

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

KENNETH L. MCLAUGHLIN
(CRD NO. 1645641)

and

JON M. WADE
(CRD No. 1642488),

Respondents.

Disciplinary Proceeding
No. C8A050048

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

November 23, 2005

Respondent McLaughlin failed to establish, maintain, and enforce adequate written supervisory procedures to ensure compliance with his firm's Anti-Money Laundering Compliance Program, in violation of NASD Conduct Rules 3011 and 2110 and MSRB Rules G-17 and G-41. Respondent McLaughlin is fined \$10,000 and suspended for one year from associating with any member firm in any capacity.

Respondent Wade engaged in excessive trading of mutual funds and municipal bonds in a customer account, in violation of NASD Conduct Rules 2310 and 2110 and MSRB Rules G-17 and G-19; and failed to respond to information requests, in violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110. For these violations, Respondent Wade is barred from associating with any NASD member in any capacity.

Appearances

Richard S. Schultz, Esq., Chicago, IL, for Complainant.

No appearance by or for Respondents.

DECISION

I. INTRODUCTION

The Department of Enforcement ("Enforcement") filed a Complaint on June 13, 2005, against Capital Securities of America, Inc. ("Capital Securities"), Kenneth L. McLaughlin ("McLaughlin"), Jon M. Wade ("Wade"), and Brian E. Mohny ("Mohny").¹ Capital Securities and Mohny settled the charges against them. Accordingly, this Default Decision only relates to McLaughlin and Wade.

The first two causes of the Complaint allege that McLaughlin failed to establish, maintain, and enforce adequate written supervisory procedures with respect to an Anti-Money Laundering ("AML") Compliance Program, in violation of NASD Conduct Rules 3011 and 2110 and Municipal Securities Rulemaking Board ("MSRB") Rules G-17 and G-41.

The third and fourth causes of the Complaint allege that Wade engaged in excessive trading in a customer's account, in violation of NASD Conduct Rules 2310 and 2110 and MSRB Rules G-17 and G-19. In addition, the fifth cause of Complaint alleges that Wade failed to respond to two written requests for information, in violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

Neither Respondent filed an Answer to the Complaint. Thus, on October 7, 2005, Enforcement filed a motion for entry of a default decision against each Respondent. The default motion against McLaughlin is supported by the declaration of Richard S. Schultz ("McLaughlin Decl.") and 13 exhibits. And the default motion against Wade is supported

¹ A copy of the Complaint is attached to this Decision as Exhibit A.

by the declaration of Richard S. Schultz ("Wade Decl.") and nine exhibits.² Neither Respondent filed any response to the motions.³

II. RESPONDENTS' DEFAULTS

On June 10, 2005, Enforcement sent the Complaint and Notice of Complaint to the Respondents at their most current residential addresses as reflected in the Central Registration Depository ("CRD") by first-class regular and certified mail. The certified mailings were returned to Enforcement undelivered.

On July 13, 2005, Enforcement served the Respondents with copies of the Complaint and Second Notice of Complaint at their most current residential addresses as reflected in CRD. Again, both certified mailings were returned to Enforcement undelivered.

Despite the fact that Enforcement served the Respondents in accordance with Rule 9134(b)(1) at the addresses they supplied to CRD, neither Respondent filed an Answer to the Complaint. Accordingly, the Hearing Officer finds that the Respondents received constructive notice of this proceeding and that they therefore defaulted by failing to file an Answer or otherwise respond to the Complaint.⁴ Further, pursuant to Rule 9215(f), the Hearing Officer deems the allegations in the Complaint admitted.

III. JURISDICTION

McLaughlin was registered as a General Securities Principal and a General Securities Representative with NASD member Capital Securities from July 1994 until May 9, 2005. Since then, McLaughlin has not been associated with any NASD member.⁵

² The exhibits are referred to as "CX" followed by the exhibit number and a parenthetical notation indicating whether the exhibit was filed with the McLaughlin or Wade motion.

³ The factual determinations in this decision are based on the allegations of the attached Complaint, which are deemed admitted, and the additional materials filed by Enforcement with its motions.

⁴ *Department of Enforcement v. Paul Zdzieblowski*, No. C8A030062, 2005 NASD Discip. LEXIS 3, at *8-9 (N.A.C. May 3, 2005).

⁵ CX 1 (McLaughlin).

Wade was registered as a General Securities Representative with Capital Securities from December 2002 until December 19, 2003. Since then, Wade has not been associated with any NASD member.⁶

Although the Respondents are no longer registered with NASD, they nonetheless remain subject to NASD jurisdiction for purposes of this proceeding pursuant to Article V, Section 4 of NASD's By-Laws because: (1) the Complaint was filed within two years after the termination of their registrations; (2) the Complaint charges them with misconduct while they were associated with Capital Securities; and (3) with respect to Wade, NASD staff issued the requests for information that are the subject of the fifth cause of Complaint within two years after the termination of his registration.

