

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JEFFREY SCOTT DONNER
(CRD No. 2631248),

Respondent.

Disciplinary Proceeding
No. 2009020228501

Hearing Officer – MAD

DEFAULT DECISION

November 30, 2011

Respondent is barred from associating with any member firm in any capacity for executing unauthorized transactions, in violation of FINRA Conduct Rule 2010. In light of the bar, no additional sanctions were imposed for the Respondent's exercise of discretion in a customer's account without written authorization and his use of an unapproved, personal email account.

Appearances

Rebecca L. Segrest, Senior Regional Counsel, Atlanta, GA, and Andrew A. Favret, Associate VP & Regional Chief Counsel, New Orleans, LA for the Department of Enforcement.

No appearance by or for Jeffrey Scott Donner.

DECISION

I. Introduction

The FINRA Department of Enforcement ("Enforcement") commenced an investigation that led to the Complaint against Respondent Jeffrey Scott Donner ("Donner") after his member firm, Cape Securities, Inc. ("Cape Securities"), filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") on October 22, 2009. The Form U5 disclosed that Donner engaged in unauthorized trading in several customer accounts.

Upon completion of its investigation, Enforcement filed a Complaint (attached to this Default Decision as Exhibit A) against Donner on August 5, 2011. The Complaint contains five causes of action. The first three causes of action allege that Donner violated FINRA Conduct Rule 2010 by executing unauthorized trades in his customers' Cape Securities' accounts. The fourth cause of action alleges that Donner violated NASD Conduct Rule 2510 and FINRA Conduct Rule 2010 by conducting discretionary transactions in a customer's account, without obtaining written authorization to exercise discretion. The final cause of action alleges that Donner violated FINRA Conduct Rule 2010 by using his personal email account to send communications to customers in violation of Cape Securities' written policy.¹

On September 1, 2011, Donner filed an answer in the form of a letter to Enforcement. However, he failed to appear for the initial pre-hearing conference ("Conference") and a subsequent show cause hearing. Accordingly, the Hearing Officer issued an Order holding Donner in default on September 20, 2011. On October 19, 2011, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions ("Default Motion") on the charges against Donner, supported by the Declaration of Rebecca L. Segrest, Esq. ("Segrest Decl.") and three exhibits. Donner did not file a response to the Default Motion. For the reasons set forth below, Enforcement's Default Motion is granted.²

¹ As of July 30, 2007, NASD consolidated with the member regulation and enforcement functions of NYSE Regulation and began operating under a new corporate name, the Financial Industry Regulatory Authority (FINRA). References in this decision to FINRA include, where appropriate, NASD. Following consolidation, FINRA began developing a new FINRA Consolidated Rulebook. The first phase of the new consolidated rules became effective on December 15, 2008, including certain conduct rules and procedural rules. *See* Regulatory Notice 08-57 (Oct. 2008). This decision refers to and relies on the NASD Conduct Rules that were in effect at the time of Respondent's alleged misconduct. The applicable rules are available at www.finra.org/rules.

² The factual determinations in this decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as additional materials filed by Enforcement.

II. Findings of Fact and Conclusions of Law

A. Respondent's Default

On September 7, 2011, the Hearing Officer issued a notice setting the Conference on September 16, 2011. The notice cautioned the parties that a failure to appear at the Conference may be deemed a default. Donner failed to appear at the Conference in accordance with Rule 9241. On September 16, 2011, the Hearing Officer issued a show cause order, requiring Donner to appear on September 20, 2011, to show cause why he should not be held in default for failing to appear at the Conference. Donner failed to appear for the show cause hearing. Accordingly, the Hearing Officer issued an Order, dated September 20, 2011, holding Donner in default.

