

BEFORE THE NATIONAL BUSINESS CONDUCT COMMITTEE

NASD REGULATION, INC.

In the Matter of

District Business Conduct
Committee For District No. 2

Complainant,

v.

Michael Edgar Goldstein
Los Angeles, California,

Jeffrey B. Goodman
Calabasas, CA,

Jason Scott Neu
Santa Monica, CA,

William Reininger
Agoura, CA,

and

Joseph Patrick Hannan
Los Angeles, CA,

Respondents.

DECISION

Complaint No. C02950053

District No. 2

Dated: August 28, 1997

This matter was appealed by respondents Michael Edgar Goldstein ("Goldstein"), Jeffrey Bruce Goodman ("Goodman"), Jason Scott Neu ("Neu"), William Reininger ("Reininger"), and Joseph Patrick Hannan ("Hannan") pursuant to NASD Procedural Rule 9310. For the reasons discussed below, we hold that respondents violated Article III, Section 1 ("Section 1") and Article IV, Section 5 ("Section 5") of the Association's Rules of Fair Practice (now Conduct Rule 2110 and Procedural Rule 8210) by not responding to the Association's requests for information as alleged in the complaint. We order that Goldstein and Goodman each be censured; fined \$5,000; suspended from association with any member of the Association in any capacity for six months;

ordered to requalify by examination as general securities representatives; and assessed hearing costs of \$135. We order that Neu be censured; fined \$20,000; barred from association with any member of the Association in any capacity; and assessed \$135 in hearing costs and \$750 in appeal costs. We order that Reininger be censured; fined \$5,000; suspended from association with any member of the Association in any capacity for six months; ordered to requalify as a limited representative for direct participation programs; and assessed \$135 in hearing costs. We order that Hannan be censured; fined \$1,000; suspended from association with any member of the Association in any capacity for six months; and assessed \$135 in hearing costs.

Facts

The complaint resulted from an examination of Columbus Financial ("Columbus"), a former member of the Association located in Beverly Hills, California. The examination of Columbus focused on offerings of affiliated limited partnerships by Columbus. The offering memoranda for the partnerships disclosed compensation data as to persons at Columbus participating in the sales of limited partnership units. The examination, however, raised concerns that additional undisclosed compensation was being paid to those persons by other affiliated entities. The Association lacked jurisdiction over the partnerships and other affiliated entities and thus sought the individual tax returns, supporting documentation, and the testimony that were the subject of the complaint in order to determine whether, in fact, Columbus employees had received undisclosed compensation in connection with the partnership offerings.

Goldstein. From July 1992 to October 1994, Goldstein was employed as a senior vice president of Columbus. He was registered as a general securities representative and a general securities principal until March 1, 1996. Goldstein is not currently registered with the Association.

On September 1, 1995, staff examiner Jon Blizzard ("Blizzard") sent Goldstein a written request, pursuant to Section 5, seeking production of "[c]opies of your 1993 and 1994 income tax returns (including supporting documentation such as: W-2s and 1099s)." The request required production of the documents by September 15, 1995.

Goldstein responded to Blizzard's request in a letter dated September 11, 1995. In that letter, Goldstein stated that his attorney had informed him that it was not necessary for him to provide the requested documents and that Blizzard had access to all necessary information to obtain Goldstein's remuneration from Columbus. Goldstein declined to provide the requested documents.

On September 14, 1995, Blizzard sent a second written request to Goldstein for the same information. In that letter, Blizzard informed Goldstein that staff had information that indicated that Goldstein might have participated in the sale of unregistered securities and that his compensation in connection with such matters was under investigation. He informed Goldstein that there was ample case law which supported the Association's right to request the documents pursuant to Section 5. Blizzard enclosed a copy of the Association's sanction guideline for failing

to provide information. He gave Goldstein a new deadline of September 22, 1995, to provide the requested documents.

Goldstein responded in a letter dated September 21, 1995. In that letter, Goldstein noted that the securities at issue involved private placements and were by definition "unregistered securities." He asked for clarification as to that point. He further advised that his attorney had again informed him that he did not have to provide the documents requested. He asked Blizzard to provide him with precedent in that regard.

