

NASD

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.



And

Isac Huberman
General Securities Principal
CRD No. 251958

Respondents.

Disciplinary Proceeding
No. E062004003004

Hearing Officer: SW

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: February 6, 2007

INTRODUCTION

Disciplinary Proceeding No. E062004003004 was filed on June 13, 2006, by the Department of Enforcement of NASD ("Complainant"). Respondents  and Isac Huberman submitted an Offer of Settlement ("Offer") to Complainant on October 25, 2006. 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.

10-1000-1000-1

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 Respondents' permanent disciplinary record and may be considered in any future actions brought by NASD.

BACKGROUND

During all periods mentioned herein, [REDACTED] was a registered broker dealer with the Securities and Exchange Commission and a member of the Association. On February 27, 2006, the firm requested a termination of its registration with NASD. The firm's termination request is pending.

Isac Huberman entered the securities industry in January 1972 as a General Securities Representative of a member of this Association. In September 1991, he registered with member firm [REDACTED] as among other things, a General Securities Principal. During all times referenced herein, Huberman was the President and Chief Compliance Officer of [REDACTED]. Huberman terminated his registration with [REDACTED] in February 2006 and he is currently registered with member firm Williams Financial Group.

The Respondents' disciplinary history consists of the following:

On September 27, 1999, a *Letter of Acceptance, Waiver, and Consent* (No. C06990016) was accepted by the Association, whereby [REDACTED] and Isac Huberman, were fined jointly and severally \$1,000 for conducting a securities business while failing to maintain sufficient net capital of not less than \$100,000 in violation of NASD Rule 2110 and SEC Rule 15c3-1

On April 5, 2001, a *Letter of Acceptance, Waiver and Consent* (No. C06010007) was accepted by the Association, whereby [REDACTED] and Isac Huberman were fined jointly and severally \$5,000.00, which included the disgorgement of commissions received of \$2,091.00, for effecting sixteen options transactions for the account of a customer which required the prior or subsequent approval by an Options Principal; however, the firm failed to register with the Association a qualified Registered Options Principal, all in violation of NASD Membership and Registration Rule 1022 and NASD Conduct Rule 2110.

On June 20, 2003, a *Letter of Acceptance, Waiver, and Consent* (No. CMS030136) was accepted by the Association whereby [REDACTED] was fined \$20,000 for causing a locked/crossed market condition prior to the market opening and was a party to a locked or crossed market condition prior to the market opening and received a trade-or-move message in each instance through SelectNet and within thirty seconds of receiving such messages, the firm failed to fill the incoming trade-or-move message for the full size of the message or move its bid down (offer up) by a quotation increment that would have unlocked/uncrossed the market.

On April 1, 2004, a Letter of Acceptance, Waiver, and Consent (C06040007) was accepted by the Association whereby [REDACTED] and Isac Huberman, were censured and fined \$10,000, jointly and severally, for failing to maintain sufficient net capital of not less than \$100,000.00.

FINDINGS AND CONCLUSIONS

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

First Cause of Action

In or about August 2002, [REDACTED] acting through its President, Isac Huberman, hired Jerome Galant to be a research analyst and to write research reports. Huberman knew, or should have known, that Galant had never previously worked in the securities industry. He also knew that Galant had no prior experience writing equity research reports. Even though Huberman knew that Galant had no prior experience writing equity research reports, he provided him no training regarding the preparation of equity research reports. Galant maintained a personal securities account at another NASD member firm, but Huberman never asked Galant to identify the location of his securities account. Huberman also assumed Galant would forward duplicate copies of trade confirmations and monthly account statements to the firm; however, none were ever sent.