IV. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. McLaughlin's Failure to Establish, Maintain, and Enforce Adequate Written Supervisory Procedures with Respect to an Anti-Money Laundering Compliance Program

In November 2003, NASD staff completed a routine examination of Capital Securities and conducted an Exit Conference with representatives of Capital Securities, including McLaughlin, Capital Securities' Chief Compliance Officer. At the Exit Conference, NASD staff provided Capital Securities and McLaughlin with an Exit Conference Summary that listed certain deficiencies in Capital Securities' AML Compliance Program.⁷ NASD staff requested Capital Securities to submit revised procedures within 30 days.

On December 15, 2003, McLaughlin sent NASD staff a letter that addressed the deficiencies noted in the Exit Conference Summary.⁸ In the letter, McLaughlin stated that

⁶ CX 1 (Wade).

⁷ CX 6 (McLaughlin) (Exit Conference Summary).

⁸ CX 7 (McLaughlin).

the missing AML procedures had been added, but he did not include a copy of those additions.

NASD staff followed up with McLaughlin on or about January 5, 2004, and requested a copy of the revised AML procedures. At that time, McLaughlin informed NASD staff that the deficiencies had not been remedied, but they would be within the following 60 days. Nonetheless, when NASD staff contacted McLaughlin on or about March 9, 2004, he informed NASD staff that he was still working on the requested revisions.

NASD staff had further discussions with McLaughlin on or about March 16 and 17, 2004, at which time McLaughlin first stated that he was having the new procedures reviewed by an outside vendor and then stated that the revisions were complete, but they were on an inaccessible computer hard drive. McLaughlin assured NASD staff that he would resolve the problem and forward the revisions by overnight mail. Despite McLaughlin's assurance, NASD staff did not receive the promised revisions in March 2004.

On or about June 30, 2004, NASD staff conducted a compliance conference with McLaughlin in Chicago. During this conference, the deficiencies regarding the AML procedures that had been noted in the 2003 Exit Conference Summary were discussed again. NASD staff then informed McLaughlin that, within two weeks, he must submit a written response regarding Capital Securities' deficient AML Compliance Program. McLaughlin did not comply with this demand.

On or about August 12, 2004, NASD staff again contacted McLaughlin about the missing and deficient procedures. The following day, McLaughlin sent NASD staff a facsimile that stated he would provide a full detailed response no later than August 18,

2004. McLaughlin failed to meet that deadline; thus, on August 20, 2004, NASD staff sent McLaughlin a written request for the revised AML procedures.⁹

McLaughlin finally provided the revised AML procedures on or about August 24, 2004.¹⁰

Based on all of the evidence submitted, the Hearing Officer finds that McLaughlin failed to maintain adequate AML procedures from April 2002 until August 2004, in violation of NASD Conduct Rules 3011 and 2110.¹¹ In addition, because McLaughlin violated NASD Conduct Rule 3011, the Hearing Officer finds that McLaughlin also violated MSRB Rule G-41. As the Chief Compliance Officer, McLaughlin was responsible for ensuring that Capital Securities maintained adequate AML procedures under MSRB Rule G-41.

Enforcement also charged McLaughlin with violating MSRB Rule G-17, which provides that, “[i]n the conduct of its municipal securities activities, each broker, dealer, and municipal securities dealer shall deal fairly with all persons and shall not engage in any deceptive, dishonest, or unfair practice.” Enforcement argued that this rule is analogous to NASD Conduct Rule 2110, and, therefore, any violation of any other MSRB Rule also is a violation of MSRB Rule G-17.

MSRB Rule G-17 “encompasses two basic principles: an antifraud prohibition and a general duty to deal fairly even in the absence of fraud.”¹² Its purpose is to establish a minimum standard of fair conduct.¹³ The SEC has described Rule G-17 as an “omnibus

⁹ CX 11 (McLaughlin).

¹⁰ CX 12 (McLaughlin).

¹¹ Any violation of an NASD rule such as, in this case, Rule 3011, is also a violation of Conduct Rule 2110. See *Department of Enforcement v. Shvarts*, No. CAF980029, 2000 NASD Discip. LEXIS 6, at *12 (N.A.C. June 2, 2000).

¹² *Wheat First Sec.*, Exchange Act Release No. 48378, 2003 SEC LEXIS 2014, at *38 n.41 (Aug. 20, 2003).

