

NASD
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant

vs.

[REDACTED]

and

[REDACTED]

and

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

and

[REDACTED]

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.

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.

DISCIPLINARY PROCEEDING NO. C8A050048

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 [REDACTED] 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

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.

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.

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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
██████████ - 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 ██████████ 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 [REDACTED]

SEVENTH CAUSE OF COMPLAINT
MSRB Rules G-17 and G-27 against Respondent Member and Respondent [REDACTED] -
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 though Respondent [REDACTED] 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 [REDACTED]

PRAYER FOR RELIEF

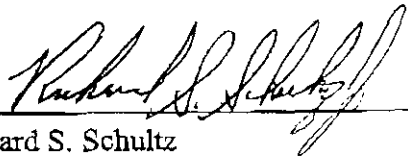
WHEREFORE, Complainant respectfully requests:

- 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;

- 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
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June 10, 2005

Date


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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	
9/10/03	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	\$1,577.63
			\$14,210.61