

BEFORE THE NATIONAL BUSINESS CONDUCT COMMITTEE

NASD REGULATION, INC.

In the Matter of

District Business Conduct Committee  
For District No. 8

Complainant,

vs.

Bruce L. Pecaro  
Lake Forest, Illinois,

and

Chicago, Illinois,

Respondent.

DECISION

Complaint No. C8A960029

District No. 8

Dated: January 7, 1998

Introduction

Bruce L. Pecaro ("Pecaro") has appealed a July 29, 1997 decision of the District Business Conduct Committee for District No. 8 ("DBCC") pursuant to NASD Procedural Rule 9310. After a review of the entire record in this matter, we hold that Pecaro, as alleged in the complaint, violated Conduct Rule 2110 (formerly Article III, Section 1 of the Rules of Fair Practice) by engaging in the securities business of The Third Market Corp. ("Third Market" or "the Firm") without being registered with the NASD in any capacity, in contravention of Schedule C to the NASD By-Laws.<sup>1</sup>

---

<sup>1</sup> The provisions of Schedule C to the By-Laws are now contained in NASD

We order that Pecaro be censured and fined \$7,500, jointly and severally with Third Market,<sup>2</sup> and that within 90 days from the issuance of this decision, Pecaro qualify by examination as a general securities principal. We also order that Pecaro be assessed \$750 in costs for the NBCC proceeding.

### Background

Pecaro has never been qualified or registered with the NASD in any capacity. He owns 100 percent of the stock of Third Market, which became a member of the NASD in July 1992.<sup>3</sup> In May 1992, Pecaro signed a Uniform Application for Securities Registration or Transfer ("Form U-4") in which he identified himself as "Control Person Only."

### Facts

During the entire period relevant to this action, Pecaro owned 100 percent of the stock of Third Market. Pecaro was also an officer and director of Third Market, and he maintained an office at the Firm's place of business. Third Market's board of directors during the relevant period consisted of only three members: Pecaro; Charles Pecaro, the financial and operations principal of the Firm;<sup>4</sup> and Jack Hosty ("Hosty"), a registered general principal of the Firm.

---

Membership and Registration Rule 1021. The reorganization and renumbering did not result in any substantive changes.

<sup>2</sup> Third Market was named as a respondent below. The DBCC found that Third Market allowed Pecaro to act in a capacity requiring registration despite the fact that he was not qualified or registered in any capacity in violation of Conduct Rule 2110. Third Market was censured, fined \$7,500 (jointly and severally with Pecaro), and assessed costs of \$786.75 for the DBCC hearing. Third Market did not appeal the DBCC's decision.

<sup>3</sup> Third Market engages in market-making activities via third-market execution of exchange-listed issues on a fully disclosed basis. Third Market maintains no retail customer accounts.

<sup>4</sup> Charles Pecaro is the son of Pecaro. Charles Pecaro has been President of Third Market since June or July 1994.

During the DBCC hearing, an NASD examiner ("Examiner") testified that he had had several discussions with Pecaro relating to certain financial and operational aspects of Third Market. The Examiner stated that in late December 1994 or early January 1995, he was contacted by an unknown person at Third Market regarding the proper means by which capital could be infused into the Firm. Pecaro subsequently informed the Examiner that Third Market needed to show a net worth of \$3 million on its books in order to persuade a prospective client to direct its third-market executions to the Firm. Pecaro requested the Examiner's assistance in structuring the infusion of funds into Third Market.

The Examiner described for Pecaro the alternatives available for infusing capital, including arranging a subordinated loan. On January 10, 1995, Pecaro and Charles Pecaro met with the Examiner at the NASD's Chicago district office to discuss the subordinated loan. At this meeting, Pecaro handed the Examiner a business card which identified him as Chairman and Chief Executive Officer ("CEO") of Third Market. The Examiner testified that during this meeting, he and Pecaro discussed the subordinated loan, including how it would affect Third Market's debt-to-equity ratio, what the appropriate "haircuts"<sup>5</sup> should be for certain of the securities pledged as collateral for the loan, and how the securities accounts were to be set up to hold the securities being loaned. The Examiner did not recall Charles Pecaro's being very involved in the meeting.<sup>6</sup>

The Examiner testified that he received a letter from Pecaro, dated January 11, 1995, thanking him for his assistance in arranging the subordinated loan and stating that the subordinated loan of \$2.6 million would be reflected on Third Market's January "FOCUS Report" with a footnote showing that the loan would need to be approved by the NASD. Pecaro wrote this correspondence on Third Market's letterhead and signed it "Bruce Pecaro, Chairman." The Examiner stated that the subordinated loan was in fact reported on Third Market's FOCUS Report as described by Pecaro. The Examiner also testified that he was told by the Firm's accountant that Pecaro had instructed her how to reflect the loans on the FOCUS Report.

