

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

Department of Enforcement,

Complainant,

v.

Conrad R. Huss (CRD No. 2047874),

and

Christopher J. Moran (CRD No. 1095395),

Respondents.

Disciplinary Proceeding
No. 2011027338901

Hearing Officer: DRS

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: September 1, 2015

INTRODUCTION

Disciplinary Proceeding No. 2011027338901 was filed on December 8, 2014, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Christopher J. Moran submitted an Offer of Settlement (Offer) to Complainant dated August 21, 2015. 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 (as amended by the Offer of Settlement), 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 (as amended by the Offer of Settlement), 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

1. Moran first became registered with FINRA as a GS through a former member firm in 1983.

2. Moran became registered with FINRA as a GS on July 5, 1989, as a Financial and Operations Principal ("FINOP") on September 14, 1989, as a Registered Options Principal ("OP") on September 20, 1990, as a General Securities Principal ("GP") on May 11, 1999, and as an Operations Professional ("OS") on November 30, 2011, all through DPC. Moran's registrations through DPC terminated on July 31, 2014.

3. Since August 2, 2014, Moran has been registered as a GS, GP, FINOP, OP and OS through another member firm.

4. Under Article V of FINRA's By-Laws, FINRA possesses jurisdiction over Moran for purposes of this proceeding because: (1) he is registered with FINRA and associated with a member firm; and (2) the Complaint charges him with misconduct committed while he was registered with FINRA and associated with a member firm.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:¹

SUMMARY

5. This case arises out of fraudulent misrepresentations made by Respondents Miles Bahl and Conrad Huss in connection with the solicitation and sale of over \$3 million worth of promissory notes in a private offering to 17 of Bahl's customers between March 2006 and July 2007, and Respondent Christopher Moran's failure to supervise the offering and sale of the notes while Respondents were associated with former member firm, DPC.

6. The notes ("EDFC Notes") were issued by Economic Development Finance Corporation ("EDFC"), a real estate development company formed in 2002 in Massachusetts. In or around August 2007, EDFC defaulted under the Notes. With one exception, EDFC failed to pay Bahl's customers the principal due and owing under the EDFC Notes, resulting in significant losses to many customers.

7. In connection with the sale of the EDFC Notes, Bahl and Huss recklessly misrepresented to customers that the EDFC Notes were fully secured by EDFC's pledge of proceeds from the sale of certain historic rehabilitation tax credits ("HRTCs"). Effectively, there was no collateral for the EDFC Notes because (a) the HRTCs had not even been issued at the time the proceeds were purportedly pledged by EDFC; and (b) even if the HRTCs had been issued, EDFC had no property right or interest in the purported HTRC proceeds, and therefore no ability to pledge them as collateral.

¹ The findings herein are pursuant to Respondent Moran's Offer of Settlement and are not binding on any other person or entity named as a respondent in this or any other proceeding.

8. Respondent Moran, on behalf of DPC, failed to establish and maintain written supervisory procedures or a supervisory system concerning the offer and sale of private placements, such as the EDFC Notes. Moran also failed to supervise Huss and Bahl in connection with the offer and sale of the EDFC Notes. As a result, Moran violated NASD Conduct Rules 3010 and 2110.

9. Finally, Moran, on behalf of DPC, caused commissions from the sale of the EDFC Notes to be paid to a non-member, who was a consultant to EDFC, in violation of NASD Conduct Rules 2420 and 2110.

FACTS

A. EDFC's Engagement of DPC

10. EDFC was a Massachusetts real estate development company formed in 2002. Its principals were DP, President, and RS, Chief Operating Officer. EDFC focused on multi-unit housing or mixed-use development properties which could benefit from various types of governmental financial support, including HRTCs, low income housing tax credits and direct subsidies available through state and federal programs.

11. EDFC's main historic property rehabilitation project at the time, known as the Hadley Building. The Hadley Building was a 45 unit apartment building to be built in a historic building in Worcester, MA that once housed a furniture company. The Hadley Building was owned by Hadley Apartments LLC, not by EDFC.