B. Jurisdiction

Donner entered the securities industry in 1995, and became registered as a General Securities Representative ("GSR") in 1996.³ In November 2000, Donner became registered as a General Securities Principal ("GSP"). Between 1996 and 2009, he worked for several FINRA member firms.⁴ He was registered as a GSR and GSP through Cape Securities from August 18 through October 22, 2009.⁵ On October 22, 2009, Cape Securities filed a Form U5, which reported that it had terminated Donner for cause as a result of allegations of unauthorized trading.⁶

Donner has not been registered with FINRA since October 22, 2009; however, he remains subject to FINRA's jurisdiction for purposes of this proceeding pursuant to Article V, Section 4 of FINRA's Bylaws because (1) the Complaint was filed within two years

³ CX-1, at 5, 12.

⁴ CX-1, at 12.

⁵ *Id.* at 5.

⁶ *Id.* at 15-16; Segrest Decl. ¶¶ 5, 6.

following the termination of his registration with FINRA, and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA member firm.⁷

C. Unauthorized Transactions

The first, second, and third causes of action allege that, while associated with Cape Securities, Donner executed 57 unauthorized transactions in three customer accounts without their knowledge and consent. Donner was the financial adviser for each customer. All three customers opened their accounts in September 2009.

1. Customer DM

From September 24 through October 14, 2009, Donner executed 20 unauthorized trades in customer DM's account.⁸ In October 2009, DM sent Donner several emails complaining about the unauthorized transactions.⁹ On October 5, 2009, DM specifically instructed Donner by email to stop the unauthorized trading, but Donner continued trading until DM closed his account on October 14, 2009.¹⁰

2. Customer JR

From September 18 through October 21, 2009, Donner executed 21 unauthorized transactions in customer JR's account.¹¹ JR told FINRA staff that Donner never called him to get prior authorization for any of the trades.¹² JR also stated that in October 2009, he intended

⁷ Article V, Sec. 4(a), FINRA By-Laws, *available at* www.finra.org/rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: Bylaws").

⁸ Compl. ¶ 6.

⁹ Segrest Decl. ¶ 11.

¹⁰ *Id.*

¹¹ Compl. ¶ 10.

¹² Segrest Decl. ¶ 13.

to contact Cape Securities about Donner's activities; however, the firm initiated contact with him about the trades.¹³

3. Customer RK

From September 28 through October 19, 2009, Donner executed 16 unauthorized transactions in customer RK's account.¹⁴ RK did not recognize the transactions in his account because Donner only spoke to him on two occasions.¹⁵

The Hearing Officer finds that the allegations of the first, second, third causes of action are sufficient to establish for the purposes of this proceeding that Donner violated FINRA Conduct Rule 2010 by executing unauthorized transactions in the accounts of customers DM, JR, and RK.¹⁶

D. Exercising Discretion without Written Authorization

The fourth cause of action alleges that Donner exercised discretion in customer JS's account without written authorization. Specifically, Donner neither sought nor obtained authorization from JS or Cape Securities to exercise discretion in JS's account.¹⁷ Nonetheless, between September 29 and October 19, 2009, Donner executed 12 transactions in JS's account without contacting JS prior to the trades or obtaining written authorization to use discretion.¹⁸ During FINRA's investigation, Donner admitted that it was his practice to make purchases in a customer's account without prior discussion of the trade.¹⁹

¹³ *Id.*

¹⁴ Compl. ¶ 14.

¹⁵ Segrest Decl. ¶ 15.

¹⁶ *Cf. Dep't of Enforcement v. Murphy*, No. 2005003610701, 2011 FINRA Discip. LEXIS 42 at *15 (N.A.C. Oct. 20, 2011).

¹⁷ Compl. ¶ 19.

¹⁸ Compl. ¶¶ 18, 19; Segrest Decl. ¶ 17.

¹⁹ Segrest Decl. ¶ 17.

