

BEFORE THE NATIONAL BUSINESS CONDUCT COMMITTEE

NASD REGULATION INC.

In the Matter of  
the Continued Association

of

X

as a

Registered Representative

with

The Sponsoring Firm

**Redacted Decision**

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

SD97003

This matter involves the continued association of X<sup>1</sup>, a person subject to a statutory disqualification, as a registered representative with a member firm located in New York ("the Sponsoring Firm" or "the Firm"). A hearing on the matter was held on May 29, 1997 before a subcommittee ("SD hearing panel") of the Statutory Disqualification Committee of NASD Regulation, Inc. ("NASD Regulation"). X appeared and was accompanied by his proposed supervisor ("the Proposed Supervisor"), President of the Sponsoring Firm.

X has been employed in the securities industry since 1981 (Firm A 1981 - 87; Firm B 1987 - 1988; Firm C 1989-93; Firm D 1993 -94; the Sponsoring Firm 1996 - present).

X is subject to a statutory disqualification as a result of his conviction in a State 1 Superior Court in 1989 of felony Driving While Intoxicated. He was placed on probation for five years, fined \$1,000 and had his driving license revoked for one year.

X did not disclose his felony conviction on the Form U-4 filed by the Sponsoring Firm in 1996. He did amend his Form U-4 in 1996 to disclose this conviction upon being informed that the

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<sup>1</sup> 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.

Department of Justice report generated by the fingerprint card indicated the presence of a felony conviction. He did not disclose the conviction on any prior Forms U-4.

X was suspended in 1997 pending the outcome of the Eligibility Proceeding.

X testified at the hearing as to his employment history since his disqualification. He stated that he has been unemployed since being suspended in 1997. In response to questions concerning his failure to disclose his 1989 conviction, he stated that he discussed the need to disclose the conviction on his Form U-4 at the time with his attorney, now deceased. He testified that his attorney advised him that it was not a reportable incident.

The Sponsoring Firm has been a member of the NASD since 1964 and is engaged in a general securities business. The Sponsoring Firm clears on a fully disclosed basis and employs 14 registered principals, 13 registered representatives and has two branch offices. The Sponsoring Firm proposes to continue to employ X as a registered representative to work from the home office, which is located in New York. X will be supervised by the Proposed Supervisor, President of the Sponsoring Firm, and by Employee 1, Vice President and Director. The Proposed Supervisor has been a registered principal since 1970 and Employee 1 has been a registered principal since 1995 and neither has any disciplinary history. It is proposed that X's primary duties will be to act as a registered representative of the Sponsoring Firm.

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

1. X will be located adjacent to the Proposed Supervisor's and Employee 1's office.
2. All tickets will be reviewed and approved prior to execution.
3. The Proposed Supervisor and Employee 1 will review all activities on a semi-monthly basis.

The Sponsoring Firm employs no other individuals who are subject to a statutory disqualification and no familial relationship exists between X and his proposed supervisors. The 1996 municipal examination resulted in a Letter of Caution for minor books and records deficiencies. The 1994 routine examination was filed without action.

After a careful review of the entire record in this matter, we conclude that the application of X to remain associated with the Sponsoring Firm as a registered representative should be denied. We are extremely concerned by X's repeated failure to disclose his felony conviction, and note that he had ample time and opportunity since his conviction in 1989 to make full disclosure. We believe that X, who has been a registered representative since 1981, should have been aware of his obligation to amend his Form U-4. Forms U-4 were filed by Firm C in 1989, Firm D in 1993 and the Sponsoring Firm in 1996 and, although amendments were filed on several occasions from 1989 to the present to request examinations and reveal a customer complaint, X chose not to disclose his conviction until confronted with the Department of Justice report in 1996. We believe that this behavior undermines the basic

integrity of the securities industry, and we do not believe X should be permitted to remain associated with an NASD member firm.

X's registration as a registered representative with the Sponsoring Firm will be terminated effective 4:00 p.m. Eastern Time on Friday, August 8, 1997.

On Behalf of the National Business Conduct Committee,

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Joan C. Conley  
Corporate Secretary