On September 25, 1995, Blizzard sent Goldstein another letter. Blizzard noted that he had made repeated requests for the documents at issue. As to the registration issue, he explained that the securities at issue were sold pursuant to SEC Rule 505 under Regulation D. He noted that he believed that the requirements of that rule were not met and therefore the securities were subject to the appropriate registration requirements of the Securities Act of 1933. He suggested that Goldstein ask his attorney about the Association's authority to request information under Section 5. He informed Goldstein that unless he provided the requested documents within a reasonable time, a complaint would be presented to the DBCC.

On October 20, 1995, Blizzard received a letter from Donald Etra ("Etra") informing Blizzard that Etra represented Goldstein. The letter requested that any future correspondence concerning the investigation be directed to Etra. In a letter dated November 8, 1995, Etra wrote to Blizzard and stated that Goldstein's tax returns were privileged but that the information the Association was seeking could be obtained from Goldstein's W-2 forms. As a way to resolve the dispute, Etra stated that Goldstein was willing to provide his 1993 and 1994 W-2 forms from Columbus. Blizzard did not respond to this offer.

The complaint was filed on November 30, 1995. Cause two of the complaint alleged that by letters dated September 1, September 14 and September 25, 1995, the Association, pursuant to Section 5, requested that Goldstein provide the Association with his 1993 and 1994 income tax returns and supporting documentation and Goldstein refused to provide these documents. Goldstein therefore was charged with violations of Sections 1 and 5.

On December 20, 1995, Goldstein provided the Association with copies of his tax returns and W-2 forms for 1993 and 1994. Goldstein did not provide the supporting documentation for the returns. For example, the 1993 return reflected business income of \$135,000 and the 1994 return reflected business income of \$8,800. No support was provided to establish the source of this business income. At the DBCC hearing, Goldstein testified that his business income was from LDF Financial. Goldstein testified that LDF Financial was Laura Fletcher, who was affiliated with Columbus. He further admitted that managers at Columbus were compensated by LDF Financial. Goldstein further testified that he had not been provided with 1099 forms and that he gave the Association everything he presented to the IRS. Goldstein also testified that he told Blizzard to call his (Goldstein's) accountant for any additional information.

The DBCC found that Goldstein violated Sections 1 and 5 as alleged in the complaint. The DBCC ordered that Goldstein be censured; fined \$20,000; barred from association with any member of the Association in any capacity; and assessed costs of \$135.

On appeal, Goldstein, through his attorney, argued that he responded to each of staff's requests within three or four days, but that he was not given good advice by his attorney, Etra. He also argued that he was not provided with any case law to support the Association's right to request his tax returns, yet Goodman was provided with such case law. He stated that he was not challenging the imposition of some sanctions for his actions, but that the sanctions imposed by the DBCC were not warranted. Goldstein also represented that as of the day of the NBCC hearing, he still had not received a 1099 form for 1994 and planned to follow-up with Columbus regarding such 1099 form. When he received a 1099 form for 1994, Goldstein represented he would provide the Association with a copy. Goldstein further represented that he had recently obtained a 1099 form for 1993 and that he would provide the Association with a copy of it. Goldstein argued that his case should be distinguished from the cases against the other respondents because after the complaint was filed he did produce his 1993 and 1994 tax returns and only his 1099 forms were missing.

Goldstein also stated that he felt at the time that he was cooperating with the Association because he had given the names of his accountant and attorney to Blizzard and told him that he could call them for information. Goldstein claimed that he was not an accountant and he did not understand what Blizzard was requesting. He also stated that he had met with Blizzard on other Columbus matters.

Goodman. From August 1992 through May 1995, Goodman was employed as a sales representative by Columbus and was registered with the Association as a general securities representative. Goodman is not currently registered with the Association.

On October 17, 1995, Blizzard sent a letter request to Goodman pursuant to Section 5. Blizzard requested that Goodman provide "[c]opies of your 1993 and 1994 income tax returns (including supporting documentation such as: W-2's and 1099's)."

On October 23, 1995, the Association received Goodman's written response. In that response, Goodman stated that he would be unable to provide the documents by the October 24 deadline since his attorney was in court and his accountant was on vacation. He stated that his attorney would telephone Blizzard the following week.