¹³ *Id.* (citation omitted).

fair practice rule” meant to “establish the general standard for conduct of a municipal securities business.”¹⁴ Thus the underlying purpose of MSRB’s general rule of conduct is the same as that underlying NASD Rule 2110. Indeed, NASD has held that “the MSRB itself regards Rule G-17 as a counterpart to [Procedural Rule 2110], and looks to the case law which has construed the NASD provision for guidance in applying the MSRB counterpart.”¹⁵ Accordingly, the Hearing Officer finds that McLaughlin also violated MSRB Rule G-17. Consistent with the application of NASD Conduct Rule 2110, the Hearing Officer concludes that a violation of another MSRB Rule, such as MSRB Rule G-41, also is a violation of MSRB Rule G-17.¹⁶

B. Wade’s Excessive Trading

Wade opened and was responsible for customer MS’s securities account at Capital Securities. At the time, MS was a 76-year-old retired widow with a liquid net worth of less than \$200,000.

MS initially deposited approximately \$20,000 in her account, which Wade recommended she invest in a mutual fund. MS followed his recommendation, and, on February 18, 2003, Wade used all of the available funds in her account to purchase shares of Pioneer Tax Free Income Fund, which he sold the following month.¹⁷ Thereafter, between March and September 2003, Wade recommended and made the following purchases and sales in her account.

¹⁴ In the Matter of Municipal Securities Rulemaking Board, Order Approving Proposed Rule Change, Exchange Act Release No. 15247, 1978 SEC LEXIS 515, at *1 (Oct. 19, 1978).

¹⁵ *District Bus. Conduct Comm. v. Northridge Capital Corp.*, No. C07940045, 1995 NASD Discip. LEXIS 230 (N.B.C.C. May 24, 1995).

¹⁶ *Cf. Department of Enforcement v. Shvarts*, 2000 NASD Discip. LEXIS 6, at *12.

¹⁷ CX 6 (Wade).

Date	Transaction	Amount
3/26/03	Buy 25,000 Little River Arkansas Muni Bonds	\$18,514.58
4/25/03	Sell 25,000 Little River Arkansas Muni Bonds	\$16,686.53
4/25/03	Buy 1,678 shares Pioneer Protected Principal Fund	\$17,819.00
6/5/03	Sell 1,678 shares Pioneer Protected Principal Fund	\$16,764.82
5/27/03	Buy 50,000 Little River Arkansas Bonds	\$39,610.89
6/27/03	Sell 50,000 Little River Arkansas Bonds	\$37,095.39
6/25/03	Buy 5,026 shares of Pioneer Funds Core Equity	\$38,806.45
7/24/03	Sell 5,026 shares of Pioneer Funds Core Equity	\$36,715.75
7/28/03	Buy 4,120 shares of John Hancock Large Cap	\$36,715.84
8/25/03	Sell 4,120 shares of John Hancock Large Cap	\$34,666.95
8/26/03	Buy 3,078 shares of Pioneer Growth Shares	\$34,666.95
9/10/03	Sell 3,078 shares of Pioneer Growth Shares	\$33,313.27
9/11/03	Buy 2,397 shares of Dreyfus Premier Core Equity	\$33,313.00
9/23/03	Sell 2,397 shares of Dreyfus Premier Core Equity	\$31,557.69
9/25/03	Buy 2,792 shares of Pioneer Growth Shares	\$31,557.69

Wade's trading generated \$14,210.61 in commissions in MS's account.¹⁸ Wade's trading over the nine-month period represented a turnover ratio of 10.63, or an annualized turnover ratio of 14, and a cost-to-equity ratio, converted to a percentage, of 56%.¹⁹ MS lost \$15,048.53 in nine months as a result of Wade's recommendations and trading. On

¹⁸ CX 6 (Wade).

¹⁹ CX 7 (Wade).

average, Wade held the mutual fund shares for 26.5 days and the municipal bonds for 30.5 days.

These facts, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Wade engaged in excessive trading in MS's account, in violation of NASD Conduct Rules 2310 and 2110 and MSRB Rules G-19 and G-17.

C. Wade's Failure to Respond to Requests for Information

The fifth cause of the Complaint alleges that Wade violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110 by failing to respond to NASD staff's requests for information about his handling of MS's account. NASD sent Wade the first request to his CRD address on February 17, 2004. Wade did not respond. Thus, on March 9, 2004, NASD staff sent Wade a second request for information. NASD staff also sent the second request to Wade at his CRD address. Wade did not respond to the second request.

