

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ELTON JOHNSON, JR.,
CRD No. 844428,

Respondent.

Disciplinary Proceeding
No. C3A030008

Hearing Officer - DMF

ORDER:

- (1) SETTING ASIDE DEFAULT
DECISION DATED MAY 15, 2006;
and**
- (2) ACCEPTING OFFER OF
SETTLEMENT**

INTRODUCTION

On March 28, 2003, the Department of Enforcement of NASD ("Complainant") initiated this Disciplinary Proceeding No. C3A030008 against respondent Elton Johnson, Jr. ("Respondent"). On May 15, 2006, the Office of Hearing Officers entered a default decision (the "default decision") in favor of Complainant and against Respondent. Following the default decision, Respondent submitted an Offer of Settlement ("Offer") to Complainant to resolve this proceeding. 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

From on or about May 13, 1994 through the present, Respondent has been associated with Amerivet Securities, Inc. ("Amerivet"), variously as a General Securities Representative, General Securities Principal, Financial and Operations Principal, Municipal Securities Principal, Municipal Securities Representative, Registered Options Principal and Equity Trader Limited Representative. Respondent also serves as the firm's President. Respondent does not have any relevant disciplinary history.

FINDINGS AND CONCLUSIONS

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

1. Respondent has requested that the default decision be set aside. Complainant consents to entry of an order setting aside the default decision.
2. At various times during the period from approximately May 1, 1995 through approximately July 1, 1999 (the "relevant period"), Respondent was the supervisor of registered representative PL at Amerivet. During the relevant period, PL participated in

approximately 103 securities transactions outside the regular course and scope of his employment with Amerivet. Therefore, these were "private securities transactions" within the meaning of Rule 3040.

Pursuant to that rule, PL was required to give Amerivet written notice prior to participating in any of the transactions, describing in detail the proposed transactions and his proposed role in them, and stating whether he had received or expected to receive selling compensation for his participation. PL gave Respondent oral, rather than written, notification of his intention to participate in the private securities transactions, provided various written materials relating to the transactions, and informed Respondent that he would receive compensation for his participation. Respondent, who was the owner and president of Amerivet, approved PL's participation in the transactions.

Rule 3040 provides that if an NASD member approves the participation of an associated person in a private securities transaction for compensation, "the transaction shall be recorded on the books and records of the member and the member shall supervise the person's participation in the transaction as if the transaction were executed on behalf of the member." Respondent has acknowledged that he was responsible for providing the required supervision. He did not, however, supervise PL's participation in the private securities transactions as if they were executed on behalf of Amerivet as required by Rule 3040.

Respondent failed to supervise PL's private securities transaction activities in the manner required by Rule 3040, and thereby violated Rules 3010 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 NASD, of its regulatory responsibility under the Securities Exchange Act of 1934.

ORDER SETTING ASIDE THE DEFAULT DECISION

It is ordered that:

The default decision shall be, and hereby is, set aside.

SANCTIONS FOR VIOLATING NASD CONDUCT RULE 3010 AND 2110

It is further ordered that:

1. Respondent be suspended from associating with any NASD member firm in any supervisory capacity for a period of eighteen (18) months;
2. Respondent be suspended from associating with any NASD member firm in any capacity requiring a Financial and Operations Principal ("FINOP") license (Series 27) for eighteen (18) months;
3. Respondent shall requalify by examination as a General Securities Principal (Series 24) prior to associating with any NASD member firm in any supervisory capacity following the conclusion of the aforementioned suspension; and
4. Respondent shall requalify by examination as a FINOP prior to associating with any NASD member firm in such capacity following the conclusion of the aforementioned suspension.

Respondent further agrees to complete the following undertakings:

5. Respondent will ensure that Amerivet, within 30 days of the effective date of this Order, will employ a second General Securities Principal (Series 24) and a FINOP, whom NASD has determined, in writing to Amerivet, are not unacceptable to NASD.
6. Respondent will ensure that Amerivet continues to employ a second General Securities Principal, whom NASD has determined, in writing to Amerivet, is not unacceptable to NASD, until his supervisory suspension has concluded and he has requalified as a Principal by passing the Series 24 examination.
7. Respondent will ensure that Amerivet continues to employ a FINOP, whom NASD has determined, in writing to Amerivet, is not unacceptable to NASD, until his suspension as a FINOP has concluded and he has requalified as a FINOP by passing the Series 27 examination.

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

SO ORDERED.

NASD

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

Dated: 9/28/06



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