

BEFORE THE NATIONAL ADJUDICATORY COUNCIL

NASD REGULATION, INC.

In the Matter of the Continued Association

of

X

as a

General Securities and Investment Company
Products/Variable Contracts Representative and
General Securities Sales Supervisor

with

The Sponsoring Firm

REDACTED DECISION

Notice Pursuant to
Rule 19h-1
Securities Exchange Act
of 1934

Decision No. SD01024

On June 29, 2001, the Sponsoring Firm¹ (or "the Firm") completed a Membership Continuance Application ("MC-400" or "the Application") requesting permission for X, a person subject to a statutory disqualification, to continue to associate with the Firm as a general securities and investment company products/variable contracts representative and general securities sales supervisor.

In October 2001, a subcommittee ("Hearing Panel") of the Statutory Disqualification Committee of NASD Regulation, Inc. ("NASD Regulation") held a hearing on the matter. X appeared and was accompanied by the Proposed Supervisor and an additional supervisor.

X's Statutorily Disqualifying Event. X is subject to a statutory disqualification under Section 3(a)(39)(F) of the Securities Exchange Act of 1934 and Article III, Section 4(g) of the NASD By-Laws because of a 2000 reckless homicide conviction. In 1999, after attending a golf outing, X operated a car that was involved in a head-on collision. A passenger in the vehicle that X struck died.

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 consented to a blood alcohol test. His blood alcohol level was .08, which is more than the legal limit.

As a result of the accident, State 1 charged X with operating a motor vehicle while under the influence of alcohol and reckless homicide, a class three felony. In 2000, X pleaded guilty to the charge of reckless homicide and waived his right to a trial. The State sentenced X in 2001 to four years of probation, 100 hours of community service, \$15,000 in restitution, and 18 months of work release (12 months of which were stayed). Additionally, the State suspended X's driver's license indefinitely, and X was required to attend alcohol counseling.

Immediately after the September 1999 car accident, X disclosed the event to his supervisors and employees at NMIS. He also immediately entered himself and his wife and two children into counseling, voluntarily entered pre-trial supervision, and voluntarily participated in random drug and alcohol testing.

X is currently on probation, and his probationary period is expected to end in 2005. At the hearing in this matter, X indicated that he intended to seek early release from probation upon completion of this proceeding. X has served the required community service hours and continues on a volunteer basis to speak publicly about the hazards of drinking and driving. X has paid the required restitution of \$15,000. In addition, X served four months in work release. The remainder of his work release sentence was suspended for good behavior. X's driver's license has been suspended indefinitely, so he does not operate a motor vehicle and employs a driver to transport him to and from work. Since the events surrounding X's disqualification, he has not engaged in any intervening misconduct.

X has no other disciplinary, regulatory, or criminal history. In addition, the State 1 Department of Insurance has provided certification that X is a member in good standing and that no regulatory action has been taken against him.

X's Professional Background. X has worked at the Sponsoring Firm since 1987. (He has worked for the Sponsoring Firm's affiliated insurance company since he was a college student in 1984.) He passed the Series 6 (investment company products/variable contracts representative) examination in 1988; the Series 7 (general securities representative) examination in 1999; the Series 8 (general securities sales supervisor) examination in 1998; and the Series 63 (uniform securities agent state law) examination in 1991. X became a district director for the Sponsoring Firm in 1988. X sells both securities and insurance products.

The Firm. The Sponsoring Firm became a member of the Association in 1968. The Firm has one office of supervisory jurisdiction ("OSJ") and more than 30 branch offices. The Firm recently filed a request with NASD District No. 8 to convert to a full-service broker-dealer. The request currently is pending. The Sponsoring Firm employs 6,489 associated persons, of which 572 are registered

principals and 6,341 are registered representatives. The Sponsoring Firm sells variable annuities and variable life contracts and operates as a registered investment advisor. If its request to convert to a full-service broker-dealer is approved, it will be eligible to sell a full range of securities products.

During the last 10 years, registered representatives of the Sponsoring Firm have been the subject of six Letters of Acceptance Waiver and Consent ("AWCs") and one formal complaint. The Sponsoring Firm terminated all of the registered representatives for cause. District 8A staff also issued four Letters of Caution to the Sponsoring Firm and its registered representatives. A 1997 routine exam of the Sponsoring Firm resulted in one AWC on behalf of the Sponsoring Firm and one of its limited registered representatives. According to the AWC, in 1996 the Sponsoring Firm paid the representative commissions of \$265 for variable annuity sales while the representative's registration was inactive due to his failure to complete continuing education (regulatory element) requirements. The Firm consented to a censure and \$1,000 fine.

