

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

Department of Enforcement,

Complainant,

v.

Danial de Sade,
CRD No. 4890224,

Respondent.

Disciplinary Proceeding
No. 2008014753301

Hearing Officer: MAD

ORDER ACCEPTING OFFER OF SETTLEMENT

Disciplinary Proceeding No. 2008014753301 was filed on June 3, 2009, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Danial de Sade submitted an Offer of Settlement (Offer) to Complainant dated April 12, 2010. 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 findings and violations consistent with the allegations of the Complaint, and to the imposition of

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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

Respondent de Sade first became associated with B-S, a FINRA member, in December 2004.¹ He became registered with FINRA through B-S as a general securities representative on or about January 21, 2005. His association with B-S ended on November 29, 2005. On or about December 2, 2005, de Sade registered as a general securities representative through Times Securities, Inc. ("Times"). DeSade's association and registration through Times terminated on June 8, 2007. The conduct which is the subject of this Complaint occurred during or within two years after deSade's association with Times. Although de Sade is not presently associated with a member, FINRA has jurisdiction to issue this Complaint pursuant to Article V, Section 4 of its By-laws as it was filed within two years of his last association with Times, a FINRA member.

FINDINGS AND CONCLUSIONS

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

Failure to Provide Timely Testimony to FINRA

On or about August 23, 2007, pursuant to and in accordance with Rule 8210, FINRA requested that de Sade appear for an on-the-record interview ("OTR") on September 11, 2007, at FINRA's Denver office. FINRA's request was sent by regular first class and certified mail to de Sade's then-current residential address, as reflected in the Central Registration Depository. DeSade knew of the August 23rd request for testimony on or before September 6, 2007. On that date, he responded to the request through counsel. Counsel acknowledged the request but asked

that the OTR be rescheduled, to which FINRA agreed. On or about September 10 and 13, 2007, counsel confirmed to FINRA in writing that the OTR had been rescheduled for September 26 and 27, 2007, at FINRA's Denver office.

On September 25, 2007, counsel advised FINRA that de Sade would not be appearing for his OTR. The attorney based the refusal on the following factors: that de Sade was relinquishing his securities licenses; that counsel had determined de Sade had nothing to add to his previous written correspondence; and that de Sade had not violated any "statute or regulatory rule in any transaction over which he had personal control."

Upon receipt the September 25, 2007 letter, FINRA, advised de Sade's attorney by phone and by a letter dated September 25, 2007, that de Sade's obligation to appear was unaffected by the circumstances described in the letter and that, by failing to appear, he could face disciplinary action. DeSade did not appear for his OTR on September 26, 2007.

On or about May 19, 2008, FINRA advised de Sade in writing that FINRA had made a preliminary determination to initiate a disciplinary action alleging that, among other things, he had failed to provide testimony requested pursuant to Procedural Rule 8210.

On or about July 21, 2008, through counsel, de Sade offered to provide the testimony previously requested by the staff. FINRA agreed to receive de Sade's testimony and, on July 24 and 25, 2008, de Sade testified. His testimony was given approximately ten months after the date set by FINRA in its request for testimony.

DeSade testified that, as more fully alleged below, he had provided untruthful and misleading information to FINRA in response to written requests for information made pursuant to Rule 8210 during FINRA's investigation. His failure to provide truthful information and

¹ All initials are identified in the Index to Initials in the Complaint.

timely testimony significantly undermined FINRA's investigation.

By failing to provide timely testimony, de Sade violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

Provision of False, Misleading and Incomplete Information to FINRA

DeSade provided information to FINRA staff that was false, misleading and incomplete. On or about November 15, 2006, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210, FINRA sent de Sade a request for information in connection with its investigation of de Sade's conduct. The request related to a security, hereinafter referred to as SK. DeSade responded to the letter on or about November 28, 2006.

DeSade provided false, misleading and incomplete information in response to the letter as set forth below.

- i. In response to a question asking him to describe Times' supervision of his investment banking activities in relation to SK while associated with the firm, de Sade stated that there was no investment banking relationship between Times and SK. This answer was inaccurate because de Sade knew that Times and SK had an investment banking relationship.
- ii. FINRA asked de Sade to describe the terms and conditions of any referral or commission-sharing arrangements in which he was a participant while registered with Times and or B-S. He answered that he had a joint account number with an individual, CJ, while associated with B-S. His answer was incomplete. DeSade omitted to disclose that, while at Times, he engaged in referrals by generating customer leads for Times registered representatives JS and CJ. Therefore, de

Sade provided FINRA with an incomplete response when he failed to disclose this referral arrangement.