12. In the spring of 2005, FSA, a consulting firm that was not a member of FINRA, contacted Moran on behalf of EDFC to learn whether DPC was interested in assisting EDFC in raising working capital. On or about August 22, 2005, EDFC formally retained DPC as exclusive placement agent in connection with the proposed offer and private placement by EDFC

of promissory “bridge” notes (the “EDFC Offering”). As to compensation, EDFC agreed to pay DPC a placement fee of 10% of the amount of notes sold to investors that DPC identified and a 2% expense allowance.

13. In October 2005, DPC entered into a side agreement with FSA pursuant to which DPC agreed to pay FSA 20% of the placement fees and expenses DPC received from EDFC arising from the sale of the EDFC Notes, notwithstanding the fact that FSA was not a member of FINRA or a registered broker-dealer.

B. The EDFC Offering

14. The essential terms of the EDFC Offering were set forth in a Bridge Loan Promissory Note Term Sheet (the “Term Sheet”), which Huss drafted, the EDFC Notes and related agreements provided to Investors. The Term Sheet stated that “Security Issued” was “Promissory Notes in the principal amount and having other terms described” in the Term Sheet. The EDFC Notes were for a term of one year and were to pay interest at a rate of 15% per year for a term of one year, plus a 1% fee paid to the investor at closing. The principal was to be secured by proceeds from the sale of HRTCs awarded for the Hadley Building.

15. During the period March 2006 through July 2007, Moran was the DPC principal responsible for supervising the EDFC Offering. Moran also was responsible for supervising Huss and Bahl.

16. Beginning in March 2006, Bahl solicited investors to purchase the EDFC Notes. If the customer expressed an interest, Huss mailed the customer a letter for prospective investors (“Investor Letter”), which Huss also drafted, and transmitted the following documents (the “Offering Documents”):

- a. A Term Sheet;
- b. A sample Promissory Note;
- c. A sample Pledge Agreement pertaining to the collateral;
- d. A sample Assumption and Assignment Agreement pertaining to the collateral;
- e. A memo summarizing the requirements for and calculations of the HRTCs pertaining to the Hadley Building (the "HRTC Memo");
- f. A PowerPoint on the Hadley Building;
- g. An appraisal of the Hadley Building;
- h. A construction loan commitment letter from Amalgamated Bank;
- i. DP's personal financial statement; and
- j. RS's personal financial statement.

17. The Investment Letter and Offering Documents were sent to 17 customers. If after receiving the Offering Documents customers decided to invest, they wired funds directly to EDFC. In return, EDFC provided the customer with an executed: (i) Note; (ii) Pledge Agreement; (iii) Assignment Agreements from DP and RS; and (iv) Guarantees from DP and HS (collectively the "Subscription Documents").

18. During the period March 2006 through July 2007, Bahl sold \$3,300,000 worth of EDFC Notes to 17 of his customers in 32 separate transactions.

19. When the EDFC Notes approached maturity, EDFC advised that if investors agreed to extend the maturity date of the Notes for another year, EDFC would pay DPC an additional placement fee. Bahl subsequently advised his customers of EDFC's offer to extend the maturity date, recommended that they do so and told them, *inter alia*, that the Notes would continue to be secured by the HRTCs. Ultimately \$1.2 million (approximately 35%) of the EDFC Notes purchased by Bahl's customers were extended pursuant to an "Allonge to Promissory Note."

20. DPC received approximately \$393,000 in fees and expenses from the sale of EDFC Notes to Bahl's customers, and approximately \$156,000 in fees for extensions of EDFC Notes.

Pursuant to the fee-sharing agreement between DPC and FSA, DPC paid FSA approximately \$91,000.

C. The Misrepresentations Concerning the EDFC Notes

21. During the period from March 2006 through July 2007, in connection with the purchase and sale of securities, Bahl committed fraud by recklessly misrepresenting to investors that the EDFC Notes were fully secured by proceeds from the sale of HRTCs for the Hadley Building, and that if EDFC defaulted on the Notes, investors could expect to be paid back from the HRTC sale proceeds.

