

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

PAUL ELLSWORTH McINTOSH
(CRD No. 5458088),

Respondent.

Disciplinary Proceeding
No. 2010021448201

Hearing Officer—LOM

DEFAULT DECISION

June 6, 2012

Respondent is barred from associating with any FINRA member in any capacity for unauthorized trading in violation of FINRA Rule 2010 and NASD IM-2310-2, and is separately barred for conversion of customer funds in violation of NASD Rule 2330(a) and FINRA Rules 2150(a) and 2010.

Appearances

William Brice La Hue, Senior Regional Counsel, Atlanta, Georgia, for the Department of Enforcement.

No appearance on behalf of Paul Ellsworth McIntosh.

I. Introduction

This is a FINRA¹ disciplinary proceeding brought by FINRA's Department of Enforcement ("Enforcement") against Respondent, Paul Ellsworth McIntosh, who was a registered representative with FINRA member firm, Cobra Trading, Inc. ("Cobra" or the "Firm")

¹ The Financial Industry Regulatory Authority, Inc. ("FINRA") is responsible for regulatory oversight of securities firms and associated persons who do business with the public. FINRA was formed in July 2007 by the consolidation of NASD and the regulatory arm of the New York Stock Exchange ("NYSE"). FINRA is developing a new "Consolidated Rulebook" of FINRA Rules that includes NASD Rules. The first phase of the new consolidated rules became effective on December 15, 2008. See FINRA Regulatory Notice 08-57 (Oct. 2008). Because the Complaint in this case was filed after December 15, 2008, FINRA's procedural rules apply. The conduct rules that apply are those that existed at the time of the conduct at issue. FINRA's Rules are available at www.finra.org/Rules.

from February 3, 2009, until the Firm filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") on behalf of McIntosh on January 21, 2010. Because the Form U5 disclosed that McIntosh had executed trades between November 30, 2009, and January 6, 2010, in which he improperly allocated profitable trades to his wife's personal account and unprofitable transactions to certain customer accounts or to a Firm error account, Enforcement initiated the investigation that gave rise to this disciplinary action. McIntosh is charged with unauthorized trading as to 176 trades allocated directly to the customers' accounts and conversion or misuse of customer funds as to other trades where charges from the Firm's error account were debited to the customers' accounts, in violation of NASD Rule 2330(a), NASD IM-2310-2, and FINRA Rules 2150(a), and 2010. After being twice served with the Complaint, McIntosh failed to respond, leading Enforcement to file Department Of Enforcement's Motion For Entry Of Default Decision And Request For Sanctions ("Default Motion").

For the reasons set forth below and pursuant to authority granted by FINRA Rule 9269(a), the Hearing Officer finds McIntosh in default, grants Enforcement's Default Motion, and deems the allegations of the Complaint admitted. Based on the Complaint and other evidence of record, the Hearing Officer issues this Decision barring McIntosh from associating with any FINRA member firm in any capacity.²

² The facts set forth herein are based on the allegations of the Complaint, which, as discussed below, are deemed admitted as a result of Respondent's default, and on a Declaration given by a FINRA Enforcement attorney, William Brice La Hue ("La Hue Decl."), and the accompanying schedules and exhibits, marked Schedule A through Schedule D and CX-1 through CX-4.

II. Jurisdiction

McIntosh is not currently registered with any FINRA member firm.³ Nevertheless, FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint alleges misconduct that occurred while McIntosh was a registered representative and the Complaint was filed and served within two years after Respondent's registration with a FINRA member firm terminated.

III. Procedural History And Grant Of Default Motion

On January 20, 2012, Enforcement filed and served a Notice of Complaint ("Notice") and Complaint by sending them by first-class and certified mail to McIntosh's last known residential address in Allen, Texas, as reflected in the Central Registration Depository ("CRD address"). Enforcement also sent the Notice and Complaint to McIntosh at an alternate address in St. Paul, Minnesota.⁴ The items sent by first-class mail were not returned. The items sent by certified mail to McIntosh's residential CRD address were returned marked "not deliverable as addressed." Enforcement received a receipt for the items sent by certified mail to the alternate address, and that receipt appeared to be signed by McIntosh.⁵ McIntosh did not respond by the due date for an Answer (February 17, 2012).⁶

On February 21, 2012, Enforcement served the Second Notice with another copy of the Complaint by first-class and certified mail to McIntosh's residential CRD address and to the

³ La Hue Decl. ¶ 6; CX-2.

⁴ Enforcement conducted a computer-based search for additional addresses for McIntosh, and it represents that it is unaware of any address more current than the alternate address. La Hue Decl. ¶ 11; Default Motion at 2.