The Hearing Officer finds that the allegations in the Complaint are sufficient to establish that Donner violated NASD Rules 2510 and FINRA Rule 2010 by exercising discretion without written authorization.²⁰

E. Unauthorized Email Communications

The fifth cause of action alleges that Donner used his personal email account to send business-related emails to customers. During FINRA's investigation, Donner admitted to the staff that he used an unapproved, personal email account to send emails to and receive emails from his customers.²¹

Cape Securities' written supervisory procedures require that email communications between registered representatives and customers be reviewed by the firm; however, Donner did not forward any of these emails to Cape Securities for review.²² Donner's use of his personal email account prevented Cape Securities from (1) accessing these customer communications and complying with its obligations under NASD Conduct Rule 3010(d) to review correspondence between registered representatives and their customers, and (2) complying with its recordkeeping requirements dictated by Section 17(a) of the Securities and Exchange Act of 1934, SEC Rule 17a-4, NASD Conduct Rule 3110 and FINRA Rule 2010.²³

²⁰ *Cf. Murphy*, No. 2011 FINRA Discip. LEXIS 42 at *13-14.

²¹ Segrest Decl. ¶ 19.

²² Compl. ¶¶ 23, 24.

²³ Compl. ¶¶ 25, 26.

The Hearing Officer finds that the allegations of the fifth cause of action are sufficient to establish for the purposes of this proceeding that Donner violated FINRA Conduct Rule 2010 by using his personal email account to communicate with customers.²⁴

III. Sanctions

A. Unauthorized Trading

For a violation of Conduct Rule 2010 based on unauthorized transactions, the FINRA Sanction Guidelines (“Guidelines”) recommend a fine of \$5,000 to \$75,000. The Guidelines also recommend considering a suspension in any or all capacities for a period of ten business days to one year. In egregious cases, the Guidelines recommend a longer suspension of up to two years, or a bar. In addition, there are two specific considerations to determine sanctions in unauthorized transaction cases: (1) whether the respondent misunderstood his authority and (2) whether the unauthorized trading was egregious.²⁵

FINRA has identified three categories of egregious unauthorized trading: (1) quantitatively egregious unauthorized trading (i.e., unauthorized trading that is egregious because of the large number of unauthorized trades executed); (2) unauthorized trading accompanied by aggravating factors, such as efforts to conceal the unauthorized trading, attempts to evade regulatory investigative efforts, customer loss, or a history of similar misconduct; and (3) qualitatively egregious unauthorized trading, which is measured by the

²⁴ Cf. *Dep’t of Enforcement v. Zaragoza*, No. E8A2002109804, 2008 FINRA Discip. LEXIS 28, at *26-27 (N.A.C. Aug. 20, 2008) (holding that the failure to submit email correspondence for review and approval is activity inconsistent with high standards of commercial honor and just and equitable principles of trade, which is a violation of Rule 2110).

²⁵ *FINRA Sanction Guidelines* 98 (2011), www.finra.org/sanctionguidelines.

strength of the evidence and the respondent's motives in effecting the trades (i.e., whether the respondent acted in bad faith or as a result of a reasonable misunderstanding).²⁶

Applying the foregoing Guidelines, the Hearing Officer finds that Donner's violation was quantitatively egregious. Here, when the transactions for the three customers are combined, Donner executed 57 unauthorized transactions in less than one month. There is no evidence in the record to support a finding that Donner misunderstood his trading authority for the accounts of DM, JR, and RK. DM specifically instructed Donner to stop the unauthorized trading in his account, yet Donner ignored DM's request. The Hearing Officer also finds that Donner's use of his personal email account was an aggravating factor as it prevented the firm from effectively monitoring his communications.

By engaging in the unauthorized trading, Donner betrayed his customers.²⁷ The Hearing Officer finds that the appropriate sanction for the violations in the first, second, and third causes of action is a bar from associating with any member firm in any capacity.²⁸

B. Exercising Discretion without Written Authorization

For a violation of Conduct Rule 2010 based on the exercise of discretion without written authorization, the Guidelines recommend a fine of between \$2,500 and \$10,000 and, in egregious cases, a suspension in any or all capacities for 10 to 30 days.²⁹ Additionally, the specific considerations applicable to this violation include: (1) whether the customer's grant of discretion was express or implied and (2) whether the firm's policies and/or procedures

²⁶ See *District Bus. Conduct Comm. v. Hellen*, No. C3A970031, 1999 NASD Discip. LEXIS 22, at *15-24 (N.A.C. June 15, 1999).