The staff served the requests in accordance with Rule 8210(d), and pursuant to that rule Wade is deemed to have received them.²⁰ Accordingly, the Hearing Officer finds that Wade violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110 by failing to respond in any manner to the two requests for information.

V. SANCTIONS

A. McLaughlin

For Deficient Written Supervisory Procedures, the NASD Sanction Guidelines ("Guidelines") recommend a fine of \$1,000 to \$25,000, and, in egregious cases, a suspension of up to one year.²¹

²⁰ See, e.g., *David I. Cassuto*, Exchange Act Release No. 48,087, 2003 SEC LEXIS 1496, at *9 (June 25, 2003).

²¹ NASD SANCTION GUIDELINES 109 (2005 ed.).

The Hearing Officer finds McLaughlin's violations egregious. Not only did he fail to implement an appropriate AML Compliance Program on or before April 24, 2002, as required by NASD Conduct Rule 3011, but also he ignored repeated requests from NASD staff to bring the firm's program into compliance. As detailed above, McLaughlin delayed remedying the deficiencies in the firm's procedures for 2 ½ years. Moreover, during that time, he repeatedly misstated the actions he had taken to bring the program into compliance.

McLaughlin's misfeasance is significant as well when viewed from the perspective of potential risk. Capital Securities had approximately 72 registered persons in 15 branch offices with approximately 2,800 active customer accounts. On average, Capital Securities effected 3,400 securities transactions per month. This structure and level of business presented a real risk that someone could launder funds through any one of the accounts maintained at Capital Securities. The fact that it did not happen does not mitigate the serious nature of McLaughlin's failure to implement required and appropriate procedures to detect and prevent such illegal activity.

In addition, the Hearing Officer notes that McLaughlin has relevant disciplinary history. In May 2000, he was sanctioned for failing to respond to Rule 8210 requests for information in a timely manner.²² Here also, McLaughlin failed to appreciate his responsibility to comply promptly with NASD staff's requests for information.

Accordingly, taking into consideration the foregoing aggravating factors and finding no mitigating factors, the Hearing Officer will impose a \$10,000 fine and a one-year suspension, for the violations alleged in the first two causes of the Complaint.²³

²² CX 1 (McLaughlin).

²³ Enforcement did not charge McLaughlin with misleading NASD staff regarding the status of the AML procedures. Had Enforcement done so, the evidence would support a bar.

B. Wade

For excessive trading, the Guidelines recommend a fine of \$5,000 to \$75,000, which may be increased by the amount of the respondent's financial benefit, and a suspension for 10 business days to one year. In egregious cases, the Guidelines suggest a longer suspension of up to two years or a bar.²⁴ Enforcement recommends that Wade be barred.

In support of this recommendation, Enforcement points out that the proposed sanction is supported by the facts of this case and the Guidelines. Enforcement argues that Wade took advantage of MS for his own economic benefit by engaging in short-term trading of mutual fund shares and municipal bonds. The Hearing Officer agrees with Enforcement's assessment of the evidence. Such short-term trading over an extended period cannot be justified. Accordingly, the Hearing Officer will bar Wade for excessive trading in violation of NASD Conduct Rules 2110 and 2310 and MSRB Rules G-17 and G-19.

For failing to respond to requests for information, the Guidelines recommend a bar.²⁵ Here, there is no evidence of any mitigating circumstances that would justify a lesser sanction. Accordingly, the Hearing Officer also will impose a bar for this violation.

VI. ORDER

A. Kenneth L. McLaughlin

Respondent Kenneth L. McLaughlin is fined \$10,000 and suspended from associating with any NASD member in any capacity for one year for his failure to maintain adequate AML procedures, in violation of NASD Conduct Rules 3011 and 2110 and MSRB Rules G-17 and G-41, as alleged in the first two causes of the Complaint.

²⁴ GUIDELINES 82.

²⁵ *Id.* at 35.

If this Default Decision becomes NASD's final disciplinary action in this proceeding against McLaughlin, the suspension shall begin at the opening of business on January 3, 2006, and end at the close of business on January 2, 2007. The fine shall be due and payable on a date set by NASD, but not earlier than 30 days after this decision becomes NASD's final disciplinary action.

B. Jon M. Wade

Respondent Jon M. Wade engaged in excessive trading, in violation of NASD Conduct Rules 2310 and 2110 and MSRB Rules G-17 and G-19, as alleged in the third and fourth causes of the Complaint. For these violations, Wade is barred from associating with any NASD member in any capacity.

In addition, Wade is barred for failing to respond to requests for information, in violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110, as alleged in the fifth cause of the Complaint.

The bars against Wade will become effective immediately upon this Default Decision becoming NASD's final disciplinary action in this proceeding against Wade.

