

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT.

Complainant.

v.

DARWIN R. MARTINEZ
(CRD No. 1493059),

Respondent.

Disciplinary Proceeding
No. C10050004

Hearing Officer - DMF

ORDER ACCEPTING OFFER OF SETTLEMENT

Date: May 10, 2005

INTRODUCTION

"Disciplinary Proceeding No. C10050004 was filed on February 22, 2005, by the Department of Enforcement of NASD ("Complainant"). Respondent Darwin R. Martinez ("Respondent") submitted an Offer of Settlement ("Offer") to Complainant on May 2, 2005. Pursuant to Code of Procedure Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC") Review Subcommittee or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to Code of Procedure 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, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NASD, or to which NASD 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 understands that this Order will become part of

Respondent's permanent disciplinary record and may be considered in any future actions brought by NASD.

BACKGROUND

Respondent first became registered with NASD as a General Securities Representative ("GSR") on or about March 7, 1988 through an association with a member firm.

From on or about October 30, 1996 through on or about October 6, 2000, Respondent was registered with NASD as a GSR through an association with former member firm Mason Hill & Co., Inc. (BD No. 38308) ("Mason Hill").

From on or about October 5, 2000 through on or about February 24, 2003, Respondent was registered with NASD through an association with another former member firm. Respondent's employment end date at that former member firm was February 24, 2003.

Although Respondent is not currently registered with NASD, pursuant to Article V, Section 4 of NASD's By-Laws, this action was commenced prior to the expiration of NASD's jurisdiction over Respondent.

FINDINGS AND CONCLUSIONS

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

Respondent was registered with NASD as a GSR through an association with former member firm Mason Hill from September 3, 1996 through October 6, 2000. From in or about April 1996 to in or about July 1998, Respondent stole property having a value in excess of \$3,000 from RM and CM, who, on information and belief, were customers of Mason Hill. From in or about February 1998, he stole property having a value in excess of \$3,000 from NP, on information and belief, also a customer of Mason Hill. Respondent's wrongdoing is evidenced by the fact that on or about November 26, 2002, Respondent pled guilty in New York Supreme Court to two counts of charges that he committed the crime of Grand Larceny in the Third Degree, in violation of New York Penal Law § 155.35, a class D felony.

By reason of the foregoing, Respondent violated NASD Conduct Rule 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 NASD of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be barred from associating with any NASD member firm in any capacity.

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

SO ORDERED.

NASD

By: Frank M. Weber

Frank M. Weber, Regional Counsel
on behalf of the Director of ODA,
pursuant to delegated authority