

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ELANGO VAN SURENDRAN
(CRD No. 2658729)

Respondent

Disciplinary Proceeding
No. C9B050008

Hearing Officer –SW

**ORDER ACCEPTING
OFFER OF SETTLEMENT**

INTRODUCTION

Disciplinary Proceeding No. C9B050008 was filed on or about January 27, 2005 by the Department of Enforcement of NASD (“Complainant”). Respondent Elangovan Surendran (“Surendran”) submitted an Offer of Settlement (“Offer”) to Complainant on or about August 4, 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 is now 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.

FINDINGS AND CONCLUSIONS

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

1. Respondent Elangovan Surendran ("Surendran") became registered with NASD as a Series 7 general securities representative on September 15, 1995; and registered as a Series 24 general securities principal on September 16, 2002. From in or about August 1995 through in or about December 2003, Surendran was registered with Continental Broker Dealer, Inc. ("Continental"). Continental was an NASD member firm from November 1983 until May 2004, when it was expelled from membership as a result of an NASD disciplinary action.

2. From in or about December 2003 through in or about March 2004, Surendran was registered with GunnAllen Financial, a NASD member firm. Surendran has not worked for another member firm since his voluntary termination from GunnAllen Financial on March 31, 2004; however, NASD retains jurisdiction over Surendran until at least March 30, 2006, pursuant to Article V, Section 4, of NASD's By-Laws.

3. In or about December 2002, customer M.K. opened a securities account (# [REDACTED]) at Continental after receiving a "cold call" from Surendran. Surendran served as the registered representative for the account from its inception until it was closed in or about August 2003. M.K. initially deposited \$2,200 in the account in December, and made additional account deposits of approximately \$33,000 between January and July 2003.

4. At the time M.K. opened his account at Continental, he was employed as an electronic mechanical assembler and earned an annual income of approximately \$50,000. M.K. had limited prior investment experience and no prior experience with margin or options. When he opened the account, M.K. was seeking growth with limited risk. M.K. relied on Surendran's investment advice.

5. From in or about December 2002 through in or about July 2003, Surendran, while exercising effective control over customer M.K.'s account, effected or caused to be effected approximately 140 securities transactions in M.K.'s account as more fully detailed in Schedule A attached hereto and incorporated herein by reference. Many of the transactions involved options.

6. The transactions referred to in paragraph 5 above were excessive. Customer M.K.'s account had an average monthly equity of approximately \$14,876. From in or about December 2002 through in or about July 2003, M.K. paid approximately \$15,876 in commissions and margin expenses. This resulted in an annualized Cost-To-Equity Ratio (converted to percentage) of approximately 160%, and an annualized Commission-To-Equity Ratio of approximately 102%. Accordingly, the account would have had to earn a 160% return just to break even. Moreover, the annualized Turnover Ratio, which excludes option purchases, was approximately 41.

7. M.K. lost approximately \$14,000 in his Continental account during that period.

8. As part of this course of conduct, Surendran, directly or indirectly, by the use of the means or instrumentalities of interstate commerce or of the mails, knowingly or recklessly used or employed, in connection with the purchase or sale of securities, manipulative or deceptive devices or contrivances; and knowingly or recklessly effected transactions in, or induced the purchase or sale of, securities by means of manipulative, deceptive or other fraudulent devices or contrivances.

9. From in or about December 2002 through in or about July 2003, Surendran, while exercising effective control over customer M.K.'s account (#■■■■■■■■■■), recommended to M.K. approximately 140 securities transactions involving equities and options, as more fully detailed on Schedule A attached hereto and incorporated herein by reference, without having reasonable grounds for believing that such transactions were suitable for M.K. in view of the size and

frequency of the transactions, the nature of the account and his financial situation, investment objectives and needs.

10. The transactions referred to in paragraph 9 above were excessive. Customer M.K.'s account had an average monthly equity of approximately \$14,876. From in or about December 2002 through in or about July 2003, M.K. paid approximately \$15,876 in commissions and margin expenses. This resulted in an annualized Cost-To-Equity Ratio (converted to percentage) of approximately 160%, and an annualized Commission-To-Equity Ratio of approximately 102%. Accordingly, the account would have had to earn a 160% return just to break even. Moreover, the annualized Turnover Ratio, which excludes option purchases, was approximately 41.

11. During the relevant time period, Surendran also recommended to customer M.K. numerous purchase and sale transactions resulting in M.K.'s account having concentrated positions in speculative securities, without having reasonable grounds for believing that such transactions were suitable.

12. Surendran effected many of the transactions referred to in paragraph 9 above through the use of margin. This resulted in M.K. paying approximately \$700 in margin interest and incurring an average monthly margin debit balance of approximately \$17,321. The margin utilized by Surendran leveraged M.K.'s account on average by approximately 116%.

13. The margin utilized by Surendran was unsuitable for M.K. in view of the size and nature of the account and M.K.'s financial situation and needs.

14. As a result of this conduct, Surendran violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, NASD Conduct Rules 2110, 2120 and 2860(b)(19) and IM-2310-2.

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 **suspended** from association with any NASD member in any capacity for nine (9) months; pay a fine of **\$2,500**; and pay disgorgement of **\$7,000** in partial restitution to the customer listed on Attachment A hereto. The fine and restitution amount ordered hereunder shall be due and payable **either** immediately upon reassociation with a member firm following the nine-month suspension **noted** above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier. The imposition of a **restitution** order or any other monetary sanction herein, and the timing of such ordered payment, does not preclude customers from pursuing their own actions to obtain restitution or other remedies. If for any reason Respondent cannot locate the customer identified on Attachment A after **reasonable** and documented efforts within such period, or such additional period agreed by the staff, Respondent shall forward any undistributed restitution to the appropriate escheat, **unclaimed** property, or abandoned property fund for the state in which the customer is last known to **have** resided.

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

SO ORDERED.

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



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