The Examiner stated that he sent a letter to Charles Pecaro, dated February 17, 1995, concerning the registration status of Pecaro. This letter cited Schedule C to the NASD By-Laws, which requires associated persons who meet the definition of "Principal" and are actively engaged in the management of a member's securities business to be registered as principals. The letter stated that officers and directors of corporations are included in the definition of "Principal" and that Pecaro, "as

---

<sup>5</sup> The term "haircut" refers to the formulas used in the valuation of securities for the purpose of calculating a broker/dealer's net capital. The haircut varies according to the class of a security, its market risk, and its time to maturity.

<sup>6</sup> During the DBCC hearing, Charles Pecaro acknowledged that Pecaro primarily dealt with the Examiner at the January 10, 1995 meeting.

the Chairman, Chief Executive Officer and sole shareholder of The Third Market Corporation, is required to qualify and register with the [NASD] as a General Securities Principal." Pecaro was allowed 90 days from the date of the letter to qualify by examination and to register as a general securities principal.

On February 23, 1995, Charles Pecaro responded to the Examiner's letter, expressing confusion over whether Pecaro was required to register in any capacity. This letter asserted that "Bruce Pecaro is not an active member in the day to day operations of the business, for he clearly does not supervise any of the traders and does not solicit any new or existing customers." The letter also stated that there appeared to be no reason why the NASD would require Pecaro to qualify by examination as a principal.

By letter dated March 1, 1995, the Examiner's supervisor ("Supervisor") responded to Charles Pecaro's February 23, 1995 correspondence and stated that Pecaro was required to register as a general securities principal for a number of reasons: Pecaro was the Chairman, sole shareholder and CEO of Third Market; he had regular contacts with NASD district staff concerning Third Market's business; and he maintained an office at Third Market. The letter acknowledged the difference of opinion between the NASD district staff and Third Market over whether Pecaro needed to be registered, and it invited Third Market to contact the NASD's Qualifications and Membership department to seek a waiver of the requirement. The letter requested a response by March 15, 1995, as to how Third Market intended to proceed.

Charles Pecaro responded to the Supervisor's letter in writing on March 13, 1995, stating that Third Market's board of directors determined that Pecaro should take the Series 62 (Corporate Securities Representative) examination. The letter indicated that Pecaro would take the examination within the year. In addition, the letter stated that Pecaro would no longer have any contact with the NASD and that he would discontinue using the title CEO. The letter also stated that Charles Pecaro had directed Pecaro to contact NASD district staff concerning the subordinated loan arrangement. The letter then requested a copy of the statute and by-laws that supported the NASD's position so that Third Market could include them as part of the board minutes.

Neither Third Market nor Pecaro offered the board minutes as exhibits in advance of the hearing before the DBCC. During the hearing, however, Third Market and Pecaro offered copies of three handwritten documents, all on Third Market's letterhead, which Third Market and Pecaro argued related to the facts in dispute in this matter. The first document purports to be a letter from Pecaro, dated December 17, 1994, to Third Market's board of directors. This letter relates to the request to infuse \$2.5 to \$3 million in capital into the Firm. The second document is a letter from Pecaro, dated February 18, 1995, to Third Market's board of directors, which provides that Pecaro was resigning his positions as Chairman and CEO of Third Market. The third document is a letter from Pecaro, dated May 5, 1995, to Charles Pecaro wherein Pecaro deems the request that he take

the Series 62 examination to be unacceptable. This letter further conveys Pecaro's belief that he is not required to register as a principal simply because he is the majority stockholder of Third Market.