⁵ La Hue Decl. ¶ 7; CX-3.

⁶ La Hue Decl. ¶ 8.

alternate address.⁷ The items sent by first-class mail were not returned. According to the United States Postal Services (“USPS”) website, a notice was left for McIntosh at his CRD address concerning the items sent by certified mail to that address. However, the USPS has not returned the items sent by certified mail or provided a delivery receipt. With respect to the items sent by certified mail to the alternate address, Enforcement has received a receipt that appears to have been signed by McIntosh.⁸ McIntosh did not respond by the due date for an Answer (March 9, 2012).⁹

After McIntosh failed to file or serve an Answer or otherwise respond to either the first or second service of the Notice and Complaint, Enforcement filed its Default Motion.

Under FINRA Rule 9134, service of a complaint is valid if sent to an individual respondent by certified mail at the person’s most recent residential address in the CRD, unless the staff has actual knowledge that the CRD address is outdated and knows of a more current address.¹⁰ In this case, Enforcement twice sent the Complaint with a Notice to both the CRD address and the alternate address. Enforcement’s efforts were sufficient to establish constructive service. Moreover, there is evidence to support actual service, such as the signatures on the certified mail return receipts for papers served at the alternate address, and the fact that none of the papers sent by first-class mail were returned in either round of service.

⁷ La Hue Decl. ¶ 8.

⁸ La Hue Decl. ¶ 9; CX-4.

⁹ La Hue Decl. ¶ 10.

¹⁰ Alternatively, a complaint may be served on an individual at the CRD address of an entity employing the person. However, that alternative was not available in this case because McIntosh was no longer registered with any FINRA member firm.

The Hearing Officer finds that the Complaint was validly served and that McIntosh failed to file an Answer. Pursuant to FINRA Rules 9215(f) and 9269(a), the Hearing Officer grants Enforcement's Default Motion and deems the allegations in the Complaint admitted.

IV. Findings Of Fact And Conclusions Of Law As To Underlying Violations

A. Respondent's Conduct

From November 30, 2009, through January 6, 2010, McIntosh executed unauthorized trades on his computer terminal at Cobra.¹¹ He posted the trades that were profitable to his wife's IRA account and 176 of the trades that were not profitable to one of three customer accounts, without the customers' knowledge, authorization, or consent.¹² McIntosh also improperly placed additional unauthorized and unprofitable trades into Cobra's error account before transferring the losses to the customers by debiting their accounts. In order to effect that second aspect of the misconduct, McIntosh attempted to deceive Cobra by using a system normally used for journaling software fees and miscellaneous expenses to customer accounts to transfer debits to the customers' accounts. That system capped the size of a transfer at less than \$1,000 and did not require principal review and approval. McIntosh broke down the losses on the unauthorized transactions into amounts greater than \$900 but less than \$1,000 and debited the customers' accounts in multiple transfers.¹³ McIntosh's unauthorized transactions resulted in

¹¹ La Hue Decl. ¶¶ 13, 20, 24, and 30; Schedules A-D.

¹² La Hue Decl. ¶¶ 14-18, 23, 26, and 30; Schedules A-D.

¹³ La Hue Decl. ¶¶ 25-29.

over \$40,000 in direct losses in the three customer accounts,¹⁴ plus an additional \$33,200.60 in losses improperly debited in connection with McIntosh's misuse of Cobra's error account.¹⁵

B. Applicable Rules

NASD Rule 2330(a) and its successor, FINRA Rule 2150(a), both provide: "No member or person associated with a member shall make improper use of a customer's securities or funds."¹⁶ NASD IM-2310-2 concerns fair dealing with customers. Subsection (a)(1) provides: "Implicit in all member and registered representative relationships with customers and others is the fundamental responsibility for fair dealing." NASD IM-2310-2(b)(4)(iii) specifies that unauthorized trading is a form of fraud. FINRA Rule 2010 requires the observance of "high standards of commercial honor and just and equitable principles of trade." It is inconsistent with the duties imposed by these Rules to violate other FINRA (and formerly applicable NASD) rules.¹⁷ Unauthorized trading in particular has been long recognized as a violation of the broad ethical principles contained in FINRA Rule 2010 (and in its identical predecessor, NASD Rule 2110).¹⁸

¹⁴ La Hue Decl. ¶ 19; Schedules A-C.

¹⁵ La Hue Decl. ¶¶ 25 and 30; Schedule D.

