

BEFORE THE NATIONAL ADJUDICATORY COUNCIL

NASD REGULATION, INC.

In the Matter of  
the Association

of

X

as a

Registered Representative

with

The Sponsoring Firm

**Redacted Decision**

Notice Pursuant to  
Section 19h-1  
Securities Exchange Act  
of 1934

SD98007

This matter involves the association of X<sup>1</sup>, a person subject to a statutory disqualification, as a general securities representative with the Sponsoring Firm, a member firm ("the Sponsoring Firm" or "the Firm") located in Florida.<sup>2</sup> A hearing on this matter was held in December 1997 before a subcommittee ("Hearing Panel") of the Statutory Disqualification Committee ("SD Committee") of NASD Regulation, Inc. ("NASD Regulation"). X appeared and was accompanied by a general securities principal and branch manager for the Sponsoring Firm ("the Proposed Supervisor"), and the president of Firm A.

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<sup>1</sup> The names of the Statutorily Disqualified individual, the Sponsoring Firm, the Proposed Supervisor, and other information deemed reasonably necessary to maintain confidentiality have been redacted.

<sup>2</sup> The Sponsoring Firm is a wholly-owned subsidiary of Company 1.

X has been employed in the securities industry since 1989. From 1989 through the beginning of 1990, X was employed as a sales assistant at Firm B. From 1990 through first quarter 1997, X was a registered representative at Firm B.<sup>3</sup> Since second quarter 1997, X has been employed in a clerical capacity in the banking operation of the Sponsoring Firm. X is subject to a statutory disqualification as the result of his 1989 guilty plea in State 1 Superior Court for possession of marijuana. X was sentenced to three years' probation, out-patient substance abuse treatment with random urine analysis, and 150 hours of community service. His probation terminated in 1992 without incident.

The Sponsoring Firm has been a member of the NASD since 1981 and operates as a general securities broker/dealer. The Sponsoring Firm employs 497 registered principals and 1,020 registered representatives, and it has 485 branch offices and 352 Offices of Supervisory Jurisdiction ("OSJ"). The Sponsoring Firm derives 40 percent of its revenue from sales of mutual funds, 50 percent from sales of annuities, and 10 percent from sales of listed securities and bonds. The Sponsoring Firm does not make markets in securities.

The Sponsoring Firm proposes to employ X as a registered representative in its State 1 OSJ. X will be supervised by the Proposed Supervisor, the branch manager, who has been in the securities industry since 1987, has been a registered general principal since 1990, and has no disciplinary history. The Sponsoring Firm was suspended for three days in 1982 by State 2, and State 3 entered a cease and desist order against the Sponsoring Firm in 1982 for advertising as a securities broker in State 3 prior to the Sponsoring Firm's registration with that state in 1982. Currently, the Sponsoring Firm is a respondent in an NASD disciplinary proceeding. The Sponsoring Firm has denied all allegations and requested a hearing in the proceeding, which is pending before the District Business Conduct Committee for District No. 6, and which was initiated pursuant to a complaint alleging failure to supervise a representative who engaged in unauthorized transactions, executed unsuitable options transactions, and made misleading statements to customers. At the hearing, the Proposed Supervisor confirmed that this action did not emanate from his branch office.

At the hearing and in written submissions, the Sponsoring Firm outlined the following supervisory plan:

- (1) The Proposed Supervisor will work on the same premises as X and will oversee X's day-to-day activities;
- (2) The Sponsoring Firm will conduct on-site audits of the Connecticut branch office every six months for the first 18 months that X is affiliated with that branch;
- (3) X will not be approved for any discretionary accounts during the period of special supervision;
- (4) The Proposed Supervisor periodically will review X's client contact log to ensure

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<sup>3</sup> The record shows that X properly informed Firm B of his 1989 felony-equivalent drug conviction, but that through a series of clerical errors, this information was not timely communicated to the NASD.

- adequate documentation of customer contact;
- (5) The Proposed Supervisor will review, initial, and date daily order tickets;
  - (6) The Proposed Supervisor will review and initial incoming and outgoing correspondence; and customer complaints, if any, will be forwarded immediately to the Sponsoring Firm's Compliance Department and the appropriate office for the State of Connecticut;
  - (7) The Proposed Supervisor will review and initial the monthly exception report and will investigate and follow up on every exception listed; and
  - (8) The Proposed Supervisor will review a monthly report that is designed to track client calls received from the Sponsoring Firm's Client Service Department to spot possible problem accounts or trends.

The Sponsoring Firm employs no other individuals who are subject to a statutory disqualification, and no familial relationship exists between X and his proposed supervisor. The Sponsoring Firm was examined in 1997 in an off-cycle municipal examination that was filed without action; the 1995 routine examination resulted in a Letter of Caution for violation of former Article III, Section 25 of the NASD Rules of Fair Practice (dealing with non-member broker/dealers on other than the same prices, for the same commissions or fees, and on the same terms and conditions as accorded to the general public) (now known as Conduct Rule 2420).

After careful review of the entire record in this matter, we conclude that the Sponsoring Firm's application to employ X as a general securities representative should be approved. We note that X's probation was terminated successfully in 1992 and that he has been employed in the securities industry since that time without incident. The Sponsoring Firm appears to be well structured to supervise X in that it has proposed a program to monitor X closely, with daily on-site supervision by The Proposed Supervisor, the branch manager, who has no disciplinary history in his 10 years in the securities industry.

We conclude that X will be sufficiently supervised to be associated with the Sponsoring Firm as a registered representative.

Accordingly, X's association as a general securities representative with the Sponsoring Firm will become effective within 30 days, unless otherwise notified by the Securities and Exchange Commission.

On Behalf of the National Adjudicatory Council,

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Joan C. Conley, Corporate Secretary