Regional Counsel objected to the introduction of the documents as untimely. Regional Counsel also noted that the documents offered at the hearing appeared to be on the style of letterhead which the firm used in 1996 -- as evidenced by Third Market's answer to the complaint, dated May 29, 1996 -- but which differed from the letterhead used by the Firm during the period in which the documents were purportedly created, as indicated by Third Market's earlier correspondence to the NASD district office. In response, Pecaro stated that he wrote each document on the date signified therein and that the documents had been copied from the "plain paper" on which they were originally written onto the Firm's current letterhead immediately prior to the hearing. Hosty, who testified at the DBCC hearing, claimed that the Firm had revised its letterhead around the time when the documents were purportedly created and that both styles of letterhead were being used during that period.

The DBCC hearing panel determined to accept the documents as exhibits, but requested that the original documents be produced within 24 hours of the hearing so that they could be compared to the photocopies. The original documents were produced to the hearing panel in a timely manner. The DBCC observed, however, that the original documents appeared to be written on the more-recent letterhead used by the firm -- *i.e.*, the style used for Third Market's May 1996 answer to the complaint -- and not on plain paper as suggested by Pecaro during the hearing.<sup>7</sup>

A second NASD examiner ("Second Examiner") testified that he was one of two examiners who conducted a routine examination of Third Market in July 1995. The Second Examiner stated that during the course of the examination, Pecaro was present at Third Market's office on three of the four days that the Second Examiner was at Third Market. The Second Examiner personally observed Pecaro occasionally walking along the Firm's trading desk, looking over the shoulders of the traders at their computer terminals and having discussions on unknown topics with the traders. The Second Examiner also observed Pecaro call Hosty and Charles Pecaro into his office at Third Market for meetings on several occasions. The Second Examiner specified that these meetings took place during the day. In addition, the Second Examiner testified that he and another NASD examiner made copies of approximately 100 checks drawn on Third Market's account that were signed by Pecaro. These checks were issued for payment for order flow or rebates to Third Market's broker/dealer customers, payments to the Nasdaq Stock Market, Inc. ("Nasdaq") and various exchanges, as well as for payment of routine expenses of rent and utilities.

---

<sup>7</sup> Neither party presented a formal motion to include or exclude these documents during the NBCC proceeding. Nonetheless, we have reviewed and considered them in connection with this appeal.

A former NASD examiner ("Former Examiner") testified that she also was involved in conducting the July 1995 examination of Third Market and that she was physically present at its office for 10 to 12 days. She stated that Pecaro was present at Third Market's office on most of the days that she was there. The Former Examiner testified that she observed Pecaro walking around the trading desk and having various unknown discussions with the traders. She observed Pecaro call Charles Pecaro, Hosty, and another trader into his office for meetings. The Former Examiner also heard Pecaro, on one occasion, tell Charles Pecaro to "get out of" certain unknown securities positions. She testified further that at the time Pecaro made that statement, an unidentified person reminded Pecaro that "the NASD is here," to which he responded "I don't give a [blank] about the NASD being here."

Pecaro testified that he attended the January 10, 1995 meeting at the NASD's Chicago district office because he was the one who was putting a substantial amount of money into the Firm and he wanted to make sure that a subordinated loan was the appropriate means of infusing the funds.<sup>8</sup> He explained further that because the collateral securities were held in several different accounts in which he had an interest or which he controlled, he had to be involved in arranging the accounts so that they properly reflected the fact that they were to be held in a subordinated loan account for the benefit of Third Market. Pecaro also arranged to have current account statements created and delivered so that the appropriate "haircuts" on the securities could be calculated.

Pecaro claimed that he signed checks drawn on Third Market's account because only he and Charles Pecaro were authorized to do so. He stated that Hosty would prepare the checks and present them to him for his signature. Pecaro acknowledged, however, that he would review the checks and the corresponding bills when they were presented to him.

Pecaro stated that he was present at the Firm in July 1995, when the NASD examination occurred, more than he normally would have been because he was preparing for the trial of an unrelated lawsuit. (The lawsuit was unrelated to the current matter, but it involved a former Third Market employee's claim against Pecaro.) Pecaro testified that his lawyers required him to gather and organize documents to defend the lawsuit. He stated that any contact he might have had with the Firm's traders or principals during this period, other than the exchange of greetings and casual pleasantries, was related to the lawsuit, not to trading securities.