¹⁶ NASD Rule 2330(a) was in effect on November 30, 2009, the earliest date of the Respondent's misconduct, but FINRA Rule 2150(a) went into effect commencing on December 14, 2009, and applied to unauthorized trading that occurred on that date and later.

¹⁷ The Securities and Exchange Commission has consistently held that a violation of an NASD rule or regulation is inconsistent with NASD Rule 2110, the identical predecessor of FINRA Rule 2010. *Alvin W. Gebhart*, Exchange Act Rel. No. 53136, 2006 SEC LEXIS 93, at *54 n.75 (Jan. 18, 2006), *rev'd and remanded in part on other grounds sub. nom Gebhart v. SEC*, 2007 U.S. App. LEXIS 27183 (9th Cir. Nov. 21, 2007). *See also Richard F. Kresge*, Exchange Act Rel. No. 55988, 2007 SEC LEXIS 1407, at *42 (June 29, 2007).

¹⁸ *See Robert Lester Gardner*, 52 S.E.C. 343, 344 (1995), *aff'd*, 89 F.3d 845, 1996 U.S. App. LEXIS 34894 (Apr. 22, 1996; *District Bus. Conduct Comm. v. Hellen*, No. C3A970031, 1999 NASD Discip. LEXIS 22 (NAC June 15, 1999).

C. Violations

McIntosh violated the applicable Rules. He engaged in unauthorized trading and either placed the losing trades directly into customer accounts or falsely booked the losing trades as though they were charges to customer accounts. He put any profitable trades in his wife's personal account.

The unauthorized trading violated NASD IM-2310-2, which specifies that unauthorized trading and/or the unauthorized use of customer funds or securities both violate the duty to deal fairly with customers. That misconduct also violated FINRA Rule 2010, which requires the observance of "high standards of commercial honor and just and equitable principles of trade."

The debits to customer accounts to cover some of the unauthorized trading violated NASD Conduct Rule 2330(a) and its successor, FINRA Rule 2150(a), both of which prohibit the improper use of customer funds. This misconduct constituted conversion as defined by FINRA's Sanction Guidelines,¹⁹ which state that conversion is "an intentional and unauthorized taking of and/or exercise of ownership over property by one who neither owns the property nor is entitled to possess it."²⁰

McIntosh engaged in a systemic pattern of trading designed to enrich himself and his wife at the expense of his customers. Moreover, he purposely structured some of the trading losses in order to avoid supervision and deceive his Firm. McIntosh engaged in conduct that is the antithesis of the high standards of commercial honor that FINRA Rule 2010 requires.

¹⁹ FINRA Sanction Guidelines (2011), available at www.finra.org/oho (then follow "Enforcement" hyperlink to "Sanction Guidelines").

²⁰ Sanction Guidelines at 36.

V. Sanctions

The FINRA Sanction Guidelines for unauthorized trading suggest a range of sanctions, including a fine of \$5,000 to \$75,000 and a suspension in any or all capacities for ten business days to one year. In egregious cases, an adjudicator may impose up to a two-year suspension or even a bar.²¹ The Sanction Guidelines list factors to be considered in determining whether an unauthorized trading case is egregious. Factors relevant here include: (i) the number of unauthorized trades executed; (ii) whether the respondent attempted to conceal the unauthorized trading; (iii) customer losses; (iv) and the respondent's motive.²²

These factors demonstrate that this is an egregious case. McIntosh acted in bad faith to enrich himself and his wife. He also attempted to conceal his unauthorized trading. He executed a large number of unauthorized transactions in a relatively short period of time – 176 losing trades that were directly placed in customer accounts in the period from December 9, 2009, to December 28, 2009, and other trades that were broken down into 35 separate charges from the Firm's error account to the customer accounts. Customer losses were substantial, amounting to over \$40,000 in direct losses to the customer accounts and an additional \$33,000 in false charges to the customers' accounts from the Firm's error account.

Enforcement takes the position in its Default Motion that McIntosh is a danger to the investing public and seeks a bar from association with any FINRA member firm in all capacities for the unauthorized trading. The Hearing Officer agrees with Enforcement's assessment and imposes a bar for the unauthorized trading in violation of NASD IM-2310-2 and FINRA Rule 2010. With respect to the allegations of conversion, the Sanction Guidelines state that a bar

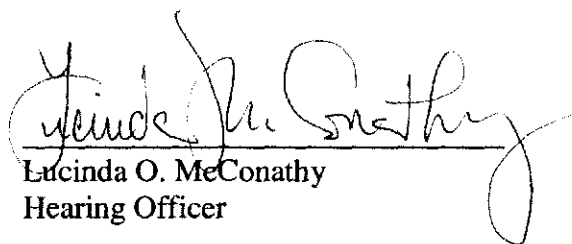
²¹ Sanction Guidelines at 98.

