

NASD

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Michael A. Poutre, II
CRD No. 2482252

Respondent.

Disciplinary Proceeding
No. 9B20040410

Hearing Officer - AHP

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: November 8, 2006

INTRODUCTION

Disciplinary Proceeding No. E9B20040410 was filed on March 17, 2006, by the Department of Enforcement of NASD ("Complainant"). Respondent Michael A. Poutre ("Poutre") submitted an Offer of Settlement ("Offer") to Complainant on October 31, 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.

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 Michael A. Poutre, II ("Poutre") first became registered with the NASD on or about July 6, 1994 as an investment company/variable annuity contracts registered representative (Series 6). From in or about October 2001 through on or about September 8, 2004, Poutre was registered as a general securities representative (Series 7) and a general securities principal (Series 24) with member firm First Montauk Securities Corp. ("Montauk") (CRD No. 13755). Poutre is currently registered with another member firm. Poutre has no prior NASD disciplinary history.

FINDINGS AND CONCLUSIONS

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

While registered with First Montauk, Poutre was the branch manager for the firm's Beverly Hills, CA branch office. On or about August 9, 2004, NASD staff began an unannounced branch office examination of First Montauk's Beverly Hills, CA branch office. At that time of the NASD examination on August 9, 2004, Poutre was the branch manager for that branch office.

On or about August 9, 2004, as part of their ongoing examination of First Montauk's Beverly Hills branch office, NASD staff provided Poutre with a written request letter, pursuant to NASD Procedural Rule 8210 (the "8210 letter"). The 8210 letter requested that Poutre provide NASD immediate access to, among other things, any and all e-mails and other electronic communications. Poutre received this 8210 letter in the morning.

After receiving the 8210 letter, and prior to providing access to his e-mail communications to NASD staff, Poutre deleted from his computer business-related e-mail communications. Poutre provided NASD staff with access to his computer in the afternoon on

August 9, 2004; the e-mails that he had deleted earlier that day were not made available to NASD at that time.

After being confronted by NASD staff about e-mails that they reviewed from other registered representatives of the firm, Poutre admitted to staff that he deleted e-mails, which NASD later obtained.

Based on the foregoing, Respondent violated NASD Procedural Rule 8210 and NASD Conduct Rule 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 NASD, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be

Fined \$5,000 and suspended in all capacities for ten (10) business days.

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

SO ORDERED.

NASD

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



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