²⁷ *Keith L. DeSanto*, 52 S.E.C. 316, 323 (1995), *aff'd*, 101 F.3d 108 (2d Cir. 1996) (table format) (stating unauthorized trading is a "fundamental betrayal of the duty owed by a salesman to his customers").

²⁸ Cf. *Dist. Bus. Conduct Comm. v. Levy*, No. C07960085, 1998 NASD Discip. LEXIS 22, *11-12 (N.A.C. Mar. 6, 1998) (imposing a bar where respondent engaged in 16 unauthorized transactions); The Hearing Officer considered the first, second, and third causes of action for unauthorized trading as "part of the same course of conduct" and imposed a single sanction for those violations. See *Sanction Guidelines* at 4.

²⁹ *Guidelines* at 85.

prohibited discretionary trading and/or whether the firm prohibited the respondent from exercising discretion in customer accounts.³⁰ Here, Donner was not expressly given discretion; he neither sought nor obtained authorization from customer JS or Cape Securities to exercise discretion. Moreover, Donner executed 12 discretionary transactions in less than one month in JS's account. The Hearing Officer finds that Donner's misconduct is serious and would merit a \$5,000 fine and a 10-day suspension; however, in light of the bar for the unauthorized trading violations, no additional sanction is imposed for this violation.

C. Unauthorized Email Communications

The Guidelines do not address specifically the unauthorized use of personal email accounts. However, FINRA has previously applied the Guidelines pertaining to record-keeping violations for failing to submit email correspondence for review.³¹ Those Guidelines recommend consideration of a suspension of up to 30 business days and a fine of \$1,000 to \$10,000.³² In egregious cases, the applicable Guidelines recommend a fine of \$10,000 to \$100,000 and either a suspension of up to two years or a bar.

In this case, Cape Securities had a clear policy requiring that all email communications between registered representatives and customers be reviewed by the firm. Donner violated his firm's policy. In doing so, he prevented his firm from effectively monitoring his communications with the customers associated with his unauthorized trading violations.

The Hearing Officer finds that the unauthorized use of a personal email account is a serious violation and would warrant a 20 business-day suspension from associating with any

³⁰ *Id.*

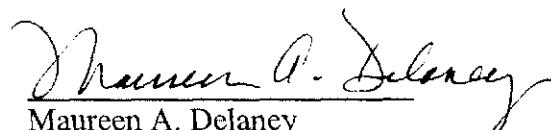
³¹ See *Zaragoza*, 2008 FINRA Discip. LEXIS 28, at *31.

³² *Guidelines* at 30.

firm in any capacity and a \$5,000 fine; however, in light of the bar for the unauthorized transactions, the Hearing Officer will not impose this sanction.

IV. Order

Jeffrey Scott Donner is barred from association with any member firm in any capacity for executing unauthorized transactions as described in the first, second, and third causes of action in the Complaint, in violation of FINRA Conduct Rule 2010. The bar will become effective immediately if this Default Decision becomes FINRA's final disciplinary action in this proceeding. In light of the bar, the Hearing Officer will not impose the suspensions and fines for the violations in the fourth and fifth causes of action of the Complaint.


Maureen A. Delaney
Hearing Officer

Copies to: Jeffrey Scott Donner (*via overnight courier and first-class mail*)
Rebecca L. Segrest, Esq. (*via electronic and first-class mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
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DEPARTMENT OF ENFORCEMENT,

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JEFFREY SCOTT DONNER,
(CRD No. 2631248)

Respondent.

