BEFORE THE NATIONAL ADJUDICATORY COUNCIL

NASD REGULATION, INC.

In the Matter of District Business Conduct Committee For District No. 9 Complainant, vs. Eliezer Gurfel San Mateo, California and Washington, D.C., Respondent.	DECISION Complaint No. C9B950010 District No. 9 Dated: June 12, 1998

Eliezer Gurfel ("Gurfel") appealed the January 15, 1997 decision of the District Business Conduct Committee for District No. 9 ("DBCC") pursuant to Rule 9310 of the NASD Code of Procedure. After a review of the entire record in this matter, we hold that Gurfel violated Conduct Rule 2110 by forging or causing to be forged the endorsement of the president of International Money Management Group, Inc. ("IMMG") on four checks and then negotiating them and converting the proceeds to his own use and benefit. We order that Gurfel be censured and barred from associating with any member of the NASD in any capacity.

Background

Gurfel entered the securities industry in 1985 as a general securities representative. He was associated with IMMG as a general securities representative between July of 1992 and November of 1993. After leaving IMMG, Gurfel worked

for Van Sant and Mewshaw Securities, Inc. ("Van Sant") for approximately one year. He has not worked in the securities industry since October of 1994.

Facts

Many of the facts in this case are undisputed. During the time that Gurfel was registered with member firm IMMG, he worked out of an office in his home and was compensated on a commission basis. From January through March of 1993, ITT Hartford issued four checks made payable to the order of "International Money Management" for commissions generated from certain sales effected by Gurfel. For an undetermined reason, these checks were sent directly to Gurfel at his personal address, rather than being sent to IMMG. IMMG was entitled to 15 percent and Gurfel was entitled to 85 percent of the amount of the checks.

It is uncontested that Gurfel deposited the checks into his own bank account. Moreover, someone signed the name of IMMG's president to the back of each of the checks as an endorsement, although Gurfel denied in his answer to the complaint that he had forged the signatures. Finally, it is uncontested that Gurfel repaid IMMG, but only after being confronted about the matter.

Procedural History

The complaint was filed on November 30, 1995. It alleged that Gurfel had violated Conduct Rule 2110 by forging or causing to be forged the endorsement of the president of his then employer, IMMG, on four checks and then negotiating each check and converting the proceeds to his own use and benefit. Gurfel filed an answer to the complaint in which he admitted that the checks in question were deposited into his account, but denied that he had forged any signatures and asserted that he was entitled to 85 percent of the amounts of those checks for commissions he had earned. Gurfel also raised an affirmative defense, arguing that the NASD lacked jurisdiction over him because the complaint had been filed more than two years after his employment with IMMG had ceased. Prior to the DBCC hearing, a special hearing subcommittee of the DBCC ("Special Subcommittee") was convened to consider Gurfel's jurisdictional challenge. The Special Subcommittee rejected Gurfel's jurisdictional argument, and a hearing date was set.

Gurfel waived a hearing, but the DBCC determined to hold a hearing in order to have the benefit of live testimony. Gurfel's attorney then informed the DBCC that, because he felt that participation in the hearing would be a submission to the NASD's jurisdiction, he had advised his client not to attend the hearing. The DBCC went forward with the hearing after informing Gurfel of its intention to do so. Gurfel did not participate.

During the DBCC hearing, the staff introduced into evidence the four checks in question, each of which had been endorsed with the purported signature of

IMMG's president. IMMG's president testified that a routine examination of the firm's accounts receivables alerted IMMG to the problem with the four checks. IMMG's president stated that he had not endorsed any of the checks in question. He also testified that, when he had confronted Gurfel, Gurfel had admitted forging the endorsements and depositing the checks into his account. IMMG's president stated that Gurfel had agreed to make restitution to IMMG, and later did so. Finally, IMMG's president testified that Gurfel's employment with IMMG had ended in mid-November of 1993.

Discussion

This case raises a number of issues, including whether the complaint was timely filed pursuant to the NASD's retention of jurisdiction provision and whether the evidence supports the DBCC's finding that Gurfel violated Conduct Rule 2110. We will examine the jurisdictional and underlying substantive issues, as well as various other contentions, separately.

