

**NASD
OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Arthur Booze
Respondent,
CRD No. 2570386

Respondent.

Disciplinary Proceeding
No. E8A2003032203

Hearing Officer - AWH

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: September 19, 2005

INTRODUCTION

Disciplinary Proceeding No. C8A050029 was filed on May 13, 2005, by the Department of Enforcement of NASD ("Complainant"). Respondent Booze submitted an Offer of Settlement ("Offer") to Complainant on September 2, 2005. 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.

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

Arthur Booze entered the securities industry in 1995 as an Investment Company/Variable Contracts Representative of a member of NASD. In July 2002, Booze became a General Securities Representative of another member of NASD. Between October 2000 and December 2002, Booze was registered as a General Securities Representative with Banc One Securities Corp. (Member). Booze was registered with another member between February 2003 and September 2004. Booze is not currently registered with an NASD member and he has no prior disciplinary history.

FINDINGS AND CONCLUSIONS

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

FIRST CAUSE OF COMPLAINT

NASD Conduct Rule 2110

Altering a mutual fund product switch form

1. On or about January 22, 2002, Respondent Booze recommended and effected the sale of \$10,000 worth of shares in the Van Kampen Equity Income Fund and the purchase of \$10,000 worth of shares in the One Group Government Bond Fund in the account of customer E.G.
2. As required by the Member, Booze completed a mutual fund product switch letter, which was signed and dated by customer E.G. and Booze.

3. At some point, Booze filled in the switch letter by hand to include the reason for the switch (Client wants to diversify his portfolio), the surrender charge for the sale of the Van Kampen Fund (\$509), and an initial sales charge for purchase of the One Group Fund (\$450). Booze admitted that he did not tender a copy of the switch letter with the true and accurate sales charges to customer E.G.
4. Booze faxed the switch letter to the Member's principal review desk (PRD) for approval, which was granted.
5. At the same time he faxed the form to PRD or shortly thereafter, Booze used "white out" on the signed mutual fund product switch letter to erase the surrender charge. He then wrote false figures over the white out to show a surrender charge of \$0. The true and accurate surrender charge was \$509, as indicated on the switch letter faxed to PRD.
6. Booze placed the altered product switch letter that contained the false surrender charge in customer E.G.'s file.

SECOND CAUSE OF COMPLAINT
NASD Conduct Rule 2110
Altering a mutual fund product switch form

7. On or about May 30, 2002, Respondent Booze recommended and effected the sale of \$21,753 worth of shares in the Van Kampen Equity Income Fund and the purchase of \$21,753 worth of shares in the One Group Small Cap Value Fund in the account of customer W.B.
8. As required by the Member, Respondent Booze completed a mutual fund product switch letter that was signed and dated by customer W.B. and Booze.
9. At some point, Booze completed the product switch letter to indicate the surrender charge for the sale of the Van Kampen fund (\$1009.76) and the initial sales charge for the purchase of the One Group fund (\$1087.65).

10. Booze sent the switch letter to the Member's PRD for approval.
11. PRD sent the form back to Booze because the form failed to state a reason for the switch.
12. Booze then handwrote that the "client's goal has changed to aggressive growth. Equally his risk tolerance has moved to aggressive. Thus the reason for the small cap value recommendation." Booze then faxed the form back to PRD. Booze did not tender a copy of the switch letter with the accurate fees to the customer.
13. At the same time he faxed the form back to PRD or shortly thereafter, Booze used "white out" on the mutual fund product switch letter to erase the surrender charge and the initial sales charge. He then wrote on top of the white out to show a false surrender charge of \$109 and a false initial sales charge of \$108.
14. Booze placed the altered product switch letter with the false sales figures in customer W.B.'s file.

THIRD CAUSE FOR COMPLAINT
NASD Conduct Rules 2310, IM 2310-2 and 2110
Suitability

15. Regarding the above transactions detailed in Counts I and II, Booze recommended to customers E.G. and W.B. that they sell their existing mutual funds and purchase mutual funds in a different fund family. Booze's recommendation was made without any review or consideration of the customers' financial situation, objectives and needs and without reasonable efforts to obtain information concerning the customers' financial status, the customers' tax status or the customers' investment objectives and without discussing the possibility of purchasing similar mutual funds within the existing fund family.
16. Booze's recommendations were made primarily for the purpose of benefiting Booze and increasing his sales.

17. As a result, the customers incurred surrender charges and sales charges that could have been avoided because a similar product in the same fund family was available for no additional cost.
18. Customer E.G. incurred a surrender charge of \$500 and customer W.B. incurred a surrender charge of \$1009.76.

By reason of the foregoing, Respondent Booze violated NASD Conduct Rules 2110, 2310 and IM 2310-2.

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

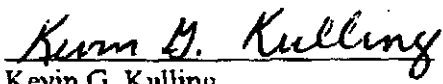
It is ordered that Respondent be suspended from association with any NASD member in any capacity for one year and fined \$5,000.

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

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


Kevin G. Kulling
Regional Counsel
NASD Department of Enforcement
55 W. Monroe Street, Suite 2700
Chicago, IL 60603-5052
(312) 899-4348