Disciplinary Proceeding
No. 2009020228501

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Jeffrey Scott Donner (Donner) executed more than 57 unauthorized transactions in the accounts of three customers, in violation of FINRA Rule 2010 and IM-2310-2. In addition, Donner exercised discretion in the account of another customer without obtaining written authorization from the customer and without acceptance of the account as discretionary by his employing FINRA member firm, in violation of NASD Conduct Rule 2510 and FINRA Rule 2010. Furthermore, Donner violated FINRA Rule 2010 by exchanging business-related e-mails with customers using an e-mail account that had not been approved by his FINRA member firm, thereby (1) causing his employing member firm to violate its recordkeeping requirements pursuant to SEC Rule 17a-4 of Section 17(a) of the Securities Exchange Act of 1934 and NASD Conduct Rule 3110; and (2) preventing his FINRA member firm from accessing these communications and fulfilling

its requirement under Rule 3010(d) to review correspondence between registered representatives and their customers, in violation of FINRA Rule 2010.

RESPONDENT AND JURISDICTION

2. Donner entered the securities industry in June 1995. Donner was first registered as a general securities representative with FINRA in April 1996. Donner was registered as a general securities principal in November 2000. Donner was employed by several FINRA member firms from April 1997 through August 2008. Donner was then employed by FINRA member firm Cape Securities, Inc. (Cape Securities) in August 2009, and became registered with Cape Securities as a general securities representative and as a general securities principal. On October 22, 2009, Cape Securities filed a Uniform Termination Notice for Securities Industry Registration (Form U5) on behalf of Donner, terminating Donner's association with Cape Securities as of that date.
3. Donner is not currently associated with a FINRA member firm, but remains subject to FINRA's jurisdiction pursuant to Article V, Section IV of FINRA's By-Laws until October 21, 2011, in that the misconduct alleged in this Complaint occurred while Donner was associated with a FINRA member firm and this complaint was filed within two years of Donner's last association with a FINRA member firm.

FIRST CAUSE OF ACTION

Unauthorized Transactions in Customer D.M.'s Account

(FINRA Rule 2010 and IM-2310-2)

4. The Department re-alleges and incorporates by reference paragraphs 1 through 3 above.
5. In September 2009, customer D.M. opened a securities account at Cape Securities. Donner was the financial advisor for D.M.'s account from its inception.

6. During the period from on or about September 24, 2009, through on or about October 14, 2009, Donner executed 20 transactions in D.M.'s account, as more fully detailed on **Schedule A** attached hereto and incorporated herein by reference, without D.M.'s prior knowledge, authorization or consent.
7. As a result of this conduct, Donner violated NASD Conduct Rule 2110 and IM-2310-2.

SECOND CAUSE OF ACTION

Unauthorized Transactions in Customer J.R.'s Account

(FINRA Rule 2010 and IM-2310-2)

8. The Department re-alleges and incorporates by reference paragraphs 1 through 7 above.
9. In September 2009, customer J.R. opened a securities account at Cape Securities. Donner was the financial advisor for J.R.'s account from its inception.
10. During the period from on or about September 18, 2009, through on or about October 21, 2009, Donner executed 21 transactions in J.R.'s account, as more fully detailed on **Schedule A** attached hereto and incorporated herein by reference, without J.R.'s prior knowledge, authorization or consent.
11. As a result of this conduct, Donner violated NASD Conduct Rule 2110 and IM-2310-2.

THIRD CAUSE OF ACTION

Unauthorized Transactions in Customer R.K.'s Account

(FINRA Rule 2010 and IM-2310-2)

12. The Department re-alleges and incorporates by reference paragraphs 1 through 11 above.
13. In September 2009, customer R.K. opened a securities account at Cape Securities. Donner was the financial advisor for R.K.'s account from its inception.

14. During the period from on or about September 28, 2009, through on or about October 19, 2009, Donner executed 16 transactions in R.K.'s account, as more fully detailed on **Schedule A** attached hereto and incorporated herein by reference, without R.K.'s prior knowledge, authorization or consent.
15. As a result of this conduct, Donner violated NASD Conduct Rule 2110 and IM-2310-2.