- iii. FINRA asked deSade whether he generated leads or otherwise referred potential investors to JS or CJ in relation to SK. He answered "I did not refer clients to other brokers." This was inaccurate as de Sade generated leads for JS or CJ for the purpose of identifying potential investors in SK.

On or about November 15, 2006, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210, FINRA sent DeSade a request for information in connection with its investigation of DeSade's conduct. The request related to a security, AFVS. DeSade responded to the letter on or about November 28, 2006. DeSade provided false, misleading and incomplete information in response to the letter as set forth below.

- i. FINRA asked Respondent to explain how potential investors in AFVS were identified and whether a referral service was used in that context. He responded "investors weren't solicited to invest in AFVS" and that "no referral service" had been used. This information was false because de Sade himself solicited clients to invest in AFVS and referred those clients to CJ and or JS for the purpose of investing in AFVS.
- ii. FINRA asked de Sade how he determined that it was suitable to recommend purchases of AFVS to clients he solicited to purchase the security. In response, he stated "this doesn't apply because the nature of the customer's trades was unsolicited." This statement was incorrect because de Sade solicited customer investments in AFVS and most AFVS investments made through Times were solicited.

On or about June 4, 2007, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210, FINRA sent de Sade a request for information in connection with its

investigation of de Sade's conduct. When de Sade did not respond by the stated due date, the request was resent again on or about June 22, 2007. The request related to SK. FINRA received de Sade's response on or about July 6, 2007. DeSade provided false, misleading and incomplete information in response to the June 4, 2007 and June 22, 2007 letters, as set forth below.

- i. FINRA asked de Sade to explain why his company, AES, received a check for \$10,000 on March 29, 2006, drawn on the bank account of ES. He responded that he "assumed [ES] wanted estate planning done for his estate. He gave a retainer for the services but have not gotten started on it." This was incorrect, as the payment was unrelated to estate planning services for ES. ES provided the funds to de Sade to pay expenses associated with operating AES, such as compensation of independent consultants. In his July 2008 testimony, de Sade stated that the "best way to explain it is that, you know, he hopes that, you know, because they were clients of [AES] that also that I'd be able to have them as clients for Times Securities [sic]."
- ii. FINRA asked de Sade to indicate whether, acting alone or through others, via AES, or any other entity, he, directed would-be investors to Times for possible investment in SK or any other stocks. He was also asked to identify any investors who had been referred and the stocks that were purchased. He replied that there were no such investors. This was incorrect. DeSade, through AES, developed customer leads for Times and he directed such investors to Times for securities investments.
- iii. DeSade was asked to explain the disposition of the \$10,000.00 check. He answered that the funds had not been booked and that the money might be refunded if AES was unable to provide the type of service CJ was looking for. This answer was incorrect, for the reasons set forth above.

On or about June 7, 2007, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210, FINRA sent de Sade a request for information in connection with its investigation of de Sade's conduct. When de Sade did not respond by the stated due date, the request was resent again on or about June 22, 2007. The request related to AFVS. Staff received DeSade's response on or about July 23, 2007. DeSade provided false, misleading and incomplete information in response to the letter as set forth below.

- i. FINRA asked de Sade how customer MK came to invest to AFVS and he responded that she had contacted him. This was incorrect. In fact, de Sade contacted MK through AES. He then recommended that she invest in a covered call program and in AFVS.
- ii. When FINRA asked de Sade to describe how he determined if the AFVS purchase was suitable for customer MK, he responded that MK heard about AFVS from reading a newspaper article. This was incorrect. DeSade solicited MK's investment in AFVS.
- iii. FINRA asked de Sade to describe his involvement in sales of AFVS to the public. His answer implied that his involvement was limited to handling unsolicited inquiries from customers interested in purchasing AFVS. Specifically he said, "[i]f an investor is interested in purchasing AFVS, I would have Times Securities purchase the stock in their accounts for them." This answer was incomplete, as the AFVS transactions in which he was involved, with one or two exceptions, were solicited.

Each instance in which de Sade provided FINRA staff with false, misleading and incomplete information, as described above, constituted a separate and distinct violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

By failing to provide prompt testimony and truthful and complete information to FINRA Respondent de Sade violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

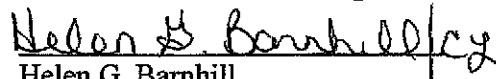
SANCTIONS

It is ordered that Respondent be barred from associating with any FINRA member in any capacity. The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA

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



Helen G. Barnhill
Senior Regional Counsel
FINRA Department of Enforcement
4600 S. Syracuse St.
Denver, CO 80237
303 446-3111 (phone)
303 446-3150 (fax)