

**NASD
OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Nicholas Apodiakos
(CRD No. 1595927)

Respondent.

Disciplinary Proceeding
No. C11050002

Hearing Officer RSH

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: June 20, 2005

INTRODUCTION

Disciplinary Proceeding No. C11050002 was filed on March 2, 2005, by the Department of Enforcement of NASD ("Complainant"). Respondent Nicholas Apodiakos ("Apodiakos") submitted an Offer of Settlement ("Offer") to Complainant on June 17, 2005. Pursuant to Code of Procedure Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC") 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

On February 25, 1998, Respondent Nicholas Apodiakos ("Apodiakos") (CRD No. 1595927) first became registered with NASD as a General Securities Representative through a member firm. From June 1, 1998, through March 3, 2003, Apodiakos was registered with NASD as a General Securities Representative through member firm Hawthorne Securities Corp. ("Hawthorne") (BD No. 7278). On or about March 4, 2003, Hawthorne filed a Form U5 on behalf of Apodiakos terminating his employment as of March 3, 2003. Pursuant to Article V, Section 4, of NASD's By-Laws, NASD retains jurisdiction over Apodiakos through at least March 2, 2005, which is two years after the date that he was last associated with a member firm.

FINDINGS AND CONCLUSIONS

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

In or about August 2002, Apodiakos induced customer VS to withdraw \$60,000 from her brokerage account by recommending that she purchase a "private investment" offering a 10% tax-free return over a one-year period (the "tax-free investment"). Apodiakos described the purported tax-free investment to customer VS as being "very safe," and noted that his church had previously done well with this investment. Customer VS subsequently determined to follow Apodiakos' advice.

On or about August 28, 2002, customer VS gave Apodiakos two bank checks, totaling \$60,000, in order to purchase the tax-free investment. In accordance with Apodiakos' instructions, customer VS made the checks payable to PS, a third party. Unbeknownst to customer VS, however, her funds were not used to purchase the tax-free investment. Instead, PS cashed the checks and split the proceeds with Apodiakos.

On or about January 21, 2003, Apodiakos induced customer VS to sell her shares in a mutual fund in order to make an additional purchase of the tax-free investment. Customer VS again followed Apodiakos' advice. On or about January 24, 2003, customer VS gave

Apodiakos a \$19,000 personal check, payable to PS, in order to purchase the tax-free investment. Once again, however, her funds were not used to purchase the tax-free investment as she intended. Instead, PS cashed the check and gave at least some of the proceeds to Apodiakos. Apodiakos has not repaid the \$79,000 to customer VS. Based on the foregoing, Apodiakos violated NASD Conduct Rules 2330 and 2110 by Apodiakos.

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 member firm in any capacity. The sanctions imposed herein shall be effective on a date set by NASD staff. Pursuant to IM-8310-2(f), a bar or expulsion shall become effective upon approval or acceptance of this Order by the NAC.

SO ORDERED.

NASD

By:



Frederick F. McDonald, Jr.
Director, Boston District Office
on behalf of the Director of ODA,
pursuant to delegated authority