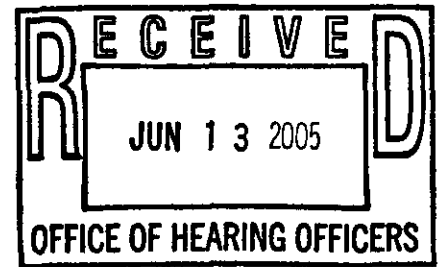


Andrew H. Perkins
Hearing Officer

Copies to:

Kenneth L. McLaughlin (*via overnight courier and first-class mail*)
Jon M. Wade (*via overnight courier and first class-mail*)
Richard S. Schultz, Esq. (*via electronic and first-class mail*)
Rory C. Flynn, Esq. (*via electronic and first-class mail*)
Roger D. Hogoboom, Esq. (*via electronic and first class-class mail*)

**NASD
OFFICE OF HEARING OFFICERS**



DEPARTMENT OF ENFORCEMENT,

Complainant

vs.



JON M. WADE
Registered Representative
(CRD No. 1642488)
and



Respondents

**Disciplinary Proceeding
No. C8A050048**

Hearing Officer

COMPLAINT

Upon information and belief, Complainant alleges as follows:

1. During all times mentioned herein, [REDACTED]
("Respondent Member") was a registered broker/dealer and a member of NASD. Respondent Member's registration with NASD is currently in effect. Since this Complaint is filed while Respondent Member is a member of NASD, Respondent Member is subject to the jurisdiction of NASD, pursuant to Article V, Section 4 of the NASD's By-Laws.

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2. During all times mentioned herein, [REDACTED] ("Respondent [REDACTED]") was registered as a General Securities Representative and a General Securities Principal of Respondent Member. From in or about February 2000 to the present, Respondent [REDACTED] was the Chief Compliance Officer of Respondent Member. Since this Complaint is filed while Respondent [REDACTED] is registered with a member of NASD, Respondent [REDACTED] is subject to the jurisdiction of NASD, pursuant to Article V, Section 4 of the NASD's By-Laws.

3. From on or about December 13, 2002 to on or about December 19, 2003, Jon M. Wade ("Respondent Wade") was registered as a General Securities Representative of Respondent Member. Respondent Wade is not currently registered with any member of NASD. Since this Complaint is filed within two years of the termination of Respondent Wade's registration with Respondent Member, Respondent Wade is subject to the jurisdiction of NASD, pursuant to Article V, Section 4 of the NASD's By-Laws.

4. During all times mentioned herein, [REDACTED] was registered as a General Securities Representative and a General Securities Principal of Respondent Member. From in or about May 2003 to the present, Respondent [REDACTED] was the Chief Operating Officer of Respondent Member. Since this Complaint is filed while Respondent [REDACTED] is registered with a member of NASD, Respondent [REDACTED] is subject to the jurisdiction of NASD, pursuant to Article V, Section 4 of the NASD's By-Laws.

FIRST CAUSE OF COMPLAINT

NASD Conduct Rules 2110 and 3011 against Respondent Member and Respondent [REDACTED] - Failure to Establish, Maintain and Enforce Adequate Written Supervisory Procedures With Respect To An Anti-Money Laundering ("AML") Compliance Program.

5. Paragraph numbers 1 through 4 above are re-alleged and incorporated herein by reference as paragraph 5.

6. From approximately April 24, 2002 until approximately August 25, 2004, Respondent Member, acting through Respondent McLaughlin, failed to establish, maintain and enforce adequate written supervisory procedures designed to achieve compliance with applicable securities laws and regulations, and with the applicable Rules of NASD with respect to Anti-Money Laundering Compliance Program required by NASD Rule 3011, in that Respondent Member's procedures failed to:

- a. Show the approval of the AML Compliance Program in writing by senior management of Respondent Member;
- b. Identify by name, title, mailing address, e-mail address, telephone number, and facsimile number an individual responsible for implementing and monitoring Respondent Member's Anti-Money Laundering Program;
- c. Contain policies, procedures and internal controls to achieve compliance with the Bank Secrecy Act and implementing regulations;
- d. Contain procedures for independent testing of Respondent Member's Anti-Money Laundering Compliance Program by Respondent Member's personnel or by a qualified outside party;
- e. Require on-going training of appropriate personnel;

f. Conduct a due diligence review for correspondent accounts of foreign financial institutions;

g. Require the determination of the identity of the nominal and beneficial account holders and the source of funds deposited into "private banking accounts," and to conduct enhanced scrutiny of accounts of a senior foreign political figure;

h. Contain internal controls that detect any attempt to open private banking accounts for non-resident of the United States;

i. Identify cash transactions for filing Currency Transaction Reports ("CTRs");

j. Contain internal controls to detect the receipt of currency by its representatives;

k. Detail requirements to verify the identity of customers for filing CTRs;

l. Contain requirements for filing reports of International Transportation of Currency of Monetary Instruments; and,

m. Contain the requirements for record keeping.

