

NASD OFFICE OF HEARING OFFICERS

Department of Market Regulation,

Complainant,

v.

Albert Carazolez
(CRD No. 2204105)

Respondent.

Disciplinary Proceeding
No. CMS040049

Hearing Officer - SNB

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

February 1, 2005

INTRODUCTION

Disciplinary Proceeding No. CMS040049 was filed on April 22, 2004, by the Market Regulation Department of NASD ("Complainant"). Respondent Albert Carazolez submitted an Offer of Settlement ("Offer") to Complainant on January 31, 2005. 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 or ODA.

Under the terms of the Offer, Respondent has consented for the purpose of this proceeding only, without admitting or denying the allegations of the Complaint, and

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solely for the purposes of this proceeding and any other proceeding in which NASD is a party, to the entry of findings of facts and violations consistent with the allegations of the Complaint, and to the imposition of the sanction 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

Carazolez, age 56, has been employed in the securities business since 1993. During that time he has been associated with 14 member firms. From approximately December 1999 he has been owner of Back Bay Capital, Inc. ("Back Bay"). He has been Back Bay's President and registered principal since approximately August 2000. His relevant disciplinary history consists of a complaint, CO2950016, filed by NASD District 2 on May 2, 1995, alleging that he made unsuitable recommendations to customers. The matter went to hearing and on March 15, 1996, resulted in a censure, a suspension for twenty business days, a fine of \$5,000 and an order for restitution in the amount of \$5,412.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:¹

- From August through November 2002, Respondent, majority owner and President of Back Bay Capital, Inc., violated Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5 thereunder, along with

¹ The findings herein are pursuant to Respondent Albert Carazolez's Offer of Settlement and are not binding on any other person or entity named as a respondent in this or any other proceeding.

NASD Conduct Rules 2110 and 2120, because, as “controlling person” under Section 20(a) of the Exchange Act, he encouraged and directed a registered representative acting under his direction and control as his employee and agent to employ fraudulent sales practices, to make baseless price predictions and unsuitable recommendations of a security to Back Bay customers.

- Furthermore, Respondent egregiously failed to supervise properly, failed to establish and implement a supervisory compliance structure and failed to provide the firm’s registered representatives with written supervisory procedures reasonably designed to prevent fraudulent sales practices, in violation of NASD Conduct Rules 2110 and 3010.
- In addition, Respondent violated NASD Conduct Rule 2110 and Procedural Rule 8210 by providing misleading documents and by making false and misleading statements under oath in response to NASD’s requests for information issued under Rule 8210, to conceal his involvement in, knowledge of and responsibility for the fraudulent sales practices of a Back Bay registered representative.
- Finally, Respondent failed to register a person associated with Back Bay who was engaging in the firm’s securities business and was acting as a principal of the firm; Respondent also failed to name this associated person in Schedule A of the firm’s Form BD, even though this person held an ownership interest of more than five percent of Back Bay, in violation

of NASD Membership and Registration Rules 1021(a), 1031(a), IM-1000-1 and IM-1000-3.

Based on these considerations, the sanction hereby imposed by the acceptance of the Offer is in the public interest, is sufficiently remedial to deter Respondent from any future misconduct, and represents a proper discharge by NASD of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTION

It is ordered that Respondent be barred permanently from associating in any capacity with any member firm.

Pursuant to IM-8310-2(f), the bar shall become effective upon approval or acceptance of this Order by the NAC or ODA..

SO ORDERED.

NASD


Cameron K. Funkhouser
Senior Vice President
Market Regulation Department

On behalf of the Director of ODA, pursuant to
Delegated authority