FOURTH CAUSE OF ACTION

Discretionary Trading in Customer J.S.'s Account

(NASD Rule 2510 and FINRA Rule 2010)

16. The Department re-alleges and incorporates by reference paragraphs 1 through 15 above.
17. In September 2009, customer J.S. opened a securities account at Cape Securities. Donner was the financial advisor for J.S.'s account from its inception.
18. Between September 29, 2009 and October 19, 2009, Donner exercised discretion in J.S.'s account and effected 12 securities transactions, as more fully detailed on **Schedule B** attached hereto and incorporated herein by reference.
19. Donner did not obtain prior written authorization from J.S. or written acceptance of the account as discretionary from Cape Securities.
20. During the relevant time period, Cape Securities did not permit discretion to be utilized in retail brokerage accounts.
21. As a result of such conduct, Donner violated NASD Conduct Rule 2510 and FINRA Rule 2010.

FIFTH CAUSE OF ACTION

Use of an Unapproved E-Mail Account

(FINRA Rule 2010)

22. The Department re-alleges and incorporates by reference paragraphs 1 through 21 above.

23. While Donner was registered with Cape Securities, he exchanged business-related e-mails with customers, using a personal e-mail account that was not approved by Cape Securities. Donner did not forward to Cape Securities any of the e-mails sent to or received from customers at his personal e-mail address.
24. Cape Securities' written supervisory procedures require that e-mail communication between registered representatives and customers be reviewed by the firm.
25. By using his personal e-mail address to communicate with customers, Donner prevented Cape Securities from accessing these customer communications and complying with its obligations under NASD Conduct Rule 3010(d) to review correspondence between registered representatives and their customers.
26. By using his personal e-mail address to communicate with customers and failing to forward the customer communications to Cape Securities, Donner prevented Cape Securities from complying with its recordkeeping requirements as required by Section 17(a) of the Securities Exchange Act of 1934, SEC Rule 17a-4, NASD Conduct Rule 3110 and FINRA Rule 2010.
27. As a result of such conduct, Donner violated FINRA Rule 2010.

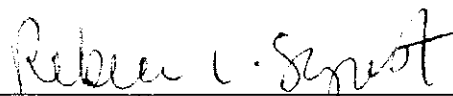
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. Order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed.
- 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: Aug. 5, 2011



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SCHEDULE A**UNAUTHORIZED TRANSACTIONS IN D.M.'S ACCOUNT**

TRADE DATE	BUY/SELL	NO. OF SHARES	TRANSACTION
09/24/09	Sell	200	American International Group, Inc.
09/24/09	Sell	750	Direxion Daily Large Cap Bear
09/28/09	Buy	4,000	Direxion Daily Large Cap Bear
09/28/09	Buy	4,000	LDK Solar Company LTD
09/28/09	Sell	1,000	JPMorgan Chase & Company
09/28/09	Sell	750	Occidental Petroleum Corp.
09/28/09	Buy	1,500	Proshares Trust Powershares Ultrashort Financials
09/28/09	Buy	750	Research In Motion Limited
09/28/09	Sell	750	Wynn Resorts Limited
09/30/09	Sell	1,500	Proshares Trust Powershares Ultrashort Financials
09/30/09	Sell	4,000	Direxion Daily Large Cap Bear
09/30/09	Sell	750	EOG Resources, Inc.
09/30/09	Buy	3,000	AK Steel Holding Corp.
10/01/09	Sell	750	JPMorgan Chase & Company
10/01/09	Buy	750	Occidental Petroleum Corp.
10/01/09	Buy	3,000	Wynn Resorts Limited
10/01/09	Buy	1,000	JPMorgan Chase & Company
10/01/09	Buy	750	Occidental Petroleum Corp.
10/01/09	Buy	750	Wynn Resorts Limited
10/06/09	Sell	3,000	AK Steel Holding Corp.
10/12/09	Buy	2,500	Direxion Daily Energy Bear
10/13/09	Sell	2,500	Direxion Daily Energy Bear
10/14/09	Buy	2,000	Direxion Daily Energy Bear

