

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

CHARLES CAPUTO, JR.
(CRD No. 2715387),

Respondent.

Disciplinary Proceeding
No. 2009016885101

Hearing Officer LBB

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: _____

7/27/11

INTRODUCTION

Disciplinary Proceeding No. 2009016885101 was filed on April 29, 2011, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Charles Caputo, Jr. (Caputo) submitted an Offer of Settlement (Offer) to Complainant dated July 13, 2011. 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

Caputo first became registered as a General Securities Representative ("GSR") of a member of FINRA in March 1996. Thereafter, he was associated with two other members of FINRA until he joined Basic Investors Inc. ("Basic") in July 2000. Caputo remained at Basic until October 2008, and thereafter joined another member firm in December 2008. Caputo voluntarily resigned from that firm on May 6, 2009, however, Enforcement maintains jurisdiction over him pursuant to Article V, Section 4 of FINRA's By-Laws.

FINDINGS AND CONCLUSIONS

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

SUMMARY

From approximately March 2007 through May 2008, while registered with FINRA at Basic, Respondent presented falsified account statements for the accounts of AB and B Inc., to AB, with the intent of leading AB to believe the all but worthless accounts held securities valued as high as \$600,000. In November 2009, Caputo pled guilty in Suffolk County, New York, Superior Court to a Class D felony: criminal possession of a forged instrument. The instruments at issue in that case were the false account statements for AB and B, Inc.

In connection with FINRA's examination concerning Caputo's conduct while associated with Basic, Caputo failed to appear for an On-the-Record ("OTR") interview. Accordingly, Caputo violated FINRA Rules 8210 and 2010.

FIRST CAUSE OF ACTION
(Disseminating False Account Statements)
NASD Conduct Rule 2110

Customer AB opened two accounts at Basic in April 2004: a personal account (the AB account) and a corporate account (the B Inc. account). Caputo was the registered representative assigned to the accounts. AB funded each account with approximately \$150,000.

The AB account incurred substantial losses. The net equity in this account declined steadily following the initial deposit. Early activity in the account involved numerous trades including option transactions. By October 2004, the AB account had lost approximately \$130,000. By the end of December 2007 the account was valued at \$218.50. There was no activity in 2008, and the AB quarterly statement shows that AB owned one stock that was valued at \$62.70, as of June 30, 2008.

The B Inc. account also incurred precipitous losses, and the April 2007 account statement shows an account value of 0. This account was actively traded during the first 18 months and included options trading, speculative technology stocks, and margin trading. Trading activity slowed from January 2005 through April 2007, with the most recent trade occurring on March 22, 2007.

During the entire time period that the AB and B Inc. accounts were held at Basic, AB received account statements through the Firm's clearing firms.

AB also received fabricated account statements provided to him by Caputo, from approximately March 2007 through May 2008.

The typical one-page fabricated account statement listed the account name and number, the statement period, a false market value; a false cash balance, and a false option value.

Copies of the false statements obtained by FINRA show that they were transmitted by facsimile from the home office fax number of Caputo.

For example, the fraudulent account statement sent to AB bearing Basic's letterhead for the period February 1, 2008 through February 29, 2008, for the B Inc account reflected an account market value of \$289,192.50. The fraudulent Basic Investors statement sent to AB for the AB account for the month ended February 29, 2008, reflected a market value in the account of \$260,196.26. In reality, as of February 2008, the AB accounts had a nominal balance and the B Inc account was closed.

False statements which AB received from Caputo reported that his personal account was valued at \$292,020.53 and that the B Inc. account was valued at \$325,446.36 as of May 30, 2008. In reality, at this date, the AB account was valued at less than \$70.00 and the B Inc. account was closed in April 2007.

In July, 2008 AB, apparently relying on the values shown on the false statements, contacted Caputo and requested that he wire \$120,000 from the B Inc. account. A few days after receiving the request, Caputo advised AB that there was no money in either account.

In connection with Caputo's presentation of false account statements to AB, Caputo signed a waiver of indictment and consented to be prosecuted by Superior Court information. On November 9, 2009, Caputo pled guilty to a Class D felony, wherein he admitted that between on or about April 7, 2004 and July 23, 2008, in Suffolk County, NY, with knowledge that it was forged and with intent to defraud, deceive or injure another, Caputo possessed a forged instrument, namely false account statements for AB.

By providing false account statements to AB with the intent to deceive him concerning the value of his accounts, Caputo violated NASD Conduct Rule 2110.

SECOND CAUSE OF ACTION
FAILURE TO TESTIFY
FINRA RULES 8210 AND 2010

In connection with FINRA's examination concerning Caputo's conduct while associated with Basic, on June 3, 2009, FINRA staff (the "Staff") sent a letter to Caputo requesting that he appear and testify on July 1, 2009 at an OTR at FINRA's Long Island District Office. The letter also asked that Caputo contact the Staff by June 17, 2009, to either confirm his appearance or to reschedule if he was unable to appear on the scheduled date.

By FINRA staff's letter to Caputo dated June 17, 2009, pursuant to a request by Caputo's attorney, the OTR was rescheduled for August 3, 2009, and the letter also asked that Caputo's counsel contact the Staff by July 13, 2009, to either confirm his appearance or to reschedule if he was unable to appear on the scheduled date.

By letter dated July 19, 2009, Caputo's counsel requested an adjournment of Caputo's OTR scheduled for August 3, 2009. Counsel further stated in that letter that discussions were planned with the Suffolk County Assistant Attorney related to Caputo's criminal proceeding.

Subsequently, FINRA staff and Caputo's counsel agreed to reschedule the OTR for September 9, 2009. The letter also asked that Caputo's counsel contact the Staff by August 24, 2009, to either confirm his appearance or to reschedule if he was unable to appear on the scheduled date.

FINRA staff was informed by Caputo's counsel on or about September 2, 2009 that Caputo would not appear for an OTR because Caputo was considering pleading guilty in the criminal proceeding.

On or about October 4, 2010, Caputo's former attorney advised staff that he was no longer representing Caputo. At or around that same date, Caputo advised staff that he intended to appeal the criminal conviction.

On October 12, 2010, Staff sent a letter by certified and first class mail to Caputo requesting his testimony on November 19, 2010. The letter also asked that Caputo contact the Staff by October 22, 2010, to either confirm his appearance or to reschedule if he was unable to appear on the scheduled date.

On or about October 21, 2010, Caputo contacted Staff and advised Staff that he was in the midst of the appeal and at this point his new attorney had advised him not to testify. He also advised staff that his new attorney would send Staff a letter detailing Caputo's reasons for not testifying. To date, such letter has not been received by FINRA staff.

By certified and first class mail letter dated October 21, 2010, Staff advised Caputo that the OTR was still scheduled for November 19, 2010, and that he should contact Staff by November 12, 2010, to confirm or reschedule his testimony.

On or around November 17, 2010, Caputo advised staff that he would not appear for the scheduled November 19, 2010 OTR.

To date, Caputo has not appeared and testified in an OTR, pursuant to Rule 8210.

By reason of the foregoing, Caputo violated FINRA Rules 8210 and 2010.

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

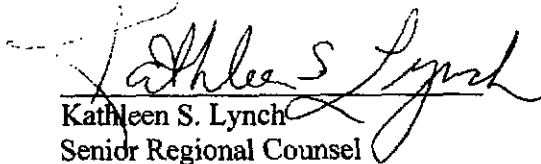
It is ordered that Respondent be barred from association with any FINRA member in any capacity.

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



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