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ADMINISTRATIVE SERVICES

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

DEPARTMENT OF ENFORCEMENT,
COMPLAINANT,

v.

AURA FINANCIAL SERVICES, INC.
[CRD No. 42822]

AND

TIMOTHY M. GAUTNEY,
Equity Trader, Financial and Operations
Principal, Municipal Securities
Representative, Registered Operations
Principal, General Securities Principal, and
General Securities Representative
[CRD No. 2552149]

AND

JONATHAN FENTON,
General Securities Principal and General
Securities Representative
[CRD No. 2781807]

AND



RESPONDENTS.

Disciplinary Proceeding
No. E052005000702

Hearing Officer: LBB

**ORDER ACCEPTING OFFER
OF SETTLEMENT**

Date: July 30, 2008

INTRODUCTION

Disciplinary Proceeding No. E052005000702 was filed on December 5, 2007, by the Department of Enforcement of the Financial Industry Regulatory Authority ("FINRA") or ("Complainant"). Respondent Jonathan Fenton submitted an Offer of Settlement ("Offer") to Complainant on June

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16, 2008. 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 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

Respondent Jonathan Fenton entered the securities industry on November 19, 1996 as an Investment Company and Variable Contracts Products Representative and as a General Securities Representative with member firm Ascend Financial Services (n/k/a Securian Financial Services, Inc.). On May 11, 2001, Fenton became licensed as a General Securities Principal. During all periods mentioned herein, Fenton was registered with FINRA under Article V of the By-Laws as a General Securities Principal, and as a General Securities Representative of Aura. Aura terminated Fenton's registration on October 6, 2003, and Fenton became and remains associated with another member firm.

FINDINGS AND CONCLUSIONS

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

1. During the period from on or about February 26, 2002, to on or about May 13, 2003, Jonathan Fenton recommended and effected the purchase of limited partnership interests in the hedge funds Futera Advantage Fund L.P. ("Futera") and Hedgers Advantage Fund L.P. ("Hedgers") by public customers AM, AP, and RK, without having reasonable grounds for believing that the recommendations and resultant transactions were suitable for the customers.
2. Specifically, Fenton's recommendations were unsuitable for the following reasons:
 - AP was a sixty-two year-old retired building operations and maintenance supervisor with an annual income of \$46,500 and liquid net worth of \$275,000. He had a stated need for income. His prior investment experience was limited to purchase of his employer's stock and investment in 401(k) program. Based upon Fenton's recommendation, AP invested 73% of his retirement savings in Futera and Hedgers on April 19, 2002. AP had no means of replacing any retirement funds he lost and depended upon the proceeds of his investments to pay his living expenses during retirement. Both hedge funds employed high-risk trading strategies that were unsuitable for an investor requiring protection of principal and guaranteed monthly income. Given AP's financial condition and needs, Fenton had no reasonable basis for recommending these investments by AP in Futera Fund or Hedgers. AP lost a total of \$183,204.11.

- AM was a fifty-nine year-old self-employed certified public accountant with retirement savings of \$675,000 and annual income of \$200,000. At the time she opened a self-directed IRA account at Aura, she indicated that she was on a leave of absence from work. Fenton recommended that she invest \$195,000, or 28% of her retirement savings, in Futera and Hedgers. AM invested \$100,000 in Futera on February 26, 2002 and \$95,000 in Futera on March 20, 2002. AM had no means of replacing any retirement funds she lost and was dependent upon the proceeds of her investments to pay living expenses during retirement. The hedge fund employed high-risk trading strategies that were unsuitable for an investor approaching retirement and seeking to use the funds to provide income during retirement. Given AM's financial condition and needs, Fenton had no reasonable basis for recommending investment by AM in Futera. AM lost the entire investment.
- RK was a fifty-eight year-old self-employed consultant with a net worth of over \$500,000 and annual income between \$100,000 and \$250,000. Based upon Fenton's recommendation, he opened an IRA account with Aura and invested \$19,853.74 in Hedgers on May 13, 2003. Fenton's recommendation was unsuitable because at that time Hedgers was on the verge of financial failure. At the time of the recommendation, Hedgers had lost significant value. In November 2002, the Hedgers account was worth \$83,553.77. Despite subsequent infusions of cash, by March 2003, the Hedgers account was worth only \$48,303.50. The account had lost money through investment losses, through unexplained wire transfers, and through a series of unexplained withdrawals to a homeowners association, to Temple Kormi, and to Home Depot. The account was also subject to almost daily house calls due to margin activity. The recommendation was

unsuitable because Fenton knew that Hedgers was failing and could have no reasonable expectation that RK would realize any financial benefit from the investment.

- Each of the customers purchased the limited partnership interests in the hedge funds inside their Individual Retirement Accounts (“IRAs”). Due to the unique tax treatment of income from these hedge funds, ownership of the hedge fund investments are not suitable within IRA accounts where the hedge funds use leverage to purchase securities. Futera and Hedgers both used leverage to purchase investments. When this strategy is used, the investments can generate unrelated business taxable income and cause an IRA that owns interest in the funds to be subject to taxation under Section 512 of the Internal Revenue Code. Consequently, by recommending investment by public customers AM, AP, and RK in the hedge funds through their IRAs, Fenton exposed the customers to taxation risk to which they otherwise would have no exposure.

3. Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 2310 and 2110 by Jonathan Fenton.

Based on the foregoing, Respondent violated NASD Conduct Rules 2310 and 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

A monetary fine in the amount of \$5,000.00 and a two-month suspension of Jonathan Fenton from association with any member of FINRA in any capacity.

Respondent agrees to pay the monetary sanction upon notice that this Offer has been accepted and that such payments are due and payable. Respondent has submitted an Election of Payment form showing the method by which he proposes to pay the fine imposed.

Respondent has submitted a sworn financial statement and demonstrated a limited ability to pay. In light of the financial status of Respondent, a fine of \$5,000 has been imposed.

Respondent understands that his limited ability to pay has been considered in connection with the monetary sanctions imposed in this matter. Respondent specifically and voluntarily waives any right to claim that he is unable to pay at any time hereafter, the monetary sanction imposed in this matter.

Respondent understands that if he is barred or suspended from associating with any FINRA member, he becomes subject to a statutory disqualification as that term is defined in Section 3(a)(39) of the Securities Exchange Act of 1934, as amended. Accordingly, he may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. (See NASD Rule 8310 and IM-8310-1.)

The sanctions 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 cursive script, appearing to read "Laura Leigh Blackston", written over a horizontal line.

Laura Leigh Blackston, Senior Regional Counsel
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