²² *Id.*

should be imposed, regardless of the amount involved.²³ That sanction is entirely appropriate here for McIntosh's violations of NASD Rule 2330(a) and FINRA Rules 2150(a) and 2010.

VI. Order

Enforcement's Default Motion is granted and the allegations of the Complaint are deemed to be true. Respondent Paul Ellsworth McIntosh is barred from association with any FINRA member firm in any capacity for unauthorized trading, and separately barred from association with any FINRA member firm in any capacity for conversion. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.



Lucinda O. McConathy
Hearing Officer

Copies to: Paul Ellsworth McIntosh (via first-class mail and overnight courier)
William Brice La Hue, Esq. (via first-class and electronic mail)
Andrew A. Favret, Esq. (via electronic mail)
David R. Sonnenberg, Esq. (via electronic mail)

²³Sanction Guidelines at 36.

SCHEDULE A**UNAUTHORIZED TRANSACTIONS IN A.L.'S ACCOUNT**

NO.	TRADE DATE	BUY/SELL CODE	QUANTITY	DESCRIPTION
1	12/9/2009	STO	-10	APV 2009 Dec 19 C @ 200.000
2	12/9/2009	STO	-10	APV 2009 Dec 19 C @ 200.000
3	12/9/2009	BTO	1	APV 2009 Dec 19 C @ 200.000
4	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
5	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
6	12/9/2009	BTO	8	APV 2009 Dec 19 C @ 200.000
7	12/9/2009	BTO	3	APV 2009 Dec 19 C @ 200.000
8	12/9/2009	BTO	27	APV 2009 Dec 19 C @ 200.000
9	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
10	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
11	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
12	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
13	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
14	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
15	12/9/2009	STO	-3	APV 2009 Dec 19 C @ 200.000
16	12/9/2009	STO	-16	APV 2009 Dec 19 C @ 200.000
17	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
18	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
19	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
20	12/9/2009	BTO	40	APV 2009 Dec 19 C @ 200.000
21	12/9/2009	BTO	15	APV 2009 Dec 19 C @ 200.000
22	12/9/2009	BTO	130	APV 2009 Dec 19 C @ 200.000
23	12/9/2009	BTO	5	APV 2009 Dec 19 C @ 200.000
24	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
25	12/9/2009	STO	-2	APV 2009 Dec 19 C @ 200.000
26	12/9/2009	STO	-17	APV 2009 Dec 19 C @ 200.000
27	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
28	12/9/2009	STO	-19	APV 2009 Dec 19 C @ 200.000
29	12/9/2009	BTO	22	APV 2009 Dec 19 C @ 200.000
30	12/9/2009	BTO	54	APV 2009 Dec 19 C @ 200.000
31	12/9/2009	BTO	19	APV 2009 Dec 19 C @ 200.000

SCHEDULE B

UNAUTHORIZED TRANSACTIONS IN F.L.'S FAMILY TRUST ACCOUNT

NO.	TRADE DATE	BUY/SELL CODE	QUANTITY	DESCRIPTION
1	12/10/2009	RIMM Dec '09 @ 65.00 CALL	BTO	10
2	12/10/2009	RIMM Dec '09 @ 65.00 CALL	STC	-10
3	12/10/2009	RIMM Dec '09 @ 65.00 CALL	STO	-10
4	12/10/2009	RIMM Dec '09 @ 65.00 CALL	STO	-15
5	12/10/2009	RIMM Dec '09 @ 65.00 CALL	BTC	15
6	12/10/2009	RIMM Dec '09 @ 65.00 CALL	BTC	5
7	12/10/2009	RIMM Dec '09 @ 65.00 CALL	BTC	5
8	12/14/2009	AAPL Dec '09 @ 190.00 PUT	BTO	30
9	12/14/2009	AAPL Dec '09 @ 190.00 PUT	STC	-25
10	12/14/2009	AAPL Dec '09 @ 190.00 PUT	STC	-5
11	12/28/2009	AJL 2010 Jan 16 C @ 210.000	STO	-20
12	12/28/2009	AJL 2010 Jan 16 C @ 210.000	BTC	20

