

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

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REGISTRATION & DISCLOSURE

Department of Enforcement,

Complainant,

v.

Andrew K. O'Fee,
General Securities Representative
[CRD No. 1887127],

Respondent.

DISCIPLINARY PROCEEDING
No. 2008012052401

Hearing Officer: SNB

**ORDER ACCEPTING
OFFER OF SETTLEMENT**

Date: January 25, 2010

INTRODUCTION

Disciplinary Proceeding No. 2008012052401 was filed on December 8, 2009, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant).

Respondent Andrew K. O'Fee submitted an Offer of Settlement (Offer) to Complainant on December 16, 2009. Pursuant to FINRA 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 FINRA 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

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findings and violations consistent with the allegations of the Complaint, and to the imposition of 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

O'Fee entered the securities industry in September 1999, as a General Securities Representative of a FINRA member firm. O'Fee, during all periods mentioned herein, was associated with member firm Duncan-Williams, Inc. ("DW") and was registered with FINRA as a General Securities Representative. The violations alleged herein occurred while O'Fee was associated with DW. On January 8, 2008, DW filed a Form U5 on behalf of O'Fee terminating his association with that firm as of December 11, 2007. Although O'Fee is not currently registered with a FINRA member firm, he remains subject to the jurisdiction of FINRA, pursuant to Article V, Section 4 of FINRA's By-Laws, in that Complaint was filed on December 8, 2009, which was within two years of when he was last associated with a FINRA member firm. O'Fee has not been the subject of prior disciplinary action.

FINDINGS AND CONCLUSIONS

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

1. On September 26, 2007, O'Fee, on behalf of DW, verbally confirmed a sell order with ML, another member firm, for 3,000,000 in U.S. Treasury to be announced (TBA)

securities at approximately 99.22 for a total of \$2,985,741.76 including (\$9,179.26) of accrued interest.¹

2. O'Fee entered this trade into the firm's trading systems via Bloomberg and cancelled the trade shortly thereafter - O'Fee did this multiple times.
3. Since this was a TBA security, it was not scheduled to settle until sometime in November. A few days later a ML representative called DW's operations department because there was no comparison for the trade.
4. Despite agreeing to the trade, O'Fee never properly entered the trade or honored his commitment.
5. Ultimately, on December 11, 2007, DW honored O'Fee's trade by covering 3,000,000 U.S. Treasury Securities at approximately 103.45 with accrued interest of \$35,017.17 for a total of \$3,138,493.73.
6. This cover transaction closed out O'Fee's short position at a (\$152, 751.97) loss to the firm.
7. Upon realizing that the trade he failed to enter had gone against him, O'Fee engaged in a series of additional trades in an effort to conceal his conduct and in an attempt to make up losses in his trading book.
8. Specifically, on November 30, 2007, O'Fee on behalf of DW, entered two buy orders with GC, another member firm, for 5 year U.S. Treasury Securities. The first buy was a 4,000,000 purchase of U.S. Treasury Securities at approximately 99.77 including \$15,755.49 in interest for a total of \$4,006,380.49. The second buy was a 3,000,000

¹ In a TBA trade, the seller and buyer agree to the type of security, coupon, face value, price, and settlement date at the time of the trade, but do not specify the actual security to be traded. Prior to settlement, the seller identifies the specific security to be delivered to satisfy the commitment.

purchase of U.S. Treasury Securities at approximately 99.77 including \$11,816.52 in interest for a total of \$3,004,785.37.

9. O'Fee entered both of these trades into DW's trading systems via Bloomberg.
10. On the following Monday, December 3, 2007, DW's clearing firm attempted to send a wire to DW notifying them that there was no comparison.
11. Subsequently, O'Fee sold the U.S. Treasury Securities to ML.
12. GC did not authorize O'Fee to effect these sales; therefore, O'Fee was short on the sale to ML.
13. On December 21, 2007, DW, after discovering O'Fee unauthorized trading activity, covered the 7,000,000 bond short position created by O'Fee by buying 4,000,000 U.S. Treasury Securities at approximately 101.45 including accrued interest of \$22,994.51 for a total of \$4,080,963.25 and 3,000,000 U.S. Treasury Securities at approximately 101.45 including accrued interest of \$17,245.88 for a total of \$3,060,722.44.
14. These transactions caused the firm to lose an additional \$130,000 less a fail float of \$15,000.
15. By reason of the foregoing, O'Fee violated NASD Conduct Rule 2110.
16. When O'Fee entered the transactions at issue detailed above, DW's policy required traders at the firm to create a handwritten ticket and enter trades into Bloomberg as received and in no case to be short at the end of the trading day (unless the short was related to a hedge).
17. The firm's procedures called for the supervising principal to review handwritten tickets.

18. When O'Fee effected the subject trades (and cancellations) he only entered them into the firm's trading systems via Bloomberg and did not create handwritten tickets as required by DW's policy, thus permitting O'Fee to avoid supervisory review or detection.
19. By failing to create handwritten tickets for each of the subject trades (and cancellations), O'Fee caused DW's books and records to be inaccurate.
20. By reason of the foregoing, O'Fee violated NASD Conduct Rules 2110 and 3110.

Based on the foregoing, Respondent Andrew K. O'Fee violated NASD Conduct Rules 2110 and 3110.

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

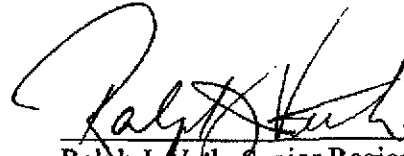
It is ordered that Respondent Andrew K. O'Fee be fined in the amount of \$25,000 and suspended for a period of eighteen months in any capacity. The fine shall be due and payable either immediately upon reassociation with a member firm following the eighteen-month suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

SO ORDERED.

FINRA

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

A handwritten signature in black ink, appearing to read "Ralph J. Veth", is written over a horizontal line.

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