Pecaro testified that he periodically would review the computer monitors used by Third Market's traders to check on the price of certain of his personal securities holdings, but he denied

---

<sup>8</sup> Pecaro testified that he also wanted to make sure that the method of infusing the funds protected the funds from ongoing litigation in an unrelated matter.

ever discussing any client-related trading positions with the Firm's traders. He also asserted that he did not supervise anyone at the Firm because he did not have a good understanding of exactly how the traders did their jobs. He stated that he did not even know how information was entered into the Firm's trading system. He further insisted that he did not solicit any clients. Pecaro admitted, however, that he did have some contact with Third Market's clients. He stated that he would occasionally take a client to the country club to play golf, out to dinner, or to a Chicago Bulls basketball game.

Charles Pecaro testified that Pecaro did not solicit clients, supervise traders or execute trading orders. According to Charles Pecaro, Pecaro was not involved in the securities business of Third Market. Charles Pecaro also maintained that he directed Pecaro to contact the NASD concerning the subordinated loan negotiations because Pecaro was investing the funds.

### Discussion

The complaint alleged, and the DBCC found, that Pecaro violated Conduct Rule 2110 by engaging in the securities business of Third Market without being registered with the NASD in any capacity, in contravention of Schedule C to the NASD By-Laws. Schedule C, Part II provides that "[a]ll persons engaged or to be engaged in the . . . securities business of a member who are to function as principals shall be registered as such. . . ." Schedule C, Part II states further that "[p]ersons associated with a member, enumerated in items (i) -- (v) hereafter, who are actively engaged in the management of the member's . . . securities business, including supervision, solicitation, conduct of business or the training of persons associated with a member for any of these functions are designated as principals." The enumerated persons referred to above include (i) sole proprietors, (ii) officers, (iii) partners, (iv) managers of offices of supervisory jurisdiction, and (v) directors of corporations. In addition, Schedule C, Part VI provides that certain persons are exempt from the registration requirements, including (1) persons associated with a member who are not actively engaged in the investment banking or securities business; and (2) persons associated with a member whose functions are related solely and exclusively to the member's need for nominal corporate officers or for capital participation.

Pecaro disputed whether his involvement in the affairs of the Firm was such that he was "actively engaged" in the management of Third Market's securities business. He claimed to be a nominal corporate officer and passive investor. According to Pecaro, he was thus exempt from any registration requirements.<sup>9</sup>

---

<sup>9</sup> Pecaro also asserted that the NASD failed to object to the titles he held and the role he played at Third Market until late 1994 or early 1995, despite knowledge of these facts since 1992. Even assuming, arguendo, that this assertion is accurate, the Securities and Exchange Commission ("SEC") has emphasized that "a securities dealer cannot shift its compliance responsibility to the

The evidence, however, supports the finding that Pecaro was actively engaged in the affairs of Third Market and that the NASD's rules required him to register as a principal. Pecaro was a director, an officer and the sole shareholder of Third Market. As the SEC has stated, it is unlikely that a director could be considered a nominal officer. See In re Samuel A. Sardinia, 46 S.E.C. 337, 342 (1976) (holding that the exemption for "nominal officers" did not apply to respondent, who was an officer and a director, and stating that it is unlikely that a director could be considered a "nominal officer").<sup>10</sup> Moreover, the record here shows that, far from serving as a nominal corporate officer and passive investor, Pecaro used these various positions to control and direct Third Market's affairs.<sup>11</sup>

As one of only two authorized signatories on the Firm's bank account, Pecaro signed over 100 checks issued by Third Market from March through May 1995.<sup>12</sup> These checks were issued by the Firm in payment not only of routine expenses of rent and utilities, but also in payment for order flow or rebates to its broker/dealer customers, in payments to Nasdaq, and in payments to various exchanges. Many of these payments were thus directly related to the Firm's securities business. Pecaro also reviewed portions of the Firm's FOCUS Report, in part, to determine potential areas to reduce expenses, which responsibilities he would then delegate to the Firm's other directors.

---

NASD. A regulatory authority's failure to take early action neither operates as an estoppel against later action nor cures a violation." In re W.N. Whelen & Co., 50 S.E.C. 282, 284 (1990). See also In re Thomas C. Kocherhans, Exchange Act Rel. No. 36556, at 6 (Dec. 6, 1995) ("[W]e have repeatedly held that a respondent cannot shift his or her responsibility for compliance with applicable requirements to . . . the NASD."); In re Lowell H. Listrom & Co., 48 S.E.C. 360, 366 (1985) (same), aff'd, 803 F.2d 938 (8th Cir. 1986); In re Melvin Y. Zucker, 46 S.E.C. 731, 733-34 (1976) (same).

