

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Gary T. Armitage (CRD No. 1041078),

Respondent.

DISCIPLINARY PROCEEDING
No. 20080143199-01

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Gary T. Armitage engaged in private securities transactions without appropriate notice to his member firm. He further executed two securities transactions for a customer without authorization. Finally, he failed to respond to FINRA's requests for information pursuant to NASD and FINRA Rules 8210.

RESPONDENT AND JURISDICTION

2. Respondent entered the securities industry in March 1982 as an associated person of a FINRA member. He became registered as an Investment Company and Variable Contracts Products Representative in June 1982, a General Securities Representative in September 1998 and a General Securities Principal in December 1998. In November 1999, Respondent registered at former FINRA member EPlanning Securities, Inc. in each of the foregoing capacities. In addition, he also became registered as a Direct Participation Program Representative at the same time.
3. Respondent's association with EPlanning ceased on or about September 18, 2008.

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4. On April 1, 2009, EPlanning filed an amendment to Respondent's Uniform Termination Notice for Securities Industry Registration, disclosing a customer complaint, civil litigation, arbitration and settlement. The allegations pertaining to these disclosures included misrepresentation and fraud. Pursuant to Article V, Sections 4(a)(i) of the FINRA By-Laws, Respondent remains subject to the filing of this Complaint.

FIRST CAUSE OF ACTION
Unauthorized Transactions (Rule 2110)

5. Complainant realleges and incorporates by reference paragraphs 1 through 4.
6. Prior to June 1, 2007, Customer AM held in his brokerage account membership units in Lakeside Mortgage Fund, LLC (LMF). The membership units were securities. On or about June 1, 2007, Respondent caused the sale of AM's entire investment in LMF membership units.
7. The proceeds from the sale totaled \$52,470.00. Respondent effected the sale in order to generate funds for the purchase of another security, to wit, a promissory note entitled the AREI Corporate Term Note (the Corporate Note).
8. As described in paragraph 13, below, Respondent caused the purchase of the Corporate Note on June 1, 2007.
9. Respondent engaged in the transactions described in paragraphs 6 through 8 without obtaining prior authorization from AM. Respondent therefore violated NASD Rule 2110.

SECOND CAUSE OF ACTION
Private Securities Transactions (Rules 3040 and 2110)

10. Complainant realleges and incorporates by reference paragraphs 1 through 9.

11. From November 30, 2006 through December 5, 2006, Respondent participated in the sale of a security by soliciting customer KN's purchase of the Corporate Note, in the amount of \$252,975.92.
12. On or about January 5, 2005, Respondent participated in the sale of a security by soliciting customer KL's purchase of the Corporate Note, in the amount of \$7,200.92.
13. On or about June 1, 2007, Respondent participated in the sale of a security by soliciting AM's purchase of the Corporate Note, in the amount of \$52,470.00.
14. Each of the transactions described in paragraphs 11 through 13 were private securities transactions in that they were effected outside the regular course and scope of Respondent's employment with EPlanning.
15. The Corporate Note was a security, based on the following factors:
 - a. The Certificate of Participation given to each investor stated, in relevant part, "The securities represented hereby have not been registered... and may not be offered, sold, or otherwise transferred, pledged or hypothecated in the absence of an effective registration statement for the securities..."
 - b. The term of the Corporate Note was 60 months;
 - c. It paid interest on a monthly basis at the annual rate of 11%;
 - d. It was sold to numerous investors as part of a \$14 million offering; and
 - e. The stated purpose of the offering was "to fund working capital and bridge financing opportunities to facilitate [AREI's] growth plans."
16. The investors described in paragraphs 11 through 13 suffered losses as a result of their investment in the Corporate Note, to wit:

- a. KN has not received any of her principal investment back and stopped receiving interest payments in May 2007;
 - b. AM has not received any of his principal investment back and stopped receiving interest payments in May 2007; and
 - c. KL has not received any of her principal investment back and stopped receiving interest payments in March 2008.
17. Respondent failed to provide EPlanning with prior written notice of the transactions described in paragraphs 11 through 13, as required by NASD Rule 3040(b). He therefore violated NASD Rules 3040 and 2110.