7. On or about November 21, 2003, NASD staff ("Staff") attended an Exit Conference with representatives of Respondent Member, at which time Staff informed Respondent Member and Respondent [REDACTED] orally that Respondent Member's AML program failed to address a number of required elements. Also during the Exit Conference, the Staff provided Respondent Member and Respondent [REDACTED] with the Exit Conference Summary, which listed certain deficiencies in Respondent Member's AML Program, some of which are described in paragraph 6. At the Exit Conference, the Staff requested that Respondent Member submit revised procedures for its AML Program within 30 days.

8. On or about December 15, 2003, Respondent [REDACTED] sent a letter to the Staff in response to the deficiencies described in the Exit Conference Summary, including the

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statements about inadequate AML procedures. Respondent [REDACTED] letter stated that AML procedures had been added, however, he failed to submit the revised AML procedures referred to in his letter to the Staff.

9. On or about January 5, 2004, the Staff telephoned Respondent [REDACTED] regarding the completion of the AML procedures. Despite the statements he made in his letter described in Paragraph 8 above, Respondent [REDACTED] informed the Staff that Respondent Member would have the deficiencies noted in the Exit Conference Summary resolved within 60 days. On or about March 9, 2004, the Staff contacted Respondent Member again and spoke with Respondent [REDACTED] because the Staff had not received a copy of Respondent Member's revised AML procedures. Respondent [REDACTED] stated that he was still working on having Respondent Member's AML Compliance Program completed by a third party vendor.

10. On or about March 16, 2004, the Staff again discussed the AML procedures with Respondent [REDACTED] at which time Respondent [REDACTED] informed the Staff an outside vendor had not yet reviewed the AML procedures. The Staff then sent an electronic message to Respondent [REDACTED] stating that Respondent Member was not required to have an outside vendor review the AML procedures, but rather, someone independent of the compliance department had to test the AML program. The Staff again requested a copy of Respondent Member's AML procedures as soon as possible, and requested that Respondent [REDACTED] ensure that the Procedures contain the signature of approval, guidelines for testing and the independent test of the AML program. The electronic message stated that there would be a conference call on the next day so that any questions by either the Staff or Respondent [REDACTED] could be addressed.

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11. On or about March 17, 2004, the Staff had a conference call with Respondent [REDACTED] during which Respondent [REDACTED] maintained that Respondent Member had amended its AML procedures since the Exit Conference, but that the revisions were on a "secretary's computer hard drive." Respondent Member no longer employed the secretary and it and Respondent [REDACTED] was still attempting to obtain access to the hard drive. Respondent [REDACTED] stated that he would send the Staff a copy of all amendments to the AML policies as well as Respondent Member's AML testing program and the most recent test for its AML procedures by overnight mail. Respondent [REDACTED] also stated that he tested the new AML procedures himself for adequacy. He was informed that he could not be the person responsible for testing, and was reminded that he had been previously informed that the requirement for an independent AML test meant that the individual testing the sufficiency of the AML procedures must be independent of the Compliance Department and not necessarily independent of Respondent Member. The Staff did not receive a copy of the revised AML procedures in March 2004.

12. On or about June 30, 2004, the Staff had a compliance conference with Respondent [REDACTED] on behalf of Respondent Member, in Chicago. During this conference, the AML deficiencies from the 2003 routine examination were again discussed at length with Respondent [REDACTED]. As a part of the meeting, the Staff explained to Respondent [REDACTED] that within two weeks after the meeting, he and Respondent Member were required to provide a written response to the Staff including, among other things, the steps taken by Respondent Member to correct the deficiencies in Respondent Member's AML procedures, as discussed at the compliance conference.

13. By on or about August 12, 2004, the Staff still had not received Respondent Member's revised AML procedures, so the Staff again contacted [REDACTED] by telephone and requested Respondent Member's revised AML procedures. On or about August 13, 2004, the Staff received a facsimile from Respondent [REDACTED] stating that a "full detailed response" would be provided by August 18, 2004. Since no response was received by the Staff as of August 20, 2004, the Staff sent yet another request for Respondent Member's AML procedures on that date. Respondent Member's AML procedures were finally provided to the staff on or about August 24, 2004.

