

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

V.



AND

JOHN J. DELANEY, CRD No. 64352,

RESPONDENTS.

**DISCIPLINARY PROCEEDING
No. EAF0300770001**

**HEARING OFFICER:
ALAN W. HEIFETZ**

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

DATE: JUNE 6, 2006

INTRODUCTION

Disciplinary Proceeding No. EAF0300770001 was filed on February 8, 2006, by the Department of Enforcement of NASD ("Complainant"). Respondent John J. Delaney ("Respondent" or "Delaney") submitted an Offer of Settlement ("Offer") to Complainant on May 30, 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 John J. Delaney, CRD No. 64352, has been a general securities representative at [REDACTED] since October 2001. He first entered the securities industry in August 1969 and became a general securities representative at New York Hanseatic Corporation in New York, New York. Prior to joining [REDACTED] Delaney also was registered as a general securities representative with another fifteen firms from April 1989 to November 1999.

Delaney has no disciplinary history.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:¹

Delaney has been a general securities representative at [REDACTED] a small broker-dealer in Jupiter, Florida, since October 2001. During most of Delaney's tenure, [REDACTED] has been a market maker in over-the-counter ("OTC") stocks.

¹ The findings herein are pursuant to Respondent Delaney's Offer of Settlement and are not binding on any other person or entity named as a respondent in this or any other proceeding.

Among [REDACTED] clients were 13 Bahamian companies that shared the same address, president, and managing agent. These 13 companies, and the dates they opened accounts at [REDACTED] are as follows:

- a. Settondown Capital International, Ltd. (March 22, 1999) ("Settondown");
- b. Manchester Asset Management Ltd. (March 22, 1999) ("Manchester");
- c. Gilston Corporation Ltd. (Jan. 31, 2000) ("Gilston");
- d. Ridgeway Investment, Limited (March 28, 2000) ("Ridgeway");
- e. Torneaux Ltd. (July 25, 2000) ("Torneaux");
- f. Domino International Ltd. (Jan. 16, 2002) ("Domino");
- g. Warwick Corporation Ltd. (Jan. 16, 2002) ("Warwick");
- h. Magellan International Ltd. (Jan. 16, 2002) ("Magellan");
- i. Danby International Limited (Jan. 16, 2002) ("Danby");
- j. Aspen International Ltd. (Jan. 16, 2002) ("Aspen");
- k. Rideau Ltd. (March 27, 2002) ("Rideau");
- l. Bairstow Partners Ltd. (April 15, 2002) ("Bairstow"); and
- m. Camden International Ltd. (Jan. 10, 2003) ("Camden").

With one exception, each of these companies provided [REDACTED] with written authorization for the same three individuals, Anthony L.M. Inder Rieden, D.M.C. and A.M.L., to effect transactions in its securities account at [REDACTED]. None of these companies provided written authority to effect transactions to Samuel Levin, an individual living in Brooklyn, New York, who was a business associate of Inder Rieden. Inder Rieden was the founder of the 13 Bahamian accounts as well as [REDACTED].

Despite lacking written authority, Levin generally directed trading in the accounts of the 13 Bahamian companies. Delaney was the account representative on the accounts opened by Aspen, Danby, Domino, Magellan, Rideau and Warwick from the outset. On February 10, 2003, Delaney became the account representative for the accounts of six of the remaining seven Bahamian companies: Bairstow, Gilston, Manchester, Ridgeway, Settondown and Torneaux. Delaney never served as account representative of the Camden account. All of the accounts closed in 2003 except Camden, which closed in 2004, and Torneaux, which remained open with a negligible account value.

During the time Delaney was the account representative for the 12 accounts, over 60 sales of securities totaling over \$1.3 million were executed in these accounts. Delaney executed many of these trades, which were usually directed by Levin. Levin provided Delaney with detailed instructions for these accounts regarding what securities to sell, when to sell, and at what prices to sell. Delaney accepted these orders and instructions from Levin and entered the transactions, despite not having any written authorization from the companies authorizing [REDACTED] to accept orders for their accounts from Levin. Delaney did not obtain authorization from the three individuals authorized to place orders prior to executing the transactions.

Delaney was also the registered representative for the account of Jan A. Kusy, which was set up with the participation of two officers of eSynch Corporation ("eSynch"): T. Richard Hutt, who was a Director, Vice President and Secretary/Treasurer of eSynch, and Thomas Hemingway, who was the Chairman and Chief Executive Officer of eSynch. Unbeknownst to Delaney, Kusy was the brother-in-law of Hutt. The activity in Kusy's account was devoted almost exclusively to liquidating shares of eSynch deposited in the account.

² One account, Settondown, provided D.E.D. with trading authority as well.

Notwithstanding that only Kusy had authority to order transactions in his account, on July 19, 2002, Hemingway instructed Delaney, the broker of record for Kusy's account, to sell 200,000 shares of eSynch from Kusy's account. Pursuant to Hemingway's instructions, on July 19, 2002, Delaney sold 100,000 shares of eSynch for Kusy's account. Kusy had not given [REDACTED] prior written authorization, in accordance with NASD Conduct Rule 2510(b), to allow Hemingway to act for his account. On July 23, 2002, Kusy faxed a letter to [REDACTED] authorizing [REDACTED] to sell 200,000 shares of eSynch "per the verbal instructions from Tom Hemingway to Jack Delaney on July 19, 2002."

Based on the foregoing, Respondent violated NASD Conduct Rule 2510(b), which provides that "[n]o member or registered representative shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the member, as evidenced in writing by the member or the partner, officer, or manager, duly designated by the member, in accordance with Rule 3010."

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

Pay a fine in the amount of \$10,000; and

be suspended from association with any NASD member in any capacity for twenty
(20) 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


Roger B. Sherman
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