

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

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REGISTRATION & DISCLOSURE

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

BRIAN PETER KING
(CRD No. 2785488),

Respondent.

Disciplinary Proceeding
No. E022004007205

Hearing Officer – SW

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: October 22, 2007

INTRODUCTION

Disciplinary Proceeding No. E022004007205 was filed on March 23, 2007, by the Department of Enforcement of the Financial Industry Regulatory Authority ("FINRA") ("Complainant"). Respondent Brian Peter King submitted an Offer of Settlement ("Offer") to Complainant on October 1, 2007. Pursuant to NASD Rule 9270(e), the Complainant and the National Adjudicatory Council ("NAC"), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs ("ODA") have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to NASD 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 FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint, and to the imposition of

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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 FINRA.

BACKGROUND

From on or about May 13, 2003 to October 1, 2004, Respondent was registered with member firm Syndicated Capital, Inc. ("Syndicated"), as a General Securities Representative, General Securities Principal, Registered Options Principal and Equity Trader. Since October 25, 2004, Respondent has been registered with member firm Rafferty Capital Markets, LLC, in the above-mentioned capacities.

Respondent has not been the subject of prior disciplinary action by FINRA, other self-regulatory organizations, state regulators or the Securities and Exchange Commission.

FINDINGS AND CONCLUSIONS

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

While registered with Syndicated, Respondent worked at Syndicated's branch office in New York. The branch office was also known as Garrett Martin Equity Traders ("GMET"). GMET regularly executed its customers' equity trade orders using an electronic system called "Hydra." Hydra was an electronic order routing system that received orders electronically and routed them to the execution center offering the best execution for a particular transaction. GMET submitted the orders to Hydra on behalf of Syndicated, and Respondent was authorized to submit such orders. Purchase orders submitted by GMET indicated one of three Syndicated "omnibus" accounts as the purchaser.

In order to properly settle the transactions GMET executed in the omnibus accounts, a GMET employee created a spreadsheet at the end of each day with information about the day's trades, including the customer account to which each trade should be allocated. The employee then sent the spreadsheet to Syndicated's main office. After reviewing the spreadsheet, Syndicated forwarded the information to its clearing firm for settlement.

On July 23, 2004, Respondent executed 69 orders to purchase Amazon.com stock in a Syndicated omnibus account using the Hydra system (collectively, "the Amazon trades"). The Amazon trades resulted in the acquisition of 70,000 shares of Amazon.com by Syndicated.

Amazon.com stock opened at \$42.47 on July 23, 2004. It reached a high of \$42.76 and fell to a low of \$39.56, ultimately closing at \$39.98. As a result of the Amazon trades, Syndicated had an unrealized loss of \$116,340.00 at the end of the day.

After the close of trading, Respondent created and sent to Syndicated a spreadsheet of GMET's purported trades for the day. In an effort to prevent the discovery of the unrealized loss on the Amazon.com position, which he understood would be charged to GMET, Respondent falsely allocated the Amazon trade to a non-proprietary account (the "designated account"). When Respondent prepared and submitted the spreadsheet, he knew that the owner of the designated had not authorized the purchase of Amazon.com stock.

Syndicated forwarded the information in the spreadsheet to its clearing firm to settle the trades as indicated thereon, without knowing or having reason to suspect that the Amazon trades had been allocated to the designated account without authorization.

On or about July 26, 2004, Syndicated's clearing firm informed Syndicated that it could not settle the Amazon trades because the owner of the designated account claimed that the trade was not authorized and refused to pay for it. F.S., an operations analyst in Syndicated's main office, contacted Respondent to inquire about the Amazon trades. Instead of acknowledging that the Amazon trades were proprietary transactions, Respondent stated that he would review the details of the trades.

On July 27, 2004, and July 28, 2004, F.S. again contacted Respondent because the Amazon trades remained unsettled. Respondent failed to inform F.S. that the transactions were proprietary.

On July 29, 2004, Respondent spoke to Syndicated's president about the Amazon trades and admitted that the trades were proprietary and had not been executed pursuant to instructions from the owner of the designated account.

As a result of the Amazon trades, Syndicated conducted a securities business on July 23, 2004, and July 26-29, 2004, while failing to maintain the minimum net capital required by Rule 15c3-1 of the Securities Exchange Act of 1934. Because of Respondent's falsification of the transaction spreadsheet and his failure to respond truthfully to F.S.'s inquiries about the trades, Syndicated was unaware of its net capital deficiency until July 29, 2004. Respondent therefore caused the firm to conduct a securities business while failing to maintain the required minimum net capital.

Based on the foregoing, Respondent violated NASD Rule 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 FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be:

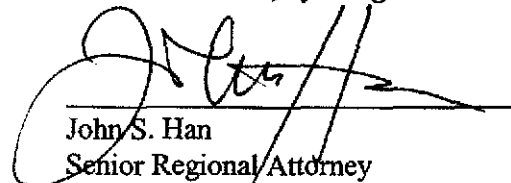
1. suspended from associating with any FINRA member firm for a period of nine months; and
2. fined in the amount of \$5,000.

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

SO ORDERED.

FINRA

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

A handwritten signature in black ink, appearing to read 'John S. Han', is written over a horizontal line.

John S. Han
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