Jurisdiction. We first consider Gurfel's argument that the NASD lacked jurisdiction to bring this action. Gurfel asserts that, contrary to the requirements of Article IV, Section 4 of the NASD's By-Laws, the NASD did not institute this proceeding within two years after his employment with IMMG ended and that, therefore, the DBCC's decision should be reversed and the case dismissed as untimely.[1] Article IV, Section 4 of the NASD's By-Laws[2] provides in pertinent part as follows:

> A person whose association with a member has been terminated and is no longer associated with any member of the Corporation or a person whose registration has been revoked shall continue to be subject to the filing of a complaint under the Code of Procedure based upon conduct which commenced prior

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[1] Gurfel originally argued before the DBCC that Section 4(c), and not Section 4(a), of Article IV applied. The DBCC, however, held that Section 4(a) was the applicable provision under the facts of this case. The arguments in Gurfel's appellate briefs, moreover, focused on Section 4(a) and, during the appeal hearing, Gurfel's attorney acknowledged that Section 4(a) was the applicable provision. In light of Gurfel's abandonment of his previous argument that Section 4(c) applies, and because we find the DBCC's reasoning to be sound, we analyze the jurisdiction issue under Section 4(a).

[2] As discussed in greater detail infra, the NASD amended Article IV, Section 4 to extend the NASD's retention of jurisdiction over associated persons from one year to two years. Amended Article IV, Section 4 became effective on April 15, 1992, and is applicable to this action.

> to the termination or revocation . . . , but any such complaint shall be filed within (a) two (2) years after the effective date of termination of registration pursuant to Section 3 above. . . .

Id. Section 3 of Article IV, which is referenced in Section 4, states that "[f]ollowing the termination of the association with a member of a person who is registered with it, such member shall" notify the NASD of the termination of such association.

The DBCC interpreted Section 4(a) as providing jurisdiction over a person for a fixed two-year period from the effective date of the resignation or termination that serves finally to sever such person's association with any NASD member. The DBCC held that the two-year period began to run on October 31, 1994, the day that Gurfel's employment with Van Sant ended, rather than on November 15, 1993, the day that his employment with IMMG ended. The DBCC thus concluded that the complaint was timely filed, because it was filed on November 30, 1995, and the two-year period ended on October 31, 1996.

Gurfel argues on appeal that the DBCC's interpretation is inconsistent with the language of the jurisdictional provision. According to Gurfel, Section 4(a), when read together with Section 3(a), mandates that the two-year "statute of limitations" commences with the termination that relates to the alleged misconduct. Gurfel's argument focuses on the article "the" before the word "termination" in Section 4 and before the words "termination" and "association" in Section 3. Because "the" is used, rather than modifiers such as "any" or "final" or "last," Gurfel maintains that the termination contemplated is the termination that was precipitated by the alleged misconduct.

We reject this argument. As Judge Learned Hand remarked, "Words are not pebbles in alien juxtaposition; they have only a communal existence; and not only does the meaning of each interpenetrate the other, but all in their aggregate take their purport from the setting in which they are used. . . ." National Labor Relations Bd. v. Federbush Co., 121 F.2d 954, 957 (2d Cir. 1941).[3] By focusing exclusively on the use of the article "the" at the end of Section 4, Gurfel passes over a more meaningful phrase used earlier in that section. Article IV, Section 4 begins with a reference to a "person whose association with a member has been terminated and is no longer associated *with any member* [of the NASD]." Art. IV, §4 (emphasis added). This phrase demonstrates that the purpose of the retention-of-jurisdiction provision is to

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[3] See also Mastro Plastics Corp. v. National Labor Relations Bd., 350 U.S. 270, 285 (1956) ("In expounding a statute, we must not be guided by a single sentence or member of a sentence, but look to the provisions of the whole law, and to its object and policy."); In re Colortex Indus., Inc., 19 F.3d 1371, 1375 (11th Cir. 1994) (same).

ensure that the NASD retains jurisdiction over persons for two years after they leave the securities industry. Thus, the termination that initiates the two-year period is the last termination, i.e., the one that causes the respondent not be associated with "any" member.

Gurfel's reliance on the article "the" used in Section 3(a) is also flawed. The primary purpose of Section 3 is to ensure that a member firm notify the NASD of the termination of the association of a person who is registered with the firm. Gurfel's reading of the two sections at issue imports too significant a role to Section 3 in the retention-of-jurisdiction provision of Section 4. The reference to Section 3 in Section 4 merely clarifies that the type of notice required by the former serves generally as the beginning of the two-year period in the latter. Clearly the spirit of the retention-of- jurisdiction provision is not to start the clock ticking for the filing of a disciplinary action against an individual who leaves one member firm and joins another.