On October 25, 1995, Blizzard informed Goodman that he had been granted a five-day extension to provide the requested documents. On November 2, 1995, the Association received a response to its requests from Jodi M. Lewis ("Lewis"), Goodman's attorney. Lewis' letter indicated that based upon Lewis' research, the Association's request impinged on Goodman's constitutionally protected right to financial privacy. Lewis asked for Blizzard to direct him to any interpretive law that might prove the tax returns were subject to production.

On November 2, 1995, Blizzard sent another request to Goodman. He noted that the Association is not a government agency and that the authorities cited by Goodman's counsel did not apply to it. In response to Goodman's request for case authority, Blizzard stated that examining staff was not equipped to conduct legal research. Blizzard informed Goodman that the staff would recommend disciplinary action against him.

On November 15, 1995, the Association received a letter from Lewis to Lani Woltmann ("Woltmann"), the Association's District Director for District No. 2. In the letter, Lewis explained that his research had not led to a single authority for Blizzard's position that the Association's Rules of Fair Practice provision for the inspection of books and records encompasses tax information. Lewis again requested that the Association provide authority to support its request for tax information.

Woltmann responded in writing on November 15, 1995 and cited case law. Woltmann informed counsel that Goodman's refusal to provide information would be reported to the District Business Committee ("DBCC") for further action. Lewis responded on November 27, 1995. He stated that Goodman would respond, despite Lewis' opinion that the case law provided by the Association did not support the proposition that the NASD Rules of Fair Practice require the production of tax documents. He enclosed the first page of Goodman's 1993 and 1994 tax returns (Form 1040), with Goodman's W-2 forms from Columbus, as well as a Form 1099 for 1994 reflecting \$21,600 in income from LDF Accounting Services. He stated that no Form 1099 had been issued for 1993. Lewis stated that the balance of the tax returns was not needed since the Association's inquiry focused on 1099 income.

According to Blizzard, Goodman's production was incomplete because it did not allow staff to identify all sources of compensation, including compensation in the form of securities or other assets. Goodman claimed he did not provide the rest of the tax information because he relied upon his attorney's advice. Goodman also claimed that his production was responsive to the stated purpose of the investigation, which was to determine if compensation had been improperly received from the issuer.

Cause seven of the complaint alleged and the DBCC found that on October 17 and November 2, 1995, pursuant to Section 5, the Association requested that Goodman provide it with his 1993 and 1994 tax returns and supporting documentation and Goodman refused to do so. The DBCC therefore found that Goodman violated Sections 1 and 5 and ordered that he be censured; fined \$15,000; suspended from association with any member of the Association in any capacity for a period of three years; and assessed costs of \$135.

Goodman submitted a written appeal request in which he stated that he had been advised by his attorney that his tax returns are protected by state and federal law and that the Association is not entitled to this information. Goodman failed to appear at the NBCC hearing.

Neu. From May 1994 through March 1995, Neu was associated with Columbus and was registered with the Association as a general securities representative. Neu is currently associated

with member firm North Ridge Capital Corporation and is registered with the Association as a general securities representative.

On September 25 and October 19, 1995, Blizzard sent written requests to Neu seeking information regarding checks Neu mentioned he had received from outside entities while employed by Columbus. The written requests asked Neu to provide a statement as to the purpose of the checks. The requests also asked that if Neu received no compensation from these outside entities, then he should provide substantiated documentation to this in the form of "[his] 1993 and 1994 income tax returns (include supporting documentation such as: W-2's and 1099's)." On October 5, 1995, Neu left a voice mail message for Blizzard in which Neu indicated that his response was forthcoming. After no response was received, Blizzard sent a letter to Neu's current broker/dealer seeking assistance in obtaining the information. Neu did not provide the information.

The complaint was filed on November 30, 1995. Cause eight of the complaint alleged and the DBCC found that on September 25, 1995, and October 19, 1995, the Association, pursuant to Section 5 of the Rules, the Association requested that Neu provide it with his 1993 and 1994 income tax returns and supporting documentation and Neu failed to do so.