THIRD CAUSE OF ACTION

Failure to Provide Information (NASD Rules 8210 and 2110 and FINRA Rules 8210 and 2010)

18. Complainant realleges and incorporates by reference paragraphs 1 through 17 above.

Customer KN

19. On or about October 24, 2008, FINRA staff sent a letter (First KN Request) by First Class and Certified Mail to Respondent at his most recent address as reflected in the Central Registration Depository: [REDACTED] (CRD Address). The First KN Request required Respondent to provide information pursuant to NASD Rule 8210 concerning his participation in the sale of the Corporate Note to KN. The due date for the First KN Request was October 31, 2008.
20. The Certified mailing of the First KN Request was returned by the U.S. Post Office, marked "unclaimed." The First Class mailing was not returned.
21. Respondent did not provide any information in response to the First KN Request.
22. On or about November 25, 2008, FINRA staff sent a letter (Second KN Request) by First Class and Certified Mail to Respondent at the CRD Address. The letter included

- a copy of the First KN Request and, pursuant to NASD Rule 8210, requested that Respondent respond to the questions in the First KN Request by December 5, 2008.
23. The staff received a return receipt for the certified mailing of the Second KN Request, signed by Gary T. Armitage. The First Class mailing was not returned.
24. Respondent did not provide any information in response to the Second KN Request.
25. By failing to respond to the first and second KN Requests, Respondent violated NASD Rules 8210 and 2110.

Customer KL

26. On or about March 19, 2009, FINRA staff sent a letter (First KL Request) by First Class and Certified Mail to Respondent at the CRD Address. The First KL Request required Respondent to provide information pursuant to FINRA Rule 8210 concerning his participation in the sale of the Corporate Note to KL. The due date for the First KL Request was March 26, 2009.
27. The staff received a return receipt for the certified mailing of the First KL Request, signed by Gary T. Armitage. The First Class mailing was not returned.
28. Respondent did not provide any information in response to the First KL Request.
29. On or about March 27, 2009, FINRA staff sent a letter (Second KL Request) by First Class and Certified Mail to Respondent at the CRD Address. The letter included a copy of the First KL Request and, pursuant to FINRA Rule 8210, requested that Respondent respond to the questions in the First KL Request by April 3, 2009.
30. The staff received a return receipt for the certified mailing of the Second KL Request, signed by Gary T. Armitage. The First Class mailing was not returned.
31. Respondent did not provide any information in response to the Second KL Request.

32. By failing to respond to the First and Second KL Requests, Respondent violated FINRA Rules 8210 and 2010.

Customer DG

33. On or about March 16, 2009, FINRA staff sent a letter (First DG Request) by First Class and Certified Mail to Respondent at the CRD Address. The First DG Request required Respondent to provide information pursuant to FINRA Rule 8210 concerning his recommendation to customer DG that she place her funds in an account operated by an entity called IMS-GA. The due date for the First DG Request was March 23, 2009.
34. The staff received a return receipt for the certified mailing of the First DG Request, signed by Gary T. Armitage. The First Class mailing was not returned.
35. Respondent did not provide any information in response to the First DG Request.
36. On or about March 24, 2009, FINRA staff sent a letter (Second DG Request) by First Class and Certified Mail to Respondent at the CRD Address. The letter included a copy of the First DG Request and, pursuant to FINRA Rule 8210, requested that Respondent respond to the questions in the First DG Request by March 31, 2009.
37. The staff received a return receipt for the certified mailing of the Second DG Request, signed by Gary T. Armitage. The First Class mailing was not returned.
38. Respondent did not provide any information in response to the Second DG Request.
39. By failing to provide information in response to the First and Second DG Requests, Respondent violated FINRA Rules 8210 and 2010.

General 8210 Letters

40. On or about November 10, 2008, FINRA staff sent a letter (First General Request) by First Class and Certified Mail to Respondent at the CRD Address. The First General

Request required Respondent to provide information pursuant to NASD Rule 8210 concerning his participation in sales of investments issued by, among others, AREI.

The due date for the First General Request was November 24, 2008.

41. The Certified mailing of the First General Request was returned by the U.S. Post Office, marked "unclaimed." The First Class mailing was not returned.
42. Respondent did not provide any information in response to the First General Request. He thereby violated NASD Rules 8210 and 2110.
43. On or about March 19, 2009, FINRA staff sent a letter (Second General Request) by First Class and Certified Mail to Respondent at the CRD Address. The letter included a copy of the First General Request and, pursuant to FINRA Rule 8210, requested that Respondent respond to the questions in the First General Request by March 26, 2009.
44. The staff received a return receipt for the certified mailing of the Second General Request, signed by Gary T. Armitage. The First Class mailing was not returned.
45. Respondent did not provide any information in response to the Second General Request. He thereby violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

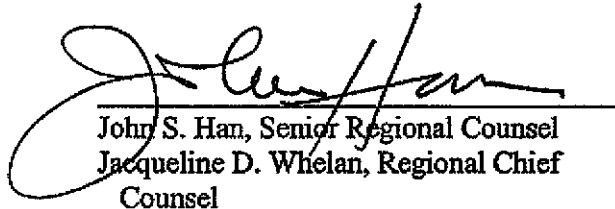
WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and

- B. order that the 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: October 23, 2009



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