

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

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

ate: 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.