

PLEASE NOTE THE LATER CASE HISTORY OF THIS DECISION FOLLOWING THE TEXT OF THE DECISION.

BEFORE THE NATIONAL ADJUDICATORY COUNCIL

NASD REGULATION, INC.

In the Matter of
the Association of

X

as a

General Securities Representative

with

The Sponsoring Firm

Redacted Decision

Notice Pursuant to
Section 19(d)
Securities Exchange Act
of 1934

Decision No. SD98004

This matter involves the association of X¹, a person subject to a statutory disqualification, as a general securities representative with the Sponsoring Firm, a member firm located in Minnesota. A hearing in the 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 his proposed supervisor ("the Proposed Supervisor"), the Sponsoring Firm's President.

X first became employed in the securities industry as a registered representative in 1984 and then requalified as such by examination in 1997. Between those dates, X worked for a variety of member firms: Firm A (1984 to 1988); Firm B (1988 to 1989); Firm C (1989); Firm D (1989 to 1990); Firm E (1990 to 1992); Firm F (1996 to 1997); and the Sponsoring Firm (1997 to present). X has also been licensed to sell insurance and did so with Firm G from 1984 to 1988; with Firm H from 1989 to 1993; and as an independent insurance agent from 1996 to 1997. Finally, from 1995 to 1997, X did marketing work for Firm I. X testified that he has not been engaged in the securities business since his disqualifying event.

¹ 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.

X became subject to a statutory disqualification after pleading guilty in 1992 in a United States District Court to one count of money laundering. The criminal information against X alleged that, while employed at Firm E, X violated Title 31, Section 5313(a) of the United States Code, by investing money that he knew to be the proceeds of illegal activity. The Judge sentenced X to a 41-month prison term, fined him \$7,500, and ordered that he complete two years' probation upon release from incarceration.

The Sponsoring Firm has been a member of the NASD since February of 1988. The Sponsoring Firm employs nine registered principals and 34 registered representatives who engage primarily in sales of mutual funds, which account for 81 percent of the Sponsoring Firm's business, and also sales of stocks and bonds. The Sponsoring Firm's representatives are all independent contractors working in single-person offices in several states. The Sponsoring Firm clears on a fully disclosed basis.

The Sponsoring Firm proposes that X's functions as a registered representative be directly supervised by the Proposed Supervisor, the Sponsoring Firm's President and Chief Compliance Officer. The Proposed Supervisor became a general securities and financial and operations principal in 1987. The records of the Central Registration Depository ("CRD") indicate that from 1973 to 1977, he was simultaneously employed by Firm G and Firm J. From 1977 to 1987 he was employed by Firm K. In 1987 the Proposed Supervisor opened the Sponsoring Firm. The CRD records also reflect that the Proposed Supervisor worked for Firm L from 1987 to 1988. The Proposed Supervisor has not been the subject of any disciplinary proceedings.

Currently, the Proposed Supervisor supervises each of the Sponsoring Firm's registered representatives, none of whom are located at the Sponsoring Firm's home office. At the hearing and in written submissions, the Sponsoring Firm outlined the following supervisory plan for X:

- (1) X's office will be located in close proximity to the Proposed Supervisor's in the home office;
- (2) X's correspondence will be on letterhead with the Sponsoring Firm's telephone number, and X's clients will receive a letter directing customers to contact the Sponsoring Firm with questions or comments;
- (3) The Proposed Supervisor will monitor X's correspondence, new account forms, and advertising; and
- (4) The Proposed Supervisor will speak to X daily and meet with X weekly.

The Sponsoring Firm employs no other individuals who are subject to a statutory disqualification and no familial relationship exists between X and the Proposed Supervisor. The Sponsoring Firm's last examination was filed without action.

After careful review of the entire record in this matter, we conclude that the application of X for association with the Sponsoring Firm as a general securities representative should be denied. We find that it is not in the public interest to grant the Sponsoring Firm's application because X's violation was: (1) serious, as evidenced by the sanctions imposed; (2) securities related, as X invested cash and cashiers checks that he knew were proceeds of illegal activity without making proper disclosure; and (3) committed while X was running his own office of an NASD member firm.

In addition, we find that the Sponsoring Firm is not well structured to supervise an individual who is subject to a statutory disqualification. Each of the Sponsoring Firm's other employees runs a single-person office, many of which are distant from the Sponsoring Firm's home office. The Proposed Supervisor bears the time-consuming responsibility of supervising almost 30 single-person offices, including personal visits to each. Because the Sponsoring Firm's business seems to focus on personal visits to customers, both X and the Proposed Supervisor would be out of the office frequently and would have insufficient contact with each other. The Proposed Supervisor testified that, currently, there are no representatives in the home office. We are concerned that this arrangement provides inadequate oversight and support for X.

For these reasons, we find that, given proper regard for the public interest and protection of investors, the application of the Sponsoring Firm to employ X should be denied.

On Behalf of the National Adjudicatory Council,

Joan C. Conley, Corporate Secretary

LATER CASE HISTORY:

X appealed the NAC's decision to the SEC. After reviewing the matter, the Commission dismissed X's appeal from an NASD decision denying the Sponsoring Firm's application to employ X as a registered representative. The SEC decision was affirmed on review by a U.S. Circuit Court of Appeals.