22. During the period from March 2006 through October 2006, in connection with the purchase and sales of securities, Respondent Huss recklessly misrepresented to investors (i) in the Investor Letter that Huss prepared, that the collateral for the EDFC Notes included "proceeds from the historical tax credits (federal and state);" and (ii) in the Term Sheet that Huss prepared, that collateral for the EDFC Notes included approved state and federal historic tax credits.

23. In the course of marketing and selling the EDFC Notes, Bahl and Huss made use of means or instrumentalities of interstate commerce and of the mails. Specifically, Bahl and Huss made use of, among other things, the telephone, sent the Subscription Documents to the customers using the mails, and caused customers to wire funds to invest in the Offering.

24. The above representations were false when made, in that the EDFC Notes were not secured by proceeds from the sale of any HRTCs.

25. The above representations were material. Whether an investment is secured by collateral or is entirely unsecured is information that a reasonable investor would consider important.

26. On January 20, 2015, FINRA accepted an Offer of Settlement made by Bahl containing findings that Bahl violated §10(b) of the Exchange Act and Rule 10b-5 thereunder, acted in contravention of Securities Act §17(a)(2), thereby violating NASD Conduct Rule 2110, and also independently violated NASD Conduct Rules 2120, 2310 and 2110.

27. Moran failed to supervise the EDFC Offering and failed to supervise Huss or Bahl concerning their activities in connection with the offer and sale of the EDFC Notes.

FOURTH CAUSE OF ACTION
Improper Sharing of Commissions with a Non-Member –
NASD Conduct Rules 2420 and 2110

28. NASD Conduct Rule 2420 prohibits FINRA members from paying any commissions or fees derived from securities transactions to any non-member.

29. As noted above, in October 2005, DPC entered into an agreement with FSA, who was not a FINRA member or a registered broker-dealer, pursuant to which DPC agreed to pay FSA transaction-based compensation consisting of 20% of the fees and expenses that DPC received from EDFC arising from the sale of the EDFC Notes.

30. Pursuant to that fee-sharing agreement between DPC and FSA, from November 2005 through October 2007, Moran, on behalf of DPC, caused DPC to pay FSA approximately \$91,000 in transaction-based compensation.

31. By sharing securities transaction-based compensation with a non-member, Moran violated NASD Conduct Rules 2420 and 2110.

FIFTH CAUSE OF ACTION
Failure to Supervise – NASD Conduct Rules 3010 and 2110

32. NASD Conduct Rule 3010(a) requires firms to establish and maintain a system to supervise the activities of each registered representative, registered principal, and other

associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable NASD and FINRA rules.

33. NASD Conduct Rule 3010(b) provides that “[e]ach member shall establish, maintain, and enforce written procedures to supervise the types of business in which it engages and to supervise the activities of registered representatives, registered principals, and other associated persons that are reasonably designed to achieve compliance with applicable securities laws and regulations, and with the applicable Rules of NASD.”

34. During the period March 2006 through July 2007, Moran was the principal responsible for ensuring that DPC’s written procedures complied with NASD Conduct Rule 3010(b). Moran also was responsible for supervising Huss and Bahl.

35. During the period March 2006 through July 2007, Moran, on behalf of DPC, failed to establish, maintain or enforce a reasonable supervisory system or written procedures in connection with the firm’s private placement business.

36. In addition, Moran failed to reasonably supervise the EDFC Offering, failed to reasonably supervise Huss or Bahl concerning their activities in connection with the offer and sale of the EDFC Notes, and failed to reasonably supervise Bahl with a view towards preventing Bahl’s violations of the federal securities laws and the rules promulgated thereunder.

37. By reason of the foregoing, Moran violated NASD Conduct Rules 3010(a), 3010(b) and 2110.

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:

- Suspended from association with any FINRA member in a principal capacity for a period of 18 months; and
- Fined in the amount of \$15,000

Respondent understands that this settlement includes a finding that he failed to supervise an individual who violated §10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder and that under Article III, Section 4 of FINRA's By-Laws, this makes him subject to a statutory disqualification with respect to association with a member.

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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