assisted customer E.W. to obtain a partial withdrawal of \$20,000 from a Lincoln Benefit Life annuity (the LBF Annuity).
2. The LBF Annuity was owned by a company that E.W. owned. E.W. intended that the \$20,000 partial withdrawal be paid to his son, E.W. Jr.
3. The LBL Distribution Request Form required the owner's signature on page 1 and again on page 2. Among other things, the LBL Distribution Request Form indicated that by signing the document the signatory certified "under penalties of perjury" that in this "substitute Form W-9" the number shown on the form was his correct taxpayer identification number (or he was waiting for a number to be issued), that he was not subject to backup withholding and he was a U.S. person (including U.S. resident alien).
4. Harris cut off E.W. Jr.'s signatures from another document and taped them on the Distribution Request Form on page 1 and again on page 2.
5. On August 15, 2006, Harris transmitted or caused to be transmitted by facsimile the Distribution Request Form with the taped signatures of E.W. Jr. to LBL to process a payment of \$20,000 to E.W. Jr.

6. The Distribution Request Form sent by facsimile to LBL with the taped signatures falsely reflected that E.W. Jr. had affixed his signatures to the Distribution Request Form, and that, among other things, E.W. Jr. was certifying to the information described above in paragraph 3 under penalties of perjury, even though E.W. Jr. never signed the Distribution Request Form.
7. Harris falsified the Distribution Request Form to expedite the annuity distribution to E.W. Jr.
8. Such acts, practices, and course of conduct constitute separate and distinct violations of NASD Conduct Rule 2110 by Harris.

SECOND CAUSE

(Forgery of a Financial Document—Conduct Rule 2110)

9. In May 2007, while registered with member firm Morgan Keegan, Harris signed a Subscription Agreement for an initial investment of \$80,000 in the Dividend Capital Total Realty Trust by customer J.B.
10. To invest in Dividend Capital Total Realty Trust, among other things, J.B. was required to sign the Subscription Agreement and to complete the Subscription Agreement by separately affixing his initials on the lines provided on the form next to each of six representations and warranties. These representation and warranties included that: J.B. had received a prospectus describing the terms and conditions of the offering; J.B. agreed to be bound by the terms and conditions of the Articles of Incorporation; J.B. met certain specified net worth and/or income criteria; if J.B. was a California resident or proposed to assign or transfer any shares to any California resident, such sale or transfer was subject to certain restrictions imposed by California; J.B. was purchasing the shares for his own account and acknowledged the

investment was not liquid; and, if J.B. was an affiliate of Dividend Capital Total Realty Trust, he was purchasing for investment purposes only and not for immediate resale.

According to the Subscription Agreement, the purpose for the representations and warranties was "in order to induce [Dividend Capital Total Realty Trust] to accept this subscription."

11. The Subscription Agreement also recited three "investment considerations" regarding Dividend Capital Total Realty Trust: that it intended to construct a portfolio of real properties and real estate related securities and that a portion of the securities may consist of publicly traded securities; that the fees J.B. would pay that related to the publicly traded securities may be greater than individual fees paid if J.B. invested directly in publicly traded securities; and, the overall liquidity of J.B.'s investment will be less than the liquidity if J.B. would have invested directly in publicly traded securities.
12. Directly following these "investment considerations," the Subscription Agreement requested J.B. "after considering the issues above" to indicate what he was attempting to obtain through his subscription by separately affixing his initials on the line provided next to each of four statements, for each statement that applied. The four statements addressed: general investment exposure to the real estate asset class, including real property and securities; portfolio diversification within the real estate asset class; professional portfolio management services as provided by the Advisor's management team and product specialist(s); and, "other."
13. While J.B. signed the Subscription Agreement, J.B. did not affix his initials on the lines provided on the Subscription Agreement next to any of the six representations and warranties

or any of the four statements indicating what he was attempting to obtain through his subscription.

14. Harris, without J.B.'s knowledge, consent or authorization, affixed the initials "JB" in ten places on the Subscription Agreement, six on the lines provided on the form next to the six representations and warranties and four on the lines provided for the four statements indicating what the customer was attempting to obtain through his subscription.
15. Harris submitted or caused the Subscription Agreement with the forged "JB" initials and a Morgan Keegan check for \$80,000 for the benefit of J.B. to be submitted to the Bank of New York, Attn: Dividend Capital - Total Realty Trust on or about May 24, 2007. After the purchase was completed, Morgan Keegan credited Harris with \$4,800 in gross commissions for J.B.'s Dividend Capital Total Realty Trust purchase.
16. Such acts, practices, and course of conduct constitute separate and distinct violations of NASD Conduct Rule 2110 by Harris.

THIRD CAUSE

(Failure to Respond—Conduct Rule 2110 and Procedural Rule 8210)

17. By letter dated December 5, 2007, FINRA staff requested, pursuant to Procedural Rule 8210, that Harris provide information previously requested by FINRA by letter dated November 2, 2007 which had requested a detailed written explanation from Harris regarding "signing a customer's initials on a customer application." The November 2, 2007 letter was enclosed with the December 5, 2007 letter.
18. FINRA staff mailed, via certified return receipt requested and first class regular mail, the December 5, 2007 request letter to Harris at his CRD residential address, and the letter

included a due date for the information of December 19, 2007. The return receipt card for the certified mailing of the December 5, 2007 request letter returned by the U.S. Postal Service was signed "S. Harris" and returned to the FINRA office reflecting delivery to Harris' CRD residential address. The envelope sent by regular first-class mail to Respondent's CRD address was not returned by the U.S. Postal Service. Harris failed to respond to the requests set forth in the December 5, 2007 letter.

19. By letter dated April 9, 2008, FINRA staff requested that, pursuant to Procedural Rule 8210, Harris appear on April 30, 2008 at a designated time and at a designated FINRA office in order for the staff to take his testimony under oath on oral exam in connection with the staff's investigation. FINRA staff mailed, via certified return receipt requested and first class regular mail, the April 9, 2008 request letter to Harris at his CRD residential address. The return receipt card for the certified mailing of the April 9, 2008 request letter returned by the U.S. Postal Service was signed "Steve Harris" and returned to the FINRA office reflecting delivery to Harris' CRD residential address. The envelope sent by regular first-class mail to Respondent's CRD address was not returned by the U.S. Postal Service. Harris failed to respond to the April 9, 2008 request for testimony and did not appear to give testimony at the designated time and location.

20. Such acts, practices, and course of conduct constitute separate and distinct violations of NASD Conduct Rule 2110 and NASD Procedural Rule 8210 by Harris.

Based on the foregoing, Harris violated NASD Conduct Rule 2110 and NASD Procedural Rule 8210.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be

Barred from association with any FINRA member in any capacity.

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to IM-8310-3(e), a bar shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA

Signed on behalf of the
Director of ODA, by delegated authority



Katherine A. Malfa
Vice President
FINRA Department of Enforcement
1801 K Street, NW
Suite 800
Washington, DC 20006

202.974.2853
Facsimile: 202.721.8341