SCHEDULE C

UNAUTHORIZED TRANSACTIONS IN A.L.'S R.H. ACCOUNT

NO.	TRADE DATE	BUY/SELL CODE	QUANTITY	DESCRIPTION
1	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	50
2	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	4
3	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	37
4	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	9
5	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-94
6	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-6
7	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	17
8	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-17
9	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-114
10	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-14
11	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-10
12	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-10
13	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-7
14	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-18
15	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-10
16	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-17
17	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-32
18	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-168
19	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	10
20	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	4
21	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	47
22	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	4
23	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	134
24	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	1
25	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-9
26	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-4
27	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-5
28	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-8
29	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-8
30	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-47
31	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-10
32	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-25
33	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-58
34	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-4
35	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-78
36	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-22
37	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-37
38	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-26
39	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-1

NO.	TRADE DATE	BUY/SELL CODE	QUANTITY	DESCRIPTION
40	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-4
41	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-4
42	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-25
43	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-1
44	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-4
45	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-1
46	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-4
47	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-11
48	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-4
49	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-13
50	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-7
51	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-80
52	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	28
53	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	42
54	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	102
55	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	30
56	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	15
57	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	11
58	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	12
59	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	10
60	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	1
61	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	13
62	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	36
63	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	108
64	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	5
65	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	8
66	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	14
67	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTC	65
68	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-47
69	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-37
70	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-3
71	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-4
72	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-5
73	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-25
74	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-33
75	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-25
76	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-7
77	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-14
78	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	28
79	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	110
80	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	31
81	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	9
82	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	22
83	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-33

NO.	TRADE DATE	BUY/SELL CODE	QUANTITY	DESCRIPTION
84	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-30
85	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-25
86	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-44
87	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-68
88	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	6
89	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	66
90	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	25
91	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	10
92	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	3
93	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	1
94	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	15
95	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	15
96	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	4
97	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	1
98	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	3
99	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	4
100	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	15
101	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	1
102	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	7
103	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	3
104	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	2
105	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	2
106	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	9
107	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	62
108	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	33
109	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	10
110	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	8
111	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	8
112	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	7
113	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	7
114	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	14
115	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	1
116	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	20
117	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	13
118	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	5
119	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	1
120	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	19
121	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	52
122	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	148
123	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	33
124	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	1
125	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	41
126	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	39
127	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	4

NO.	TRADE DATE	BUY/SELL CODE	QUANTITY	DESCRIPTION
128	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	10
129	12/18/2009	RFY 2009 Dec 19 P @ 70.000	BTO	72
130	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-68
131	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-237
132	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-94
133	12/18/2009	RFY 2009 Dec 19 P @ 70.000	STO	-1

SCHEDULE D

FUNDS TRANSFERRED TO CUSTOMER ACCOUNTS FROM ERROR ACCOUNT

NO.	DATE	DESCRIPTION	AMOUNT
1	12/10/2009	DAYTRAD	\$959.00
2	12/10/2009	DAYTRAD	\$958.90
3	12/10/2009	DAYTRAD	\$958.90
4	12/10/2009	DAYTRAD	\$958.90
5	12/10/2009	DAYTRAD	\$958.90
6	12/10/2009	DAYTRAD	\$958.90
7	12/10/2009	DAYTRAD	\$958.90
8	12/10/2009	DAYTRAD	\$958.90
9	12/10/2009	DAYTRAD	\$958.90
10	12/10/2009	DAYTRAD	\$958.90
11	12/10/2009	DAYTRAD	\$958.90
12	12/10/2009	DAYTRAD	\$958.90
13	12/10/2009	DAYTRAD	\$958.90
14	12/10/2009	DAYTRAD	\$958.90
15	12/21/2009	DAYTRAD	\$924.97
16	12/21/2009	DAYTRAD	\$925.00
17	12/21/2009	DAYTRAD	\$925.00
18	12/21/2009	DAYTRAD	\$925.00
19	12/21/2009	DAYTRAD	\$925.00
20	12/21/2009	DAYTRAD	\$925.00
21	12/21/2009	DAYTRAD	\$925.00
22	12/21/2009	DAYTRAD	\$925.00
23	12/21/2009	DAYTRAD	\$925.00
24	12/21/2009	DAYTRAD	\$954.29
25	12/21/2009	DAYTRAD	\$954.24
26	12/21/2009	DAYTRAD	\$954.24
27	12/21/2009	DAYTRAD	\$954.24
28	12/21/2009	DAYTRAD	\$954.24
29	12/21/2009	DAYTRAD	\$954.24
30	12/21/2009	DAYTRAD	\$954.24
31	12/21/2009	DAYTRAD	\$954.24
32	12/21/2009	DAYTRAD	\$954.24
33	12/21/2009	DAYTRAD	\$954.24
34	12/21/2009	DAYTRAD	\$954.24
35	12/21/2009	DAYTRAD	\$954.24
	TOTAL		\$33,200.60