

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

Department of Enforcement,

Complainant,

v.

Delta Equity Services Corporation,
CRD No. 15650,

and

Daphne Jane Mahle,
CRD No. 4367277,

Respondents.

Disciplinary Proceeding
No. 2010020869803

Hearing Officer - LBB

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: December 4, 2012

INTRODUCTION

Disciplinary Proceeding No. 2010020869803 was filed on June 7, 2012, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondents Delta Equity Services Corporation (Delta or the Firm)¹ and Daphne Jane Mahle (Mahle) (collectively, Respondents) submitted an Offer of Settlement (Offer) to Complainant dated November 29, 2012. 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,

¹ Pursuant to an amendment to its Form BD filed on November 5, 2012, Delta is now known as Bolton Global Capital.

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, Respondents have 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 the sanctions set forth below, and fully understand that this Order will become part of Respondents' permanent disciplinary records and may be considered in any future actions brought by FINRA.

BACKGROUND

Respondent Delta is, and at all times relevant to the Complaint and this Order was, a FINRA member firm with its principal place of business in Bolton, Massachusetts. Delta has been a FINRA member firm since February 14, 1985. It employs approximately 94 registered individuals operating from 47 branch locations throughout the country. The Firm conducts a general securities business.

Respondent Mahle is, and at all times relevant to the Complaint and this Order was, Delta's Chief Compliance Officer. Mahle first became registered with FINRA as a General Securities Representative on May 21, 2003. Mahle additionally became registered on December 16, 2003 as a General Securities Principal and on September 6, 2007 as a Registered Options Principal. Mahle is currently registered in those same three capacities through Delta.

FINDINGS AND CONCLUSIONS

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

SUMMARY

1. From in or about January 2010 through in or about August 2010 (relevant time period), Delta, acting through its Chief Compliance Officer Mahle, failed to establish and maintain a supervisory system and establish, maintain and enforce written supervisory procedures (WSPs) reasonably designed to achieve compliance with applicable rules and regulations concerning a) the hiring and supervision of registered representatives, b) payments to third parties by its registered representatives, and c) mark-ups and mark-downs on sovereign debt. Respondents had reason to believe that two of its registered representatives were engaged in a securities business with a non-registered person. Those representatives were able to conduct that business through Delta as a result of the Firm's supervisory deficiencies. In addition, because of Delta's deficient supervisory system and WSPs, one of those representatives was able to set mark-ups and mark-downs on Brazilian sovereign debt instruments without regard to appropriate factors. Through this conduct, Delta and Mahle each violated NASD Conduct Rule 3010 and FINRA Rule 2010.

DELTA REPRESENTATIVES CONDUCTED A SECURITIES BUSINESS WITH AN UNREGISTERED PERSON

2. Throughout the relevant time period, Delta registered representatives SMR and EEI conducted a securities business with an unregistered person, JLL, who was formerly a registered representative of another FINRA member where SMR and EEI had also been registered. JLL needed access to a broker-dealer to place trades for his customers. SMR placed dozens of trades in Brazilian sovereign debt for customer accounts at JLL's behest, and facilitated JLL's unauthorized access to the customers' account information

stored on Delta's trading system. On JLL's instructions, too, SMR charged considerably less in mark-ups and mark-downs on trades placed for two retail accounts controlled by JLL than he did on trades in the same securities that he placed for two institutional accounts. SMR's trades during the relevant time period generated nearly \$19 million in commissions. Delta retained approximately \$839,000 of those gross commissions, which constituted about one-half of the Firm's net income for the first six months of 2010.

3. EEI did not place securities trades, but, pursuant to a "commission assignment agreement" documented on a form provided to him by Delta and Mahle, received all of the commissions generated by SMR's trading. Thereafter, EEI transferred hundreds of thousands of dollars of those commissions to JLL. EEI facilitated his money transfers through various means, including the execution of a fabricated "consulting agreement" with a company controlled by JLL's wife (and EEI's sister), payments of cash to JLL, and the transfer of money to his own mother (who was also JLL's mother-in-law).
4. By engaging in this conduct, SMR and EEI each violated FINRA Rule 2010.
5. On January 13, 2012, FINRA barred SMR and EEI from association with any FINRA member firm in any capacity.²

**Supervisory Deficiencies
(NASD Conduct Rule 3010 and FINRA Rule 2010)**

6. Throughout the relevant time period, Mahle was Delta's Chief Compliance Officer and was responsible for Delta's supervisory system and WSPs.
7. As further detailed below, throughout the relevant time period, Delta, acting through Mahle, failed to establish and maintain a supervisory system, and failed to establish,