In addition to being inconsistent with the plain language of Section 4, Gurfel's reading of the jurisdictional provision would adversely affect the NASD's ability to carry out its statutory duties. As Section 113 of the General Provisions Chapter of the NASD Manual provides, "The Rules shall be interpreted in such manner as will aid in effectuating the purposes and business of the Association, and so as to require that all practices in connection with the . . . securities business shall be just, reasonable and not unfairly discriminatory." Similarly, the SEC has emphasized that "the Supreme Court has held that provisions governing the securities industry should be construed, not strictly and technically, but flexibly to achieve their remedial purpose." In re Donald M. Bickerstaff, Exchange Act Rel. No. 35607, at 4 (April 17, 1995).[4] The NASD is statutorily charged with creating and enforcing rules that are designed to protect the investing public and to discipline members and associated persons for violations of the securities laws, the rules and regulations promulgated thereunder, and the NASD's rules. See Section 15A(b) of the Securities Exchange Act of 1934 ("Exchange Act"), 15 U.S.C. §78o-3(b). The interpretation that Gurfel urges is antagonistic to these remedial purposes, as such a reading would allow a registered person, under certain circumstances, to continue working in the securities industry regardless of his or her past misconduct and without consideration of the risk to the public.

We also reject Gurfel's reading of Section 4 because his interpretation would convert Section 4 into a statute of limitations. It is well established that no statute of limitations applies to the disciplinary actions of self-regulatory organizations. See, e.g., In re Henry James Faragalli, Exchange Act Rel. No. 37991 (Nov. 26, 1996).[5]

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[4] See also In re Reed A. Hatkoff, 51 S.E.C. 769, 772 (1993); In re John Kilparick, 48 S.E.C. 481, 488 (1986).

[5] See also Lang v. French, 974 F. Supp. 567, 569 (E.D. La. 1997); In re

As a matter of statutory construction, any radical departure from this established precedent would have to be clearly expressed in an amended rule to be effective. See, e.g., United States v. Langley, 62 F.3d 602, 605 (4th Cir. 1995), cert. denied, 516 U.S. 1083 (1996). There is no indication in the language of Section 4 that the NASD intended to take such drastic action when it amended the retention-of-jurisdiction provision in 1992. The provision, for instance, does not use the phrases "statute of limitations" or "limitations period." The provision also does not specify that the two-year period begins to run at the time that the misconduct took place or when the person leaves the firm at which the conduct occurred. Instead, the "is no longer associated with any member" language of Section 4 plainly contemplates that the two-year period is triggered only when a registered person leaves the securities industry altogether.

Nonetheless, Gurfel argues that an intent to treat Section 4 as a statute of limitations can be gleaned from the amendment's history. Gurfel directs our attention to language in the NASD's Notice of the Filing of Amendment to Proposed Rule Change ("Notice of Amended Proposed Rule Change"), 57 Fed. Reg. 3235 (Jan. 28, 1992), which states:

> The NASD has determined to amend the proposed rule change to substitute a fixed two-year jurisdictional period for the proposal to codify the practice of holding the effectiveness of resignations and terminations. . . . The NASD believes such a fixed two-year time limit will be less intrusive than the current indefinite and potentially unlimited hold process and will allow

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Larry Ira Klein, Exchange Act Rel. No. 37835, at 13 (Oct. 17, 1996); In re Frederick C. Heller, No. DEN-1021, National Business Conduct Committee, at 8, 1991 NASD Discip. LEXIS 115, at *20 (NBCC Aug. 26, 1991), aff'd, 50 S.E.C. 275 (1993). Accord SEC Order Disapproving Proposed Rule Change of the Chicago Bd. Options Exchange, 45 Fed. Reg. 68488, 68489-68490 (Oct. 15, 1980) (rejecting rule change, in part, because it contained a three-year statute of limitation which the SEC viewed as contrary to SRO's duties to protect the public and discipline its members). Cf. In re James L. Owsley, 51 S.E.C. 524, 533 (1993) (rejecting respondent's claim that supervision responsibility was derivative and that the complaint against him had to be dismissed because it was brought more than a year after the firm's resignation from membership, and noting that the NASD continued to have jurisdiction over respondent under Article IV, Section 4 for the supervisory violation that occurred at his former firm because respondent became associated with another member firm). The SEC has explained that adoption of a statute of limitations would "impair the NASD's obligation to protect the public and discipline its members." In re Steven B. Theys, 51 S.E.C. 473, 480 (1993). See also In re Frederick C. Heller, 50 S.E.C. 275, 280 (1993).