During the period from August 2002 to February 2004, Galant prepared and issued twenty-eight research reports. The research reports were issued to at least fifteen customers of the firm, most of whom were institutional customers. Huberman reviewed all twenty-eight research reports before they were issued to the firm's customers to ensure that such reports complied with NASD rules; however, all twenty-eight reports failed to include the meaning

of each rating used by the firm in its rating system, the distribution of its ratings, and a price chart. Sixteen research reports also failed to comply with the Regulation Analyst Certification rule (Regulation AC, 17 CFR 242.500 through 505) in that they failed to include the following information:

- A. a statement by the research analyst certifying that the views expressed in the research report accurately reflect such research analyst's personal views about the subject securities and issuers; and
- B. a statement by the research analyst certifying either:
 - (a) that no part of his or her compensation was, is, or will be directly or indirectly related to the specific recommendations or views contained in the research report; or
 - (b) that part or all of his or her compensation was, is, or will be directly or indirectly related to the specific recommendations or views contained in the research report. If the analyst's compensation was, is, or will be directly or indirectly related to the specific recommendations or views contained in the research report, the statement must include the source, amount, and purpose of such compensation, and further disclose that it may influence the recommendation in the research report.

During the period from March 2003 to February 2004, Huberman reviewed, prior to issuance, eight research reports (out of the total of twenty-eight research reports Galant had prepared) which covered the common stocks of the following issuers: Concur Technologies, Innovative Solutions, Priceline.com, and Sabre Holdings. These eight research reports contained either a buy or hold recommendation. Galant held positions in each of the securities referenced in his eight research reports and sold amounts ranging from 100 shares to 1,200 shares at various times while his buy or hold recommendations were still in effect. These sale transactions were inconsistent with Galant's recommendations; however, Huberman failed to take appropriate steps to prohibit them from occurring.

During the period from August 2002 to February 2004, [REDACTED] acting through Isaac Huberman, failed to establish and maintain a supervisory system, including but not limited to, the establishment and maintenance of written procedures, that was reasonably designed to ensure that the firm and its associated persons complied with all provisions of NASD's Research Analyst and Research Report Rule.

Second Cause of Action

As President and Chief Compliance Officer of [REDACTED] Isaac Huberman was responsible for ensuring the timely filing of Uniform Termination Notices ("Form U-5s").

On June 9, 2000, Thomas E. Hayden III registered with [REDACTED] as a General Securities Representative.

On October 20, 2003, Hayden terminated his employment with [REDACTED] however, [REDACTED] acting through Huberman, did not file Hayden's Form U-5 until September 13, 2005, nearly two years late.

On January 6, 2003, Richard Walker Frederick registered with [REDACTED] as a General Securities Representative.

On April 7, 2003, Frederick's registration as a General Securities Representative was terminated; however, [REDACTED] acting through Huberman, did not file Frederick's Form U-5 until August 31, 2005, over two years late.

Third Cause of Action

On September 13, 2004, Huberman became CE inactive for failing to complete the Regulatory Element of Continuing Education. Huberman remained CE inactive through December 15, 2004, a total of 93 days.

While he was CE inactive, Huberman continued to act as President and Chief Compliance Officer of [REDACTED]. He was also an Equity Trader and in that regard earned approximately \$57,000 in commissions.

Based on the foregoing, Respondents [REDACTED] and Isac Huberman violated NASD Conduct Rules 2110 and 2711, and Regulation AC, 17 CFR 242.500 through 505, as alleged in the First Cause of Action, NASD Conduct Rule 2110, and Article V, Section 3 of NASD By-Laws, as alleged in the Second Cause of Action, and Respondent Isac Huberman violated NASD Conduct Rules 1120(a) and 2110, as alleged in the Third Cause of Action.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondents 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 Respondents be sanctioned as follows:

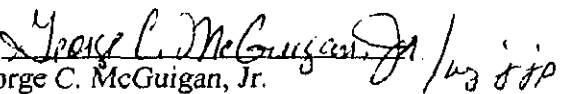
- 1) A censure against Respondent [REDACTED] and ¹
- 2) A \$15,000 fine against Respondent Isac Huberman and a suspension, in any principal capacity, for a period of six months.

¹ Pursuant to the General Principles Applicable to all Sanction Determinations contained in the Sanction Guidelines NASD imposed no fine for Respondent [REDACTED] in this case after it considered, among other things, the firm's revenues and financial resources. See Notice to Members 06-55.

The sanctions imposed herein shall be effective on a date set by NASD staff. Pursuant to IM-8310-2(f), a bar or expulsion shall become effective upon approval or acceptance of this Order by the NAC.

SO ORDERED.

NASD

By: 
George C. McGuigan, Jr.
Regional Counsel

on behalf of the Director of ODA, pursuant to
delegated authority