SCHEDULE A

UNAUTHORIZED TRANSACTIONS IN J.R.'S ACCOUNT

TRADE DATE	BUY/SELL	NO. OF SHARES	TRANSACTION
09/18/09	Sell	1,250	Dryships, Inc.
09/18/09	Buy	1,000	Direxion Daily Small Cap Bear
09/18/09	Buy	1,000	Direxion Daily Energy Bear
09/18/09	Buy	1,000	Proshares Trust Proshares Ultrashort FTSE Xinhua
09/21/09	Buy	1,250	Dryships, Inc.
09/21/09	Sell	1,000	Direxion Daily Energy Bear
09/24/09	Sell	1,000	Direxion Daily Small Cap Bear
09/24/09	Sell	1,000	Proshares Trust Proshares Ultrashort FTSE Xinhua
09/28/09	Buy	1,250	Direxion Daily Small Cap Bear
09/28/09	Buy	1,000	KB Home
09/28/09	Buy	1,250	LKD Solar Company Ltd.
09/28/09	Sell	250	Wynn Resorts Limited
10/01/09	Sell	1250	Direxion Daily Small Cap Bear
10/01/09	Sell	1,000	KB Home
10/01/09	Buy	250	Wynn Resorts Limited
10/12/09	Buy	1,250	Direxion Daily Small Cap Bear
10/12/09	Buy	1,500	Direxion Daily Small Cap Bear
10/19/09	Buy	1,000	Direxion Daily Energy Bear
10/19/09	Sell	1,250	LDK Solar Company Ltd.
10/21/09	Sell	1,500	Direxion Daily Small Cap Bear
10/21/09	Sell	1,000	Direxion Daily Energy Bear

SCHEDULE A

UNAUTHORIZED TRANSACTIONS IN R.K.'S ACCOUNT

TRADE DATE	BUY/SELL	NO. OF SHARES	TRANSACTION
09/28/09	Buy	2,000	Direxion Daily Small Cap Bear
09/30/09	Buy	2,000	LKD Solar Company Ltd.
09/30/09	Sell	2,000	Direxion Daily Small Cap Bear
10/02/09	Buy	2,000	Pulte Homes
10/06/09	Sell	1,000	Solarfun Power Holdings Co., Limited
10/06/09	Sell	3,500	Starbucks Corp.
10/06/09	Sell	1,500	Provident Energy Trust
10/06/09	Sell	100	American International Group, Inc.
10/08/09	Buy	2,000	Direxion Daily Energy Bar
10/08/09	Sell	2,000	Pulte Homes
10/08/09	Buy	2,000	Direxion Daily Energy Bar
10/08/09	Sell	500	EOG Resources, Inc.
10/14/09	Buy	1,500	Direxion Daily Small Cap Bear
10/14/09	Buy	1,500	Direxion Daily Small Energy Bar
10/19/09	Sell	2,000	LDK Solar Company, Ltd.
10/19/09	Sell	2,000	Proshares Trust Proshares Ultrashort FTSE Xinhua

SCHEDULE B**DISCRETIONARY TRADING IN J.S.'S ACCOUNT**

TRADE DATE	BUY/SELL	NO. OF SHARES	TRANSACTION
09/29/09	Buy	2,000	Sequenom, Inc.
09/29/09	Sell	209	Time Warner Cable, Inc.
09/29/09	Sell	833	Time Warner, Inc.
09/29/09	Buy	2,000	Direxion Daily Small Cap Bear
09/29/09	Buy	2,500	LDK Solar Company, Ltd.
09/30/09	Sell	2,000	Direxion Daily Small Cap Bear
10/02/09	Buy	2,000	Pulte Homes, Inc.
10/08/09	Sell	2,000	Pulte Homes, Inc.
10/08/09	Buy	2,000	Direxion Daily Small Cap Bear
10/14/09	Buy	1,000	Direxion Daily Small Cap Bear
10/19/09	Buy	2,000	Direxion Daily Energy Bear
10/19/09	Sell	2,500	LDK Solar Company, Ltd.