> sufficient time to bring virtually all disciplinary actions.

Id. at 3237. According to Gurfel, this language shows that the two-year period commences with the filing of the notice of termination disclosing the alleged misconduct on which the complaint is based and, thus, the two-year period acts as a statute of limitations.

We find Gurfel's contention to be unpersuasive. Prior to the amendment in question, the NASD had only one year after the effective date of the filing of a termination of registration to file a complaint for any actionable misconduct that occurred before the termination, although Article IV, Section 3(a) gave the NASD express authority to place on "hold" a termination for cause if a complaint or action that involved the associated person was already in progress. The NASD followed an uncodified practice of placing a "hold" on terminations for cause when a Form U-5 indicated the possibility of misconduct, to ensure adequate time to investigate such matters fully and to bring disciplinary actions where appropriate. The effect of the "hold" was to prevent the termination from becoming effective, and thus postpone the commencement of the one-year period within which an individual no longer associated with a member firm remained subject to the NASD's jurisdiction. The NASD also had a practice of retroactively placing a "hold" on terminations of registration based upon the subsequent receipt of an amended Form U-5 or other information that disclosed previously undiscovered misconduct. See NASD Notice of Proposed Rule Change, 55 Fed. Reg. 50432 (Dec. 6, 1990).

In 1990, when the NASD first proposed to revise Article IV, Section 4, the NASD sought to codify the practice of placing "holds" on terminations for cause. The original proposal, however, was amended to substitute the fixed two-year jurisdictional period. See Notice of Amended Proposed Rule Change, 57 Fed. Reg. 3235 (Jan. 28, 1992). The SEC concluded that utilization of a fixed two-year period from the effective date of termination would maintain the fairness and effectiveness of the NASD's disciplinary process. See SEC Order Approving Amended Proposed Rule Change, 57 Fed. Reg. 10780, 10781 (Mar. 30, 1992). The amendment's history does not, however, evidence any intent on the part of the SEC or the NASD to turn the jurisdictional provision into a statute of limitations. In brief, we find that the language and history of Section 4, as well as decisional precedent and policy considerations, evince the intent of both the NASD and the SEC to allow the NASD to retain jurisdiction over associated persons for two years after they were last associated with any member firm. Accordingly, we reject Gurfel's position and uphold the DBCC's finding of jurisdiction.

Procedural Unfairness Claim. Gurfel claims that neither he nor his attorney was properly notified of the DBCC's decision in this matter and that he was harmed as a result. In resolving Gurfel's contention, it is important to understand the basic principles surrounding proper notice in the context of NASD disciplinary

proceedings. Rule 9225(d) of the Code of Procedure states that "[a] copy of any written decision shall be sent to all respondents and the complainant named in the complaint and to each member of the Association with whom a respondent is presently an associated person." Rule 9134 of the Code provides further that "[a]ny person shall be deemed to have received notice to which he is entitled under any provision of this Code by the mailing of the notice to that person at his last known address as reflected on the Association's records." Additionally, a registered person has "a continuing duty to notify the Association . . . of his current address and to receive and read mail sent to him." In re John H. DeGolyer, 46 S.E.C. 324, 327 (1976). This duty applies with equal weight to a registered person who has terminated his association with a member and later changes his address within two years of having left the securities industry. See In re William T. Banning, 50 S.E.C. 415, 416 (1990). Any other rule would permit "an individual purposely to evade jurisdiction simply by moving without leaving a forwarding address." In re Alan Howard Gold, 51 S.E.C. 998, 1001 (1994) (applying NYSE rule), aff'd, 48 F.3d 987 (7th Cir. 1995). See also In re Reed A. Hatkoff, 51 S.E.C. 769, 772-74 (1993).

With these general principles in mind, we turn to resolution of the issue at bar. Gurfel insists that he did not learn of the DBCC's decision until his employer informed him that it had been discussed in a newspaper article. Gurfel also maintains that his attorney did not receive the decision. Gurfel claims that, as a result of not having received notice of the decision, he was unable to file a timely appeal. He argues in addition that, because he did not have an opportunity to advise his employer of the decision in advance of its publication, he was forced to resign from his job.