² By Letter of Acceptance, Waiver and Consent, and without admitting or denying liability, SMR and EEI each agreed to the entry of findings that they conducted a securities business with an unregistered individual and to the imposition of a bar from association with any FINRA member in any capacity.

maintain and enforce WSPs, that were reasonably designed to achieve compliance with the applicable securities laws and regulations and FINRA rules concerning hiring and supervision of registered representatives, payments to third parties by its registered representatives, and mark-ups and mark-downs on principal transactions in sovereign debt. The deficient supervisory system and WSPs allowed two of Delta's registered representatives to conduct a securities business with an unregistered person and to set commissions on fixed-income transactions without regard to the factors set forth in Rule 2440 and IM-2440-1.

**Failure To Implement Reasonable Hiring
And Supervision Policies and Procedures**

8. Throughout the relevant time period, Mahle decided whether a prospective registered representative would be allowed to associate with Delta.
9. In January 2010, SMR and JLL met with Mahle and other officers of Delta to discuss their possible association with the Firm, where they planned to bring their foreign customers who traded emerging market debt.
10. Although JLL expressed interest in becoming an associated person of Delta and completed some paperwork toward that end, he never completed the process to become associated.
11. As part of the background checks conducted by Mahle, Respondents obtained a credit report for SMR showing information that called into question his financial responsibility and whether he should control the multi-million dollar business that he claimed to be able to bring to Delta. The report reflected that he had defaulted on credit card debt of approximately \$219,000 and a home mortgage loan in the amount of approximately

\$543,000. Nevertheless, Delta, acting through Mahle, failed to conduct a reasonable inquiry; Mahle did not even ask SMR about his credit card defaults.

12. A pre-hire credit check disclosed to Delta that EEI had also defaulted on a mortgage loan.

Again, Delta, acting through Mahle, failed to conduct a reasonable inquiry.

13. Respondents also obtained information during the pre-hire investigation that indicated that JLL was paid a portion of the commissions generated from business with the foreign customers. On January 12, 2010, JLL provided a copy of a commission blotter for November 2009 to Respondents. The document identified the trades purportedly made by the institutional customers that Delta expected SMR would introduce to the Firm. Many of the trades reflected on the commission blotter, however, were transacted before the effective date of SMR's registration with the firm where he and JLL were associated prior to SMR's move to Delta. That document also reflected payment to JLL of a portion of the commissions from those transactions.

14. Moreover, had Respondents juxtaposed that commission blotter with SMR's CRD, they would have learned that he had become re-licensed during November 2009 and could not have been the broker of record for most of the trades represented on the blotter.

15. On January 19, 2010, SMR became registered with Delta, and worked from his own office in Florida (Florida Branch Office).

16. On March 8, 2010, EEI became registered with Delta, and worked from the Florida Branch Office.

17. Although SMR began earning hundreds of thousands of dollars in commissions upon association with Delta, he took steps to ensure that the Firm did not directly compensate him. On or about March 15, 2010, SMR arranged for Delta to assign all of his

compensation to EEI. Despite knowing about SMR's recent mortgage and credit card defaults, and not knowing how he was otherwise going to support himself, Respondents provided SMR and EEI with a "commission assignment agreement" that transferred all of SMR's commissions to EEI.

18. As early as January 2010, Respondents suspected that JLL was involved with SMR's customer accounts at the Firm and Delta's president admonished JLL that such involvement was improper.
19. On March 16, 2010, Delta drew the first commission check under the commission assignment agreement, in the amount of \$248,275.56 and payable to EEI c/o a corporation in Miami, Florida. The corporation had been identified to Delta in an outside business questionnaire completed by JLL as a "vehicle to start the new relationship with Delta Equity."
20. In May 2010, Respondents learned that SMR had filed a petition for personal bankruptcy the previous month. Nevertheless, Delta continued to direct SMR's commission payments to EEI. Respondents accepted SMR's explanation that he had money from his pre-Delta employment, and failed to consider revoking or modifying the commission assignment agreement or whether SMR had entered it to shelter assets from creditors.