14. The acts, practices and course of conduct described above constitute separate and distinct violations of NASD Conduct Rules 2110 and 3011 by Respondent Member and Respondent [REDACTED]

SECOND CAUSE OF COMPLAINT

MSRB Rules G-17 and G-41 against Respondent Member and Respondent [REDACTED] - Failure to Establish, Maintain and Enforce Adequate Written Supervisory Procedures With Respect To An Anti-Money Laundering Compliance Program.

15. Paragraph numbers 1 through 14 above are re-alleged and incorporated herein by reference as paragraph 15.

16. From on or about April 24, 2002 until on or about August 25, 2004, Respondent Member, acting through Respondent [REDACTED] failed to meet the AML Compliance Program rules set forth by the NASD and NASD Rules.

17. The acts, practices and course of conduct described above constitute separate and distinct violations of MSRB Rules G-17 and G-41 by Respondent Member and Respondent [REDACTED]

THIRD CAUSE FOR COMPLAINT

NASD Conduct Rules 2110 and 2310 against Respondent Wade - Recommending and Engaging in Excessive Trading Activity and Trading in Mutual Fund Shares.

18. Paragraph numbers 1 through 17 above are re-alleged and incorporated herein by reference as paragraph 18.

19. From on or about February 2003 to on or about September 2003, Respondent Wade used substantially all of the equity in the account of MS, who was a member of the public, to purchase and sell shares of a total of 6 different mutual funds from 3 different mutual fund families in, as shown on Schedule A, attached hereto and incorporated by reference. The shares of mutual funds were held in MS's securities account for an average of just 26.5 days. MS was charged a commission on each purchase of the mutual fund shares as shown on Schedule A. Respondent Wade purchased, sold and then later repurchased mutual funds from the same family of funds and even the same fund, also shown on Schedule A. Further, on two occasions, Respondent Wade purchased and sold municipal bonds in MS's securities account. The trading in MS's Securities Account was excessive in that the total trading in the account had turnover ratio of 10.63 for a nine-month period, which was an annualized turnover ratio of 14, and a cost-equity ratio of 56% for a nine-month period, which was an annualized cost-equity ratio of 74.48%. Respondent Wade engaged in the aforementioned trading activity without having reasonable grounds for believing that such recommendations and transactions were suitable for MS, in view of the frequency and nature of the recommended transactions, and MS's age, sophistication and financial condition.

20. The acts, practices and course of conduct described above constitute separate and distinct violations of NASD Conduct Rules 2110 and 2310 by Respondent Wade.

FOURTH CAUSE FOR COMPLAINT

MSRB Rules G-17 and G-19 against Respondent Wade - Recommending and Engaging in Excessive Trading Activity and Trading in Municipal Securities.

21. Paragraph numbers 1 through 20 above are re-alleged and incorporated herein by reference as paragraph 21.

22. On two occasions, from on or about March 26, 2003 to June 27, 2003, Respondent Wade purchased and sold municipal bonds in MS's securities account, holding each of the bonds for only about one month, as also reflected on Schedule A. Respondent Wade engaged in the aforementioned transactions without having reasonable grounds for believing that such recommendations and transactions were suitable for MS, in view of the frequency and nature of the recommended transactions, and MS's age, sophistication and financial condition.

23. The acts, practices and course of conduct described above constitute separate and distinct violations of MSRB Rules G-17 and G-19 by Respondent Wade.

FIFTH CAUSE OF COMPLAINT

NASD Conduct Rules 2110 and 8210 against Respondent Wade - Failure to Respond to Requests for Information and Documentation From NASD Staff.

24. Paragraph numbers 1 through 23 above are re-alleged and incorporated herein by reference as paragraph 24.

25. On or about February 17, 2004, Staff sent to Respondent Wade a request that he provide certain documents and information related to the trades that he recommended and effected for the account of MS pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. The response was due by March 9, 2004. That request for information was sent by first class mail and by certified mail, return receipt requested, to Respondent Wade's addresses of record as contained in the records of the Central Registration Depository ("CRD Addresses"), which was located at [REDACTED] The first class

mailing was not returned to the Staff. The certified mailing was returned to the Staff marked "Unclaimed."

26. On or about March 9, 2004, the Staff sent to Respondent Wade a letter marked "Second Request," requesting that he provide certain documents and information related to the trades that he recommended and effected for the account of MS pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. The response was due by March 23, 2004. That request for information was sent by first class mail and by certified mail, return receipt requested, to Respondent Wade's CRD Address. The first class mailing was not returned to the Staff. The certified mailing was returned to the Staff marked "Unclaimed."

27. Respondent Wade failed to respond in any manner to the Staff's requests for information and documentation described above, and the time for Respondent Wade to respond has passed.

28. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2110 and NASD Procedural Rule 8210 by Respondent Wade.

SIXTH CAUSE OF COMPLAINT

NASD Conduct Rules 2110 and 3010 against Respondent Member and Respondent [REDACTED] - Failure to Reasonably Supervise Respondent Wade.

29. Paragraph numbers 1 through 28 above are re-alleged and incorporated herein by reference as paragraph 29.

30. From February 2003 to September 2003, Respondent Member, acting through Respondent [REDACTED] failed to reasonably supervise Respondent Wade by failing to take adequate steps to prevent Respondent Wade from engaging in unsuitable mutual fund trading in MS's securities account, as described in the Third Cause of this Complaint and in Schedule A.

31. The aforementioned acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2110 and 3010 by Respondent Member and Respondent

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SEVENTH CAUSE OF COMPLAINT
MSRB Rules G-17 and G-27 against Respondent Member and Respondent ██████████ -
Failure to Reasonably Supervise Respondent Wade.

32. Paragraph numbers 1 through 31 above are re-alleged and incorporated herein by reference as paragraph 32.

33. From February 2003 to September 2003, Respondent Member, acting through Respondent ██████████ failed to reasonably supervise Respondent Wade by failing to take adequate steps to prevent Respondent Wade from engaging in unsuitable municipal securities trading in MS's securities account, as described in the Fourth Cause of this Complaint and Schedule A.

34. The aforementioned acts, practices and conduct constitute separate and distinct violations of MSRB Rules G-17 and G-27 by Respondent Member and Respondent ██████████

PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

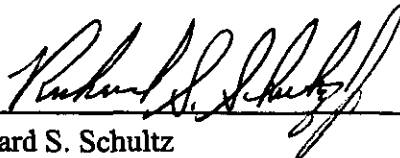
- A. Findings of fact and conclusions of law that Respondents committed the violations charged and alleged herein;
- B. An order requiring Respondents to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;

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- C. An order imposing sanctions upon the Respondents in accordance with NASD Rule 8310;
- D. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330; and,
- E. An order imposing any other fitting sanction.

June 10, 2005

Date


Richard S. Schultz
Regional Counsel
NASD, District 8
55 West Monroe Street
Chicago, IL 60603-5052

June 10, 2005

Date


Carlotta A. Romano
Senior Vice President and Regional Director
NASD, District 8

Of Counsel:

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Department of Enforcement
NASD
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Schedule A

<u>Date</u>	<u>Transaction</u>	<u>Amount</u>	<u>Commissions</u>
2/18/03	Buy 1666 shares of Pioneer Tax Free Income Fund @ \$12.00	\$20,0005.00	
3/24/03	Sell 1668 shares of Pioneer Tax Free Income Fund @ \$11.33	\$18,878.75	\$825.00
3/26/03	Buy 25,000 Little River Arkansas Muni Bonds @ \$71.285	\$18,514.58	
4/25/03	Sell 25,000 Little River Arkansas Muni Bonds @ \$66.315	\$16,686.53	\$1250.00
4/25/03	Buy 1678 shares Pioneer Protected Principal Fund @ \$10.61	\$17,819.00	
6/5/03	Sell 1678 shares Pioneer Protected Principal Fund @ \$10.00	\$16,764.82	\$915.70
5/27/03	Buy 50,000 Little River Arkansas Bonds @ \$78.294	\$39,610.89	
6/27/03	Sell 50,000 Little River Arkansas Bonds @ \$72.863	\$37,095.39	\$2623.50
6/25/03	Buy 5026 shares Pioneer Funds Core Equity @ \$7.72	\$38,806.45	
7/24/03	Sell 5026 shares Pioneer Funds Core Equity @ \$7.31	\$36,715.75	\$1965.07
7/28/03	Buy 4120 shares of John Hancock Large Cap @ \$8.91	\$36,715.84	
8/25/03	Sell 4120 shares of John Hancock Large Cap @ \$8.42	\$34,666.95	\$1585.21
8/26/03	Buy 3078 shares of Pioneer Growth Shares @ \$11.26	\$34,666.95	
9/4/03	Sell 3078 shares of Pioneer Growth Shares @ \$10.83	\$33,313.27	\$1758.10
9/11/03	Buy 2397 shares of Dreyfus Premier Core Equity @ \$13.90	\$33,313.00	
9/23/03	Sell 2397 shares of Dreyfus Premier Core Equity @ \$13.10	\$31,557.69	\$1680.40
9/25/03	Buy 2792 shares of Pioneer Growth Shares @ \$11.30	\$31,557.69	
	Total Commissions		<u>\$1,577.63</u> \$14,210.61