

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

HOWARD J. CHALFIN
(CRD NO. 2284555),

Respondent.

**Disciplinary Proceeding
No. E1020040324-01**

**Hearing Officer –
RSH**

**ORDER ACCEPTING OFFER
OF SETTLEMENT**

Date: January 3, 2006

INTRODUCTION

Disciplinary Proceeding No. E1020040324-1 was filed on October 7, 2005 by the Department of Enforcement of NASD ("Complainant"). Respondent Howard J. Chalfin ("Respondent") submitted an Offer of Settlement ("Offer") to Complainant, dated December 23, 2005. Pursuant to NASD Procedural 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 NASD Procedural 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.

BACKGROUND

Respondent first became registered with NASD as a General Securities Representative on or about February 17, 1993, through an association with a member firm.

Respondent was subsequently registered with NASD through his association with several other member firms.

From on or about November 10, 1999 through January 26, 2005, Respondent was registered with NASD as a General Securities Principal, General Securities Representative and Equity Trader Limited Representative through his association with former member firm Peconic Securities LLC (BD No. 46781) ("Peconic"). He was also Peconic's President and Compliance Supervisor during this time.

Peconic's registration with NASD was terminated on January 26, 2005 for failure to pay fees. The firm had previously filed a Uniform Withdrawal Request Withdrawal from Broker-Dealer Registration ("Form BD") on December 9, 2004.

Respondent's registration at Peconic was terminated on January 26, 2005, without a Uniform Termination Notice for Securities Industry Registration ("Form U-5") being filed.

Respondent is not currently associated with any NASD member firm. However, Respondent remains subject to the jurisdiction of NASD pursuant to Article V, Section 4 of its By-Laws.

FINDINGS AND CONCLUSIONS

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

A. Violation of NASD Membership and Registration Rule 1017(c)(3) and NASD Conduct Rule 2110

On or about June 28, 2002, Respondent signed a continuing membership agreement with NASD on behalf of Peconic. In that continuing membership agreement, Peconic was permitted to act as a broker/dealer retailing over-the-counter corporate securities; retailing corporate debt securities; trading securities for its own account; engaging in market making in twenty convertible bond securities; and engaging in third party transactions.

The June 28, 2002 continuing membership agreement did not permit Peconic to engage in municipal securities transactions.

On or about September 2, 2003, Peconic began effecting municipal securities transactions. This municipal securities activity constituted a material change in Peconic's business operations.

On or about December 9, 2003, Peconic filed a continuing membership application ("CMA") with NASD. In that CMA, Peconic sought to, among other things, act as a municipal securities broker/dealer, and broker all types of municipal securities on an agency basis. The CMA was submitted by Peconic's counsel to NASD, and copied to Respondent.

On or about June 7, 2004, NASD granted Peconic's CMA with regard to Peconic's request to engage in municipal securities and options transactions. NASD sent this letter to Respondent, and he subsequently signed the revised membership agreement on June 30, 2004.

Prior to NASD's approval of the CMA, Peconic engaged in approximately 2,376 municipal securities transactions from on or about September 2, 2003 through on or about June 4, 2004.

Peconic, acting through Respondent, conducted municipal securities transactions prior to NASD's approval to do so.

By reason of the foregoing, Respondent acted in contravention of NASD Membership and Registration Rule 1017(c)(3) and NASD Conduct Rule 2110.

B. Violation of MSRB Rules G-2, G-3 and G-27

Peconic's written supervisory procedures ("WSPs") designated Respondent as *General Securities Principal and Compliance Supervisor*, and noted that all registered persons at Peconic would be assigned to a supervisor under the overall supervision of Respondent.

Although Respondent was registered as a General Securities Principal, he was not registered as a Municipal Securities Principal while associated with Peconic.

During the period of March 15, 2004 through June 4, 2004, Respondent reviewed and initialed Peconic's municipal securities blotter despite the fact that he was not registered as a Municipal Securities Principal.

The municipal securities representatives at Peconic reported to and were supervised by Respondent.

From on or about September 2, 2003 through June 4, 2004, Peconic, acting through Respondent, failed to ensure that its municipal securities transactions were approved and supervised by a properly registered Municipal Securities Principal.

By reason of the foregoing, Respondent violated MSRB Rules G-2, G-3 and G-27.

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:

- Fined \$15,000;¹ and
- Censured.

The fine shall be due and payable immediately upon reassociation with a member firm.

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

SO ORDERED.

NASD

By: Linda K. Jens
Linda K. Jens, Senior Regional Attorney
on behalf of the Director of ODA,
pursuant to delegated authority

¹ Respondent to pay the fine by installment payment plan pursuant to a promissory note. A 20% initial deposit will be required with the balance of the fine to be paid, monthly and with interest, over four years. The interest charged will be prime (taken from the Wall Street Journal) plus three percentage points, determined on the date the installment plan is initiated.