Deficient Supervision Regarding Payments To Third Parties

21. Delta and Mahle knew that EEI transferred hundreds of thousands of dollars of the commissions generated by SMR's trading to third parties, but failed to question whether those payments were proper. In July 2010, Mahle conducted an inspection of the Florida Branch Office, a single room containing three desks and two computers. There she obtained bank statements of a corporation operated by EEI. Those bank statements

revealed that, in April 2010, EEI's corporation, which was funded exclusively by SMR's commissions that EEI received from Delta pursuant to the commission assignment agreement, sent \$339,000 to another company by wire transfers for purported "technology consulting fees" owed pursuant to a "consulting agreement" dated March 3, 2010 and signed by JLL's wife. The fee was exorbitant for a two-computer office, and Respondents should have recognized the consultant as a straw party for the payment of commissions to JLL. Respondents did not even ask about the services purportedly rendered by the technology consulting company or question the reasonableness of the fees. Indeed, the purported technology consulting fees paid by EEI's corporation approached or may even have exceeded Delta's entire technology budget for 2010.

22. Delta and Mahle also failed to detect and follow up on the fact that EEI's corporation, which EEI had disclosed to the Firm on his outside business activities report upon formation, did not yet exist when it entered the purported March 3, 2010 consulting agreement. The Firm and Mahle also failed to follow up on the fact that JLL's wife was the director of the technology consulting company.

**Failure To Establish Reasonable Standards
To Evaluate the Fairness of Prices**

23. From January 2010 to July 2010, SMR placed dozens of riskless principal trades in Brazilian sovereign debt with his institutional and retail customers at Delta. The face amount of SMR's trades was much greater than Delta was accustomed to transacting.
24. SMR charged much greater commissions for trades ordered by the institutional customers than those placed by his retail accounts, which were controlled by JLL, even though both types of customers traded in the same securities and the institutional customers traded in much greater principal amounts.

25. Under Delta's supervisory system, SMR was permitted to set mark-ups and mark-downs on the trades, which the Firm did not question.
26. Delta's supervisory system and WSPs did not establish reasonable standards or criteria for evaluating, in conducting supervisory reviews, the fairness of mark-ups and mark-downs charged in principal transactions with customers.
27. Delta's WSPs in effect during the relevant time period did not address, or provide guidance concerning, the factors set forth in Rule 2440 and IM-2440-1 or about how the various factors and circumstances should be applied or weighed in determining an appropriate mark-up or mark-down on a transaction with a customer as principal.
28. Delta's director of supervision, who was responsible for reviewing SMR's trades for customers in Brazilian sovereign debt, did not know how SMR computed his commissions, nor did he conduct any research on the appropriateness of the mark-ups and mark-downs charged by SMR. Instead, he relied on a Firm "guideline" to approve any trades in fixed income securities with a commission of three percent or less.
29. As a result of the supervisory deficiencies outlined above, Delta and Mahle failed to monitor a registered representative that they recognized was in financial distress and prevent Delta registered representatives from conducting a securities business with an unregistered person. The Firm also failed to provide reasonable supervision of one of its registered representative's transactions in Brazilian sovereign debt.
30. By failing to establish and maintain a supervisory system and establish, maintain and enforce WSPs reasonably designed to ensure compliance with the rules and regulations concerning the areas discussed above, Delta and Mahle each violated NASD Conduct Rule 3010 and FINRA Rule 2010.

Based on the foregoing, Respondents Delta and Mahle each violated NASD Conduct Rule 3010 and FINRA Rule 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 Respondents 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 each Respondent be censured; that Respondent Delta be fined \$90,000; and that Respondents Delta and Mahle be fined \$10,000 jointly and severally.

Additionally, Respondent Delta shall comply with the following undertaking within the time period specified (unless otherwise extended by FINRA staff following a written request by Respondent):

- It shall undertake to review its supervisory system and written supervisory procedures for compliance with those laws, regulations, and rules concerning:
 - a) its hiring and supervision of registered representatives, including its systems and procedures regarding the heightened supervision of registered representatives with financial disclosures; b) its supervision of its registered representatives' payments to third parties; and c) its commission mark-up and mark-down policies. Within 120 calendar days of the issuance of the Order, a Delta officer will certify to FINRA in writing that the Firm currently has in place systems and procedures reasonably designed to achieve compliance with those laws, regulations and rules. The certification, along with the current procedures, must be submitted to *Department of Enforcement* staff at

FINRA's Boston District Office. Although FINRA staff may review the Firm's procedures, said review shall in no way constitute an approval of those procedures. The failure of FINRA staff to alert Delta to any deficiencies in the procedures shall not preclude FINRA from instituting a subsequent disciplinary action as a result of deficiencies in the procedures.

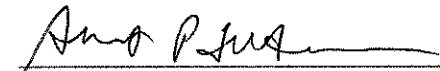
Respondents agree to pay the monetary sanctions upon notice that the Offer has been accepted and that such payments are due and payable. Respondents have each submitted an Election of Payment form showing the method by which they propose to pay the fines imposed.

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

SO ORDERED.

FINRA

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


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