The staff contends that the DBCC's decision was mailed to Gurfel by certified, return-receipt-requested mail at the address that Gurfel provided to the NASD, as well as to his attorney's address by regular mail. The return receipt was signed by an unknown person at the address provided by Gurfel. The staff acknowledges that the envelope containing the decision sent to Gurfel was subsequently returned to the NASD's district office. The envelope containing the decision that was sent to Gurfel's attorney, however, was not returned. The staff, therefore, presumed that Gurfel's attorney received the decision.

Gurfel counters that since the staff knew that the decision was intercepted by some unidentified person and that he did not receive the decision, the staff had an obligation to resend the decision to his record address. The staff's failure to do so, Gurfel argues, prejudiced him.

We need not resolve the parties' factual dispute to make a determination on this issue. The staff appears to have given Gurfel proper notice in accordance with the Code of Procedure. The decision was sent to the address that Gurfel provided to the NASD, and someone at that address signed the return receipt request. At that point, the staff had discharged its obligation to provide notice of the decision under

the rules discussed above, regardless of whether the person who signed for the decision actually provided it to Gurfel. To find otherwise would allow a respondent to avoid notification too easily and would place too onerous an obligation on the district staff in future cases. Nothing in the Code of Procedure, moreover, requires staff to obtain proof that the addressee accepted notice personally. Even assuming, arguendo, that staff had not adhered to the Code's requirements, we fail to see how Gurfel has been prejudiced. To the extent that he claims that he was harmed because he could not timely file an appeal, that concern has been assuaged, as we granted his motion to file a late appeal.

Nor may Gurfel base any claim upon the fact that his employer learned of the decision before he had an opportunity to explain it. Gurfel has not articulated what his theory of redressability is for this alleged wrong, and we note that the SEC has rejected analogous claims of harm in past cases. See, e.g., In re Ashvin R. Shah, Exchange Act Rel. No. 37954, at 6 n.16 (Nov. 15, 1996).

Underlying Substantive Claim. We next consider the DBCC's finding that Gurfel violated Conduct Rule 2110 by forging or causing to be forged the endorsement of IMMG's president on four checks payable to the order of IMMG and then negotiating each check and converting the proceeds to his own use and benefit. Rule 2110, of course, requires observation of "high standards of commercial honor and just and equitable principles of trade."[6]

As previously mentioned, many of the facts in this case are undisputed. Gurfel did not participate in the hearing before the DBCC[7] and, on appeal, he does

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[6] Rule 2110 has been held to cover a broad range of conduct, including conduct that is not directly related to the securities industry. See, e.g., Vail v. SEC, 101 F.3d 37, 38 (5th Cir. 1996) ("The SEC has consistently held that the NASD's disciplinary authority is broad enough to encompass business related conduct that is inconsistent with just and equitable principles of trade, even if that activity does not involve a security.").

[7] Gurfel did not participate in the DBCC hearing apparently because he believed that such an appearance could be construed as an admission that the NASD had jurisdiction. We find that Gurfel's participation in the DBCC hearing would not have had any adverse effect on his position with regard to the jurisdictional issue on appeal. Cf. Baldwin v. Iowa State Traveling Men's Ass'n, 283 U.S. 522, 524-26 (1931) (recognizing that making a special appearance to contest jurisdiction "save[s] the question of the propriety of the court's decision on the matter even though after the motion [is] overruled the respondent . . . proceed[s], subject to a reserved objection and exception, to a trial on the merits."); Practical Concepts, Inc. v. Republic of Bolivia, 811 F.2d 1543, 1547 (D.C. Cir. 1987) ("[A defendant] may appear, raise the jurisdictional objection, and ultimately pursue it on direct appeal. . . . Should he proceed this way, he may defend on the merits in the district court

not directly attack the finding of violation, choosing instead to focus his arguments on the jurisdictional issue discussed above. In his answer to the complaint, however, Gurfel did deny forging any signatures. Therefore, we review the evidence of the forgery.

IMMG's president stated that he had not endorsed any of the checks in question. He also testified that when he had confronted Gurfel about the checks, Gurfel had apologized for having deposited them into his personal account, agreed to make restitution to IMMG, and admitted that he had signed the president's name on the checks. The DBCC, which heard this testimony, credited it. We find nothing in the record to call the DBCC's determination into question.