On January 15, 1996, Neu submitted a letter to the Association in which he stated that he was never engaged in retail sales for Columbus and that the request was inappropriate. He further stated that he was informed by counsel that the request might be a violation of his civil rights. Neu also stated that if the Association insisted, he would comply. Neu never submitted the requested information and did not participate in the DBCC hearing.

The DBCC found that Neu violated Sections 1 and 5 as alleged in the complaint and ordered that he be censured; fined \$20,000; barred from associating with any member of the Association in any capacity; and assessed costs of \$135.

On appeal, Neu argued that he was informed by counsel that he did not have to produce tax returns. He also stated that he had not filed 1993 or 1994 tax returns and therefore those records were not available. He did not provide any explanation as to why he could not at least produce any W-2 or 1099 forms. He admitted that at least one 1099 form was in his possession.

Staff argued that, according to the record, at the time its request for information was made, Neu did not inform staff that his tax returns had not been filed.

Reininger. From August 1992 through April 1995, Reininger was national sales manager for Columbus and from October 1992 through May 1995, he was registered with the Association as a limited representative for direct participation programs. Reininger is not currently registered with the Association.

On October 17 and 25, 1995, Blizzard requested in writing that Reininger provide the Association with "[c]opies of your 1993 and 1994 income tax returns (including supporting

documentation such as: W-2's and 1099's)." The requests were made pursuant to Section 5. On October 26, 1995, Reininger sent a letter to Blizzard and explained that he (Reininger) was seeking legal counsel regarding the request. He stated that he was in the midst of a dissolution of a common law marriage.

On November 20, 1995, Blizzard made another request for the same documentation. Before the complaint was filed, Reininger and Blizzard spoke and Reininger made arrangements for his accountant to fax to Blizzard Reininger's 1993 tax return. At that time, Reininger did not mention the fact that he had not filed a 1994 tax return. On November 27, 1995, the Association received from Reininger's accountant, via facsimile, a copy of Reininger's 1993 tax return and a notice that extension requests had been filed for Reininger's 1994 tax return. Supporting documentation was not included, and Blizzard did not inform Reininger that information was missing from this production.

Cause twelve of the complaint alleged that on October 17, October 25 and November 20, 1995, the Association, pursuant to Section 5, requested that Reininger provide the Association with his 1993 and 1994 income tax returns and supporting documentation. Cause twelve alleged that Reininger provided his 1993 income tax return, but failed to provide his 1994 income tax return as well as supporting documentation for both returns.

In his answer to the complaint, Reininger stated that any delay in his response was due to an effort to obtain and consult legal counsel. He further stated that he provided everything in his possession regarding his 1993 income tax return and it was impossible to provide copies of his 1994 income tax return because it had not yet been prepared. Reininger stated that he would provide staff with his 1994 tax return after it was prepared. He also stated that he did not have copies of supporting documentation for his 1993 or 1994 tax returns and therefore could not produce such documents. He stated that he had requested his accountant to locate such supporting documentation and, when located, he would provide copies to staff.

At the DBCC hearing, Reininger testified that he was in the midst of a breakup of a common law marriage. His former wife had taken all of his papers, including his 1993 tax return and the supporting documentation for his 1994 return. He stated that he had no means to compel their return since no divorce was involved. As to the return provided by his accountant for 1993, Reininger testified that he had authorized his accountant to provide the Association with anything it wanted. Therefore, according to Reininger, if the accountant had supporting papers for the 1993 return or the 1994 return, the Association needed only to contact him to get them. Reininger produced to the Association all the documents that he had in his possession.

Reininger's attorney argued the same legal issues on production of tax returns as the other respondents. In addition, he claimed that the requests were vague and that Blizzard himself did not know what he was requesting. The DBCC found that Reininger violated Sections 1 and 5 as alleged in the complaint and ordered that he be censured; fined \$20,000; barred from association with any member of the Association in any capacity; and assessed costs of \$135.

On appeal, Reininger argued that he had never refused to provide any information requested or to produce any documents that he had the ability to produce. Neither Reininger nor his accountant had the 1099 forms for his 1993 tax return, and because his ex-mate took his financial records he could not prepare his 1994 return.