<sup>10</sup> As noted above, Pecaro was not only a director of Third Market, he was also the CEO and sole shareholder of the Firm. Pecaro himself conceded that the CEO and majority shareholder of a company would normally have considerable control over the company's operations.

<sup>11</sup> While Schedule C of the NASD By-Laws requires a showing that the associated person was "actively engaged in the management of the member's . . . securities business[.]" it does not require a showing that the individual was responsible for the day-to-day management of the member. See, e.g., In re American Nat'l Equities, No. LA-4323, National Business Conduct Committee, at 8, 1991 NASD Discip. LEXIS 86, at \*20 (NBCC Nov. 25, 1991) ("We note that Schedule C does not limit the 'principal' definition to those who are involved in day-to-day management of broker/dealers.").

<sup>12</sup> Hosty, who was a director and a general principal of Third Market, testified that he was not made a signatory on the Firm's account at his request because he did not want the responsibility that went along with having to sign checks.

Pecaro's active involvement in Third Market's operations is further demonstrated by the role he played in arranging the subordinated loan to the Firm. Pecaro informed the Examiner that Third Market needed to demonstrate a net worth of \$3 million in order to secure a prospective client's third-market execution business. On January 10, 1995, Pecaro met with the Examiner to discuss the subordinated loan. At this meeting, Pecaro handed the Examiner a business card which identified him as Chairman and CEO of Third Market. The Examiner testified that he and Pecaro discussed the subordinated loan, including how it would affect Third Market's debt-to-equity ratio, what the appropriate "haircuts" should be for certain of the securities pledged as collateral for the loan, and how the securities accounts were to be set up to hold the securities being loaned.

In addition to meeting with the Examiner, Pecaro's extensive involvement in arranging the subordinated loan is evidenced by his advising the Examiner -- in a letter dated January 11, 1995, and written on the Firm's letterhead -- how the capital infusion would be identified on the Firm's FOCUS Report. The non-approved loan<sup>13</sup> was in fact shown on the Firm's January 1995 FOCUS Report as Pecaro had described. The Examiner also testified that the Firm's accountant stated that Pecaro had instructed her as to how the loans should be reflected on the FOCUS Report. The level of Pecaro's involvement in the subordinated loan goes far beyond that of a nominal officer and passive investor.

Pecaro's physical presence at Third Market's office and his interaction with the Firm's principals and traders further supports the finding that he actively was involved in the operations of the Firm. During a routine NASD examination of the Firm, Pecaro was observed taking part in meetings with Charles Pecaro, Hosty, and another trader. Pecaro also was observed frequently walking behind various traders and having unknown discussions with them. Although Pecaro asserted that he was either discussing an unrelated lawsuit or exchanging pleasantries with the traders on these occasions, the fact that these conversations were frequent and that they took place at the trading terminals seems to belie this assertion. This claim is also called into question by Charles Pecaro's admission that Pecaro would talk to the traders "about all different types of stuff[.]" including occasionally asking them questions about how certain trades were accomplished. Moreover, on one occasion, an NASD examiner heard Pecaro tell Charles Pecaro to get out of certain securities positions.

In regard to interaction with clients, Pecaro asserted that he did not solicit any business. Nonetheless, his admitted entertaining of clients seems to at least cross into maintaining, if not expanding, business clientele. Such interaction gives an appearance of being involved in developing and maintaining the Firm's client base.

---

<sup>13</sup>

The subordinated loan was never submitted for final approval.

Pecaro's use of the Firm's letterhead and of business cards identifying him as Chairman and CEO of Third Market casts further doubt on Pecaro's claim that he acted only as a nominal officer and passive investor. Through this practice, Pecaro held himself out in a manner that would lead an objective observer to infer that he was intimately involved in Third Market's securities business.<sup>14</sup>

Finally, Pecaro's disregard for the specific instructions of Third Market's board of directors indicates that he was not simply a nominal officer and passive investor. In a letter dated March 13, 1995, Charles Pecaro informed the NASD district staff that "the board of directors has advised me that Mr. Bruce Pecaro should take the Series 62 exam. The board has asked Mr. Pecaro to resolve this problem within the year." Despite the fact that he was directed by the Firm's board to take the Series 62 examination, and despite the fact that the president of the Firm (Charles Pecaro) affirmatively represented to the NASD that Pecaro would take the exam, Pecaro openly defied the board in this instance. Yet, Third Market allowed Pecaro to continue as a director of the Firm.<sup>15</sup>

