

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

Department of Enforcement,

Complainant,

v.

Berry-Shino Securities, Inc.,

CRD No. ~~38098~~

38098

and

R. Matthew Shino,

CRD No. 1380293,

Respondents.

Disciplinary Proceeding

No. E3A20050037-02

Hearing Officer: LBB

**ORDER ACCEPTING OFFER OF
SETTLEMENT OF RESPONDENT
BERRY-SHINO SECURITIES, INC.**

Date: January 7, 2008

INTRODUCTION

Disciplinary Proceeding No. E3A20050037-02 was filed on June 12, 2007, by the Department of Enforcement of the Financial Industry Regulatory Authority ("FINRA"). ("Complainant"). Respondent Berry-Shino Securities, Inc. (BSSI or Respondent) submitted an Offer of Settlement ("Offer") to Complainant on December 17, 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.

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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

BSSI became a member of FINRA (formerly known as National Association of Securities Dealers, Inc. or NASD) in September 1995. The firm is currently a member of FINRA. The firm has one office and six registered individuals. Its primary business involves participation in the private placement of securities.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as set forth below. The findings herein are pursuant to BSSI's Offer of Settlement and are not binding on any other person or entity named as a respondent in this or any other proceeding.

1. Transaction Charges: Between January 1, 2002, and April 30, 2004, BSSI effected approximately 240 mutual fund transactions for approximately 25 customers of the firm. In connection with such transactions, BSSI charged transaction fees that were unreasonable and unfairly discriminatory. This constituted violations of NASD Conduct Rules 2430 and 2110 by Respondent BSSI.

2. Additional Charges on Mutual Fund Transactions: Fourteen of the mutual fund transactions described in paragraph 1, above, involved the purchase of mutual funds with sales loads. The imposition by BSSI of charges in addition to the sales load constituted the sale of mutual funds at prices other than the current public offering prices described in the funds' prospectuses, in contravention of Section 22(d)(1) of the Investment Company Act of 1940 and in violation of NASD Conduct Rule 2110 by Respondent BSSI.
3. Rule 3070 Reporting: Between October 16, 2003 and July 31, 2005, BSSI: (a) failed to report or report timely certain items required to be reported pursuant to NASD Conduct Rule 3070(a); and (b) failed to report timely certain customer grievances required to be reported pursuant to NASD Conduct Rule 3070(c). This constituted violations of Conduct Rules 3070 and 2110 by Respondent BSSI.
4. Form U4 and Form U5 Amendments: Between June 1, 2004, and July 31, 2005, BSSI failed to submit two required amendments of previously-filed Uniform Applications for Securities Industry Registration or Transfer (Forms U-4) and submitted two required Form U-4 amendments late. This constituted violations of Article V, Section 2(c) of the FINRA By-laws and Conduct Rule 2110 by Respondent BSSI. Further, BSSI failed to submit four required amendments of previously-filed Uniform Termination Notices for Securities Industry Registration (Form U-5) and submitted two Form U-5 amendments late. This constituted violations of Article V, Section 3(b) of the FINRA By-laws and NASD Conduct Rule 2110 by Respondent BSSI.

5. Failure to Qualify On-Site Options Principal: Between April 1, 2004, and April 30, 2004, five registered persons in the BSSI branch office located in New York, New York transacted an options business. No person employed in the New York branch office during that period was qualified as a Registered Options Principal or a Limited Principal – General Securities Sales Supervisor. BSSI transacted an options business in the firm's New York branch office between April 1, 2004, and April 30, 2004, without a qualified on-site principal, which constituted violations of NASD Conduct Rules 2860(a)(20)(C) and 2110 by Respondent BSSI.
6. Failure to Implement Voluntary Heightened Supervision Plan: On or about March 16, 2004, BSSI voluntarily implemented a heightened supervision plan for a registered representative specifying that all telephone calls made or received by the representative would be recorded, the firm would maintain the recordings for six months and both the branch manager and the compliance officer would review the recordings. The firm did not implement the heightened supervision plan, in violation of NASD Conduct Rules 3010 and 2110.

Based on the foregoing, Respondent violated NASD Conduct Rules 2110, 2430, 2860, 3010 and 3070 and Article V Sections 2(c) and 3(b) of the FINRA By-laws.

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

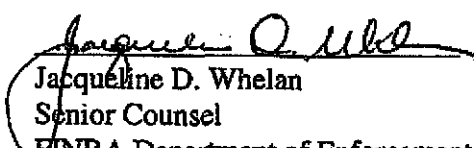
It is ordered that Respondent be censured, fined in the amount of \$40,000.00 and ordered to pay restitution to the customers and in the amounts indicated on Attachment A hereto, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2), from April 15, 2004 until the date this Offer is accepted by the NAC. Satisfactory proof of payment of the restitution or of reasonable and documented efforts undertaken to effect restitution shall be provided to FINRA staff no later than 120 days after acceptance of this Offer. If for any reason Respondent BSSI cannot locate any customer identified in Attachment A after reasonable and documented efforts within such period, or such additional period agreed to by the staff, Respondent BSSI shall forward any undistributed restitution and interest to the appropriate escheat, unclaimed property, or abandoned property fund for the state in which the customer is last known to have resided.

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


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ATTACHMENT A
OFFER OF SETTLEMENT NO. E3A20050037
BERRY-SHINO SECURITIES, INC.

RESTITUTION SCHEDULE

Customer Account No.	Amount
	\$170.00
	\$25.00
	\$100.00
	\$25.00
	\$25.00
	\$120.00
	\$155.00
	\$50.00
	\$150.00
	\$75.00
	\$300.00
	\$150.00
	\$375.00
	\$55.00
	\$25.00
	\$40.00
	\$100.00
	\$25.00
	\$100.00
	\$100.00
	\$100.00
	\$125.00
	\$25.00
	\$20.00
	\$200.00
	\$300.00
	\$20.00
	\$250.00
	\$535.00
	\$100.00
	\$725.00
	\$50.00
	\$160.00
	\$30.00
	\$20.00
	\$20.00
	\$30.00
	\$30.00
	\$390.00
	\$30.00
	\$70.00

Customer Account No.	Amount
	\$30.00
	\$650.00
	\$200.00
	\$1,550.00
	\$500.00
	\$150.00
	\$725.00
	\$210.00
	\$175.00
	\$50.00
	\$50.00
	\$50.00
	\$60.00
	\$110.00
	\$723.00
	\$25.00
	\$50.00
	\$15.00
	\$20.00
	\$20.00
	\$250.00
	\$180.00
	\$30.00
	\$60.00
	60.00
	\$400.00
	\$77.00
	\$60.00
	\$390.00
	\$160.00
	\$190.00
	\$30.00
	\$325.00
	\$4,850.00
	\$2,225.00
	\$475.00
	\$950.00
	\$100.00
	\$50.00
	\$200.00
	\$250.00
	\$225.00
	\$100.00
	\$250.00
	\$20.00
	\$20.00
	\$20.00

Customer Account No.	Amount
	\$100.00
	\$710.00
	\$210.00
	\$180.00
	\$23.00
	\$190.00
	\$1,675.00
	\$60.00
	\$75.00