Prior to the appeal hearing, the Subcommittee granted Reininger's request to submit additional evidence that had not been available at the time of the DBCC hearing. Reininger submitted copies of 1099 forms for 1993 and 1994 and a copy of his 1993 and 1994 income tax returns including schedules, receipts given to his accountant, and W-2 forms. At the appeal hearing, Reininger explained that he had recently obtained his financial records from his ex-mate and filed the 1994 tax return in January or February 1997. He also stated that he had gained a whole new awareness of how the Association's rules apply to him and the importance of acting in a timely manner when responding to a request. He further stated that in 1995 he was given bad legal advice.

Hannan. From November 1993 through April 1995, Hannan was employed by Columbus as an administrative assistant in its operations department. He has never been registered with the Association.

On June 6, 1995, Blizzard made a written request, pursuant to Section 5, for Hannan to contact him prior to June 16th in order to schedule a meeting no later than June 23rd. In a letter dated June 9, 1995, Hannan's attorney responded and stated that Hannan would comply with any reasonable request made of him. The attorney also asked Blizzard to contact him rather than attempting to contact Hannan directly. In further response, Hannan also copied Blizzard on a letter to his attorney dated June 14, 1995. In that letter, Hannan authorized his attorney to represent him before the Association and stated that he was willing to cooperate in the investigation without reservation.

On July 17, 1995, Blizzard sent a letter to Hannan and copied Hannan's attorney. In that letter, Blizzard asked Hannan to contact him by July 24th in order to schedule a meeting by July 31st. On September 11, 1995, Blizzard sent a letter to Hannan in which he asked Hannan to appear and testify on September 25th. On September 22, 1995, Hannan called and left a message for Blizzard that Hannan did not think the Association needed to speak with him further and that he could not "make testimony."

Blizzard called Hannan in November 1995 and Hannan agreed to testify on November 22, 1995. Hannan did not appear and testify as scheduled. Cause thirteen of the complaint alleged that on June 6, 1995, July 17, 1995, September 11, 1995 and November 21, 1995, pursuant to Section 5 of the Rules, the Association requested that Hannan appear and give testimony in connection with the Association's examination of Columbus and Hannan failed and refused to do so.

In his answer to the complaint, Hannan stated that he or his attorney contacted the Association in response to all letters received from the Association. He stated that he provided

the Association with the only information he could: a sworn statement regarding the operational procedures at Columbus. Hannan stated that he did not refuse to testify on November 22, 1995. Hannan claimed he canceled that interview because Blizzard harassed him and did not contact other associated persons at his level at Columbus, and because he did not trust Blizzard and would only meet with another examiner.

Hannan did not participate in the DBCC hearing and the DBCC found that he violated Sections 1 and 5 as alleged in the complaint. The DBCC ordered that Hannan be censured; fined \$20,000; barred from association with any member of the Association in any capacity; and assessed costs of \$135.

According to Hannan's appeal submission, after calling to cancel the November 22nd interview, he offered to reschedule the meeting for the week of December 25 to 31. At the NBCC hearing, Hannan explained that he only worked at Columbus for 18 months, and his job was to answer phones, open Federal Express packages and draw up sales reports. He stated that he cooperated with Blizzard by providing information and answering questions during hours of telephone conversations. He also prepared a written statement for Blizzard. He stated that he could not take time off from his job to appear in person and give testimony and no one gave him the option of providing testimony over the telephone.

Staff admitted that Hannan had cooperated with the investigation and that staff had requested that he come for an interview so his testimony could be put on the record.

Discussion

Section 5 authorizes the Association, in the course of its investigations, to require Association members to "report, either informally or on the record, orally or in writing with regard to any matter involved in any such investigation." Because the NASD lacks subpoena power over its members, a "failure to provide information fully and promptly undermines the NASD's ability to carry out its regulatory mandate." In re Brian L. Gibbons, Exchange Act Rel. No. 37170 (May 8, 1996); In re Michael David Borth, 51 S.E.C. 178, 180 (Dec. 16, 1992). Accordingly, members may not place conditions upon their responses to NASD inquiries; Gibbons at 5; Borth, 51 S.E.C. at 180; In re Boren & Co., 40 S.E.C. 217 (Sept. 19, 1960); nor may they take it upon themselves to determine whether information requested is material to the NASD's investigation; General Bond & Share Co. v. S.E.C., 39 F. 3d 1451 (10th Cir. 1994); In re Mark Allen Elliott, 51 S.E.C. 1148 (1994) (respondents cannot "second guess" requests for information). When the respondents became members of the Association or persons associated with members, they agreed to abide by the NASD's rules. Respondents cannot now claim that either a California or federal statute grants them a privilege from complying with NASD rules.