The cumulative effect of Pecaro's activities supports the finding that he was actively engaged in Third Market's securities business and that he acted in contravention of Schedule C by failing to register as a principal. The requirement that a person, like Pecaro here, must register as a principal when actively engaged in a firm's securities business is an important one. This requirement assists in the policing of the securities markets. It also ensures that a person in a position to exercise some degree of control over a firm has a comprehensive knowledge of the securities industry and its related rules and regulations. This, in turn, enhances investor protection. We deem it essential to the well-being of the investing public that persons engaged in a firm's securities business strictly adhere to the proper registration requirements. *Cf. In re Ashvin R. Shah*, Exchange Act Rel. No. 37954, at 8 (Nov. 15, 1996) ("The requirement that an associated person be registered before engaging in any securities business provides an important safeguard in protecting public investors. Consequently, strict adherence to the registration requirement is essential."); *In re Patricia H. Smith*, Exchange Act Rel. No. 35898, at 4 (June 27, 1995) (same). In light of the above discussion, we affirm the DBCC's decision.

---

<sup>14</sup> As previously mentioned, Pecaro himself acknowledged that the Chairman and CEO of a company would normally be perceived as having a certain amount of control over the company's operations. Taking the evidence as a whole, we find that such a notion is not unjustified in the current case.

<sup>15</sup> During the DBCC hearing, Pecaro claimed to have relinquished the titles CEO and Chairman of Third Market in February 1995. He acknowledged, however, that he remained the sole shareholder and a director of the Firm. In addition, Pecaro was still a signatory on Third Market's bank account, and he continued to make use of his office at the Firm at the time of the hearing.

## Sanctions

We order that Pecaro be censured and fined \$7,500, jointly and severally with Third Market, and that within 90 days from the issuance of this decision, Pecaro qualify by examination as a general securities principal. We also order that Pecaro be assessed \$750 in costs for the NBCC proceeding. In reaching these sanctions, we have considered the applicable NASD Sanction Guideline for registration violations ("Guideline"). We find that the sanctions are remedial and consistent with the range recommended in the Guideline.<sup>16</sup>

On Behalf of the National Business Conduct Committee,

---

Joan C. Conley, Corporate Secretary

---

<sup>16</sup> 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 summarily be 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.

Direct: (202) 728-8381  
Fax: (202) 728-8894

**Joan C. Conley**  
Corporate Secretary

January 7, 1998

**VIA FIRST CLASS/CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Bruce L. Pecaro  
Lake Forest, Illinois

Bruce L. Pecaro  
Chicago, Illinois

Re: Complaint No. C8A960029: Bruce C. Pecaro

Dear Mr. Pecaro:

Enclosed herewith is the Decision of the National Business Conduct Committee in connection with the above-referenced matter. Any fine and costs assessed should be made payable and remitted to the National Association of Securities Dealers, Inc., Department #0651, Washington, D.C. 20073-0651.

You may appeal this decision to the U.S. Securities and Exchange Commission ("SEC"). To do so, you must file an application with the Commission within thirty days of your receipt of this decision. A copy of this application must be sent to the NASD Regulation, Inc. ("NASD Regulation") Office of General Counsel as must copies of all documents filed with the SEC. Any documents provided to the SEC via fax or overnight mail should also be provided to NASD Regulation by similar means.

Your application must identify the NASD Regulation case number, and set forth in summary form a brief statement of alleged errors in the determination and supporting reasons therefor. You must include an address where you may be served and phone number where you may be reached during business hours. If your address or phone number changes, you must advise the SEC and NASD Regulation. If you are represented by an attorney, he or she must file a notice of appearance.

The address of the SEC is:  
Office of the Secretary  
U.S. Securities and Exchange  
Commission  
450 Fifth Street, N.W., Stop 6-9  
Washington, D.C. 20549

The address of NASD Regulation is:  
Office of General Counsel  
NASD Regulation, Inc.  
1735 K Street, N.W.  
Washington, D.C. 20006

Questions regarding the appeal process may be directed to the Office of the Secretary at the SEC.  
The phone number of that office is 202-942-7070.

Very truly yours,

Joan C. Conley  
Corporate Secretary

Enclosure

cc: Daniel P. Moakley, Esq.