

BEFORE THE NATIONAL BUSINESS CONDUCT COMMITTEE

NASD REGULATION, INC.

In the Matter of
the Association

of

X

as an

Associated Person

with

The Sponsoring Firm

Redacted Decision

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

SD97009

This matter involves the association of X¹, a person subject to a statutory disqualification, as an associated person with . a member firm ("the Sponsoring Firm" or "the Firm"), located in New Jersey. A hearing in the matter was held in October 1997 before a subcommittee ("Hearing Panel") of the Statutory Disqualification Subcommittee ("SD Subcommittee") of NASD Regulation, Inc. ("NASD Regulation"). X appeared and was accompanied by his father, President of the Sponsoring Firm, and a clinical psychologist.

X previously was employed by the Firm as a registered representative in 1993. This prior employment was the result of a 1993 approval by the Board of Governors of the National Association of Securities Dealers, Inc. ("NASD" or "the Association") of X's first Membership Continuance Application ("Form MC-400"), based upon a May 1989 felony-equivalent drug conviction ("the 1989 drug conviction"), in a State 1 Superior Court, for possession of marijuana with intent to distribute. X was convicted of a second felony-equivalent drug offense for possession of a controlled dangerous substance in December

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.

1993 ("the 1993 drug conviction"), in another State 1 Superior Court, based upon an arrest made in July 1993.

X is subject to two statutory disqualifications as a result of the two unrelated felony-equivalent drug convictions described above. The 1989 drug conviction resulted in a sentence of a \$1,000 fine, and an indeterminate jail term not to exceed five years. This sentence was modified in December 1989; X was released from prison, sentenced to a three-year probation, and committed to a drug and alcohol rehabilitation center. X served seven months in prison and 13 months in drug and alcohol therapy. He was released from probation in February 1992.

The 1993 drug conviction resulted in a sentence of a \$1,000 fine, a two-year probation, and a six-month revocation of his driver's license. X successfully completed his probation in January 1996.

X testified at the hearing that he was not employed as a registered representative at the time of his July 1993 arrest and subsequent conviction.² Since the 1993 drug conviction, X stated that he had worked as a carpenter and attended college, receiving a degree in May 1997 in mathematics and finance. He currently continues his carpentry work and occasionally does painting jobs. X also stated that since the time of his second arrest in July 1993, he has been a patient of a clinical psychologist on a regular basis to address issues pertaining to his attention deficit disorder and addiction problems. X further stated that he attends weekly meetings of Alcoholics Anonymous.

The Sponsoring Firm has been a member of the NASD since March 1985 and is engaged in municipal bond trading. The Firm clears on a fully disclosed basis, employs three registered principals and three registered representatives, and has one branch office. The Firm proposes to employ X as an associated person to work from its home office, located in New Jersey. X will be given responsibility for: 1) maintenance and operation of the Firm's technical equipment (*i.e.*, Telerate, Bloomberg, CQG, Future Source, J.J. Kenny and Chapdelaine Wires, Kenny Information System, Monroe Calculators, etc. (20% of work day); (2) janitorial duties and maintenance of the office and building (10% of work day); and (3) assisting his father in organizing his day (*i.e.*, helping to organize and check on municipal bond bids (300-400 per day) (70% of work day). The Firm stated in its MC-400 that if the instant application is approved, it intends to request a "hearing after a suitable period asking for broader job responsibilities" for X.

² X and his father stated at the hearing that X worked as a registered representative for the Firm after the NASD's February 1993 approval, but had ceased working there around May 1993.

The Firm proposes that X will be supervised by his father (“the Proposed Supervisor”), the Firm’s President, who has been a registered principal since 1972 and has no disciplinary history. X’s father and his wife own 95% of the Firm. The Sponsoring Firm also has no disciplinary history.

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

- (1) X will sit within five feet of the Proposed Supervisor’s desk;
- (2) X will act as the Proposed Supervisor’s assistant and the Proposed Supervisor’s will be in constant contact with X; and
- (3) The Firm primarily deals with institutional clients and communication normally occurs through written instructions, with little telephone customer contact.

The Firm employs no other individuals who are subject to a statutory disqualification. The Firm's 1995 examination resulted in a Letter of Caution for books and records violations, and the 1997 examination results are pending.

After a careful review of the entire record in this matter, we deny the application of X for association with the Sponsoring Firm as an associated person. We have considered X’s academic achievement and the testimony given by his psychologist that X has made progress in dealing with his attention deficit disorder and other emotional difficulties. We are very concerned, however, about the fact that X was provided with the opportunity to participate in the securities industry in 1993, notwithstanding his 1989 drug conviction, and shortly thereafter was arrested for a second felony-equivalent drug offense, which resulted in the 1993 drug conviction. We therefore conclude that X has not demonstrated sufficient reason to permit him yet another chance to be associated with the Sponsoring Firm.

For these reasons, we do not believe it is appropriate, given proper regard for the interest and protection of investors, to allow X to become associated with the Sponsoring Firm.

On Behalf of the National Business Conduct Committee,

Joan C. Conley
Corporate Secretary