Respondents' reliance on the advice of counsel is immaterial to their obligation to supply the requested information. In re Michael Markowski, 51 S.E.C. 553, 557 (1993), aff'd., 34 F. 3d 99 (2d Cir. 1994). Nor can respondents shift to their attorneys, accountants or anyone else their responsibility to comply with the Association's requests. Id.; In re Mark Allen Elliott, 51 S.E.C.

1148 (1994); Borth, 51 S.E.C. 178. In order to find that respondents committed a failure to respond violation, it is not necessary to find that they acted with scienter. In re Richard J. Rouse, 51 S.E.C. 581 (1993).

Goldstein. We find that prior to the filing of the complaint, Goldstein did not fully and promptly comply with the Association's requests for 1993 and 1994 tax returns (including supporting documentation such as W-2s and 1099s). Goldstein, however, did respond to the Association's request by seeking counsel, and based upon the advice of that counsel, he attempted to satisfy the Association's requests by offering to provide his W-2 forms from Columbus. A month after the complaint was filed, Goldstein did provide his W-2 forms and tax returns for 1993 and 1994. Goldstein, however, failed to provide his 1099 forms. Nonetheless, at the DBCC hearing, he did reveal the source of his business income, which appeared to be the information that staff was interested in obtaining from the 1099 forms.

The NASD Sanction Guidelines ("Guidelines") recommend a bar when an individual has not responded in any manner.¹ Therefore, while we find that Goldstein did violate Sections 1 and 5 as alleged in the complaint, we find that a bar is not appropriate in Goldstein's case. Instead, we find a censure, a six-month suspension from association with any member of the Association in any capacity, and requalification by examination as a general securities representative to be remedial and appropriate. We also affirm the \$135 in hearing costs imposed by the DBCC. We find that sufficient mitigation exists to reduce the fine to \$5,000. Although late, Goldstein has at this time produced all the documents and information staff requested except for the 1099 forms. The information in which staff was interested from those 1099 forms (the source of Goldstein's business income) was revealed by Goldstein at the DBCC hearing. Also, Goldstein did offer staff access to his accountant for more information. Although Goldstein's reliance upon his attorney is not a defense to violations alleged, we do find that he relied in good faith upon his attorney's advice that he did not have to produce the tax returns and supporting documents.

Goodman. Prior to the filing of the complaint, Goodman did provide portions of his 1993 and 1994 tax returns and his W-2 forms from Columbus, as well as his 1099 forms, which reflected income paid by LDF Accounting Services, a company affiliated with Columbus. Goodman failed to produce his complete returns. The DBCC noted that Goodman was forthcoming at the hearing regarding LDF Financial's relationship to the principals of Columbus. Goodman still has not provided the remaining portions of his 1993 and 1994 tax returns; however, we agree that his production was responsive to the stated purpose of the investigation which was to determine if compensation had been received from entities affiliated with Columbus.

We find that Goodman did violate Sections 1 and 5 as alleged in the complaint; however, we find sufficient mitigation exists to reduce the sanctions from a three-year suspension to a six-month suspension, with a requalification by examination as a general securities representative requirement, and from a \$15,000 fine to a \$5,000 fine. Although reliance on counsel is not a

¹ See Guidelines (1993 ed.) at 20 (Failure to Respond or Respond in a Timely Manner to the NASD).

defense to the violations alleged, this fact has been considered in the determination of sanctions. Goodman's failure to produce the missing portions of his tax returns was based upon advice from his attorney. Goodman did provide substantial documents prior to the filing of the complaint and was forthcoming at the DBCC hearing. We also affirm the \$135 in hearing costs imposed by the DBCC.