Considering the aforementioned evidence, we hold that there is ample support for the DBCC's finding that Gurfel forged or caused to be forged the signature of IMMG's president, deposited the checks into his personal account, and converted the proceeds to his own use and benefit. In addition, we find that the evidence supports the DBCC's conclusion that Gurfel's conduct was inconsistent with high standards of commercial honor and just and equitable principles of trade and thus violative of Conduct Rule 2110.

Sanctions

The DBCC determined that Gurfel should be censured and barred from associating with any member of the NASD in any capacity. The DBCC noted that Gurfel had no pertinent disciplinary history, but the DBCC determined that a censure and bar were necessary because of the serious nature of the violations. The DBCC also held that Gurfel's eventual payment to IMMG of its share of the proceeds was not a mitigating factor.

We concur with the DBCC's reasoning and uphold the sanctions imposed in this case. Gurfel engaged in serious misconduct. He forged or caused to be forged the signature of IMMG's president on four separate occasions and deposited the checks into his own account. Moreover, his repayment of the funds is not a mitigating factor, as the offer of repayment occurred only after he was confronted

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without losing his right to press on direct review the jurisdictional objection, along with objections on the merits."). See also Ashvin R. Shah, supra, at 4-6 (respondent argued that the NASD lacked jurisdiction, defended on the merits and testified at the DBCC hearing, and was permitted to argue both the jurisdictional and substantive issues on appeal to the NBCC and then the SEC); In re Donald M. Bickerstaff, Exchange Act Rel. No. 35607, at 2-9 (April 17, 1995) (same). The better practice is to raise the jurisdictional or procedural argument at the outset and defend on the merits, subject to a reservation of the right to contest the jurisdictional or procedural issue on appeal should the argument be rejected by the DBCC.

about his wrongdoing, and there is no evidence suggesting that he would have made the offer absent such a confrontation. See In re Henry E. Vail, Exchange Act Rel. No. 35872, at 6 (June 20, 1995), aff'd, 101 F.3d 37 (5th Cir. 1996); In re Joel Eugene Shaw, 51 S.E.C. 1224, 1227 (1994); In re Raymond M. Ramos, 49 S.E.C. 868, 872 (1988).

In light of our duty to protect the investing public and to ensure the integrity of the market, we would be remiss in not acting decisively in cases, like the present matter, where the evidence calls into question the honesty and the veracity of a person associated with a member firm. As the SEC has noted, the securities industry "presents a great many opportunities for abuse and overreaching, and depends very heavily on the integrity of its participants." In re Bernard D. Gorniak, Exchange Act Rel. No. 35996, at 5 (July 20, 1995). See also In re Mayer A. Amsel, Exchange Act Rel. No 37092, at 11 (April 10, 1996) (noting that the securities industry is "rife with opportunities for abuse."). Because we find that Gurfel's continued participation in the securities industry presents a risk to the public, we hold that his exclusion from association with any member firm is necessary.[8]

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[8] 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.

Accordingly, we impose a censure and a bar from associating with any NASD member firm in any capacity.[9] The bar is effective immediately upon the issuance of this decision.

On Behalf of the National Adjudicatory Council,

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Alden S. Adkins, Senior Vice President and General Counsel

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[9] We note that the DBCC did not impose any monetary sanctions as a result of Gurfel's bankruptcy filing. We decline to impose monetary sanctions as well.

Direct: (202) 728-8332
Fax: (202) 728-8264

Alden S. Adkins
Sernior Vice President
and General Counsel

July 8, 1998

VIA FIRST CLASS/CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David W. O'Brien, Esq.
Michaels, Wishner & Bonner, P.C.
1140 Connecticut Avenue, NW - Suite 900
Washington, DC 20036

Richard I. Ellenbogen, Esq.
Weil, Gotshal & Manges, LLP
76 Fifth Avenue
New York, New York 10153

Re: Complaint No. C9B950010: Eliezer Gurfel

Dear Messrs. O'Brien and Ellenbogen:

Enclosed herewith is the Decision of the National Adjudicatory Council 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, NW, Stop 6-9
Washington, DC 20549

The address of NASD Regulation is:
Office of General Counsel
NASD Regulation, Inc.
1735 K Street, NW
Washington, DC 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,

Alden S. Adkins
Senior Vice President
and General Counsel

Enclosure

cc: William M. Harter, Jr., Esq.