Neu. Neu did not respond to staff's written requests for information in any manner before the complaint was filed. After the complaint was filed, Neu wrote to the Association and claimed that his attorney had advised him that the request for tax information might be an invasion of his civil privacy rights. To date, Neu has not produced any tax documents or information, although he admitted to having in his possession at least some documents. Neu has not presented any reasons for his failure to comply in any manner, and we therefore affirm the sanctions imposed by the DBCC against Neu. As recommended by the Guidelines, a bar is appropriate because Neu did not respond in any manner to staff's written requests. Even if we accept Neu's explanation (given for the first time on appeal) that he has not filed a 1993 or 1994 tax return and therefore cannot provide the requested returns, Neu has made no attempt to provide the information staff was seeking through W-2 forms or 1099 forms. Accordingly, we affirm the DBCC's findings and sanctions as to Neu and assess appeal costs of \$750.

Reininger. Prior to the filing of the complaint, Reininger did produce his 1993 tax return and notified the Association that extension requests had been filed for his 1994 return. At the DBCC hearing, Reininger explained that he had not yet filed a tax return for 1994 and that he did not have within his possession W-2s or 1099s for 1993 or 1994. Reininger had, prior to the issuance of the complaint, provided the NASD with all the requested documents that he had in his possession. Reininger, however, failed to communicate with staff prior to the issuance of the complaint regarding his inability to obtain the other requested documents and thus violated Sections 1 and 5. A bar is inappropriate in this case because we cannot conclude that Reininger failed to respond in any manner. It now appears, taking into consideration the additional evidence submitted at the appeal hearing, that, although late, Reininger has fully complied with staff's requests. We find that Reininger violated Section 1 and 5 and that a censure, six-month suspension from association with any member of the Association in any capacity, requirement to requalify by examination as a limited representative for direct participation programs, and \$5,000 fine are appropriate and remedial. We also affirm the \$135 in hearing costs imposed by the DBCC.

Hannan. It is uncontested by staff that prior to the filing of the complaint, Hannan had cooperated with staff's investigation of Columbus. He had made himself available to answer staff's questions and provided a written statement containing information about Columbus. Hannan worked at Columbus a short time as an unregistered administrative assistant and did not participate in sales. Columbus was his first employer in the securities industry and he has not since been associated with an Association member. Although ignorance of the Rules of Fair Practice is not an excuse for his violations, it appears that Hannan, having never been registered with the Association, did not fully understand his obligations as an associated person. He did not understand the investigatory process or his role in that process. He thought he had given staff all

of the information he could, and he did not have the ability to leave his job for an in-person interview. While these are not valid excuses for failure to respond to staff's request for an in-person interview, considering Hannan's past cooperation with the Columbus investigation, his continued contact with staff after its request for an in-person interview, his lack of culpability, and his lack of registration, we cannot conclude that a bar is appropriate in Hannan's case. We find that a censure, six-month suspension in all capacities, \$1,000 fine, and \$135 in hearing costs are appropriate and remedial.

Accordingly, Goldstein and Goodman are each censured; fined \$5,000; suspended from association with any member of the Association in any capacity for six months; ordered to requalify by examination as a general securities representative prior to associating with any member; and assessed hearing costs of \$135. Neu is censured; fined \$20,000; barred from association with any member of the Association in any capacity; and assessed \$135 in hearing costs and \$750 in appeal costs. Reininger is censured; fined \$5,000; suspended from association with any member of the Association in any capacity for six months; ordered to requalify as a limited representative for direct participation programs prior to associating with any member; and assessed \$135 in hearing costs. Hannan is censured; fined \$1,000; suspended from association with any member of the Association in any capacity for six months; and assessed \$135 in hearing costs.² The suspensions will commence on a date to be set by the President of NASD Regulation, Inc.

On Behalf of the National Business Conduct Committee,

Joan C. Conley, Corporate Secretary

² We have considered all of the arguments of the parties. They are rejected or sustained to the extent that they are inconsistent or in accord with the views expressed herein.

Pursuant to NASD Procedural Rule 8320, any member who fails to pay any fine, costs, or other monetary sanction imposed in this decision, after seven days' notice in writing, will be summarily suspended or expelled from membership for non-payment. Similarly, the registration of any person associated with a member who fails to pay any fine, costs, or other monetary sanction after seven days' notice in writing will summarily be revoked for non-payment.