There are no pending disciplinary or regulatory proceedings or arbitration actions against the Sponsoring Firm.

The Sponsoring Firm does not employ any statutorily disqualified individuals and is not a member of any other self-regulatory organization.

X's Proposed Business Activities. The Sponsoring Firm proposes to continue to employ X in his current contracted position as a district director. X's duties will continue to include recruiting, training, and assisting in the development of new associates. His supervisory duties will be the day-to-day supervision of a district office comprised of 43 financial representatives and 22 associated staff members. The Sponsoring Firm proposes that Carr will work out of the offices of "X Group," a district office in the Northwestern Mutual system located in State 1, 50 percent of the time and out of the offices of "Firm 1," a general agency in the Northwestern Mutual system located in State 1, the other 50 percent of the time.

X's compensation will consist of commissions and fees generated from personal sales and sales by financial representatives under his supervision.

Proposed Supervision of X. The Proposed Supervisor 1 will act as X's primary supervisor and will bear full responsibility for supervision of X. The Proposed Supervisor 3 and the Proposed Supervisor 2 will assist the Proposed Supervisor 1 in supervising X. The Proposed Supervisor 1, the Proposed Supervisor 2, and the Proposed Supervisor 3 have no disciplinary or regulatory history. The Sponsoring Firm represents that X is not related to them by blood or marriage.

The Proposed Supervisor 1, X's primary supervisor, has worked for the Sponsoring Firm since 1987 and for its affiliated insurance company since 1977. He has served as managing director of Firm 1 for the past 24 years, has been registered with the NASD since 1987, and has been registered

as a principal since May 2001. The Proposed Supervisor 1's office is located on the premises of Firm 1 in State 1, which is on the same floor and in close proximity to X's office.

The Proposed Supervisor 3 will supervise X when he operates out of the X Group offices in State 1. The Proposed Supervisor 3 has worked for the Sponsoring Firm since 1987 and for its affiliated insurance company since 1986. He is an assistant district director in the X Group offices. He has been registered with the NASD since 1989 and has been registered as a principal since 2001. The Proposed Supervisor 3's office is on the same floor and in close proximity to X's office.

The Proposed Supervisor 2 will supervise X when he operates out of the Firm 1 offices in State 1. The Proposed Supervisor 2 has worked for the Sponsoring Firm since 1987 and for its affiliated insurance company since 1985. The Proposed Supervisor 2 served 14 years as a branch manager for Firm 2, an affiliate of the Sponsoring Firm, and he is the chief operating officer for Firm 1. He has been registered with the NASD since 1987 and has been registered as a sales supervisor since 1988. The Proposed Supervisor 2's office is on the same floor and in close proximity to X's office.

The Proposed Supervisor 3 and the Proposed Supervisor 2 propose to conduct daily "check-in" conferences in both locations to make certain that all of X's work is in order and that X adheres to court-ordered restrictions. The Proposed Supervisor 2 and the Proposed Supervisor 3 will maintain daily logs of their check-in conferences and will report to the Proposed Supervisor 1 daily with respect to their supervision of X. If, at any time, either the Proposed Supervisor 2 or the Proposed Supervisor 3 will be absent from the office for one or more days, X will be required to spend 100 percent of his time in the office of one of the remaining supervisors. If both the Proposed Supervisor 2 and the Proposed Supervisor 3 will be absent, X will operate out of the Proposed Supervisor 1's office. Despite the fact that the Proposed Supervisor 2 and the Proposed Supervisor 3 will share supervisory duties over X, the Proposed Supervisor 1 acknowledged at the hearing that he has primary responsibility for X's supervision.

The offices out of which X will operate are not OSJs. The OSJ within which the Sponsoring Firm will have jurisdiction over X is the Sponsoring Firm home office located in State 2. The Vice President, field administration is the individual in the OSJ designated to carry out supervisory procedures. The Vice President has no disciplinary or regulatory history. He has been registered with the NASD and associated with the Sponsoring Firm since 1981.

None of the proposed supervisors are partners or officers in the Sponsoring Firm. The Sponsoring Firm therefore also proposes that the Chief Compliance Officer for the Sponsoring Firm, review the Proposed Supervisor 3 and the Proposed Supervisor 2's supervisory logs quarterly to ensure compliance with the above-referenced supervisory plan.

Member Regulation's Recommendation. Member Regulation recommends approval of X's proposed continued association with the Sponsoring Firm.

Discussion. After careful review of the entire record in this matter, we have determined to approve the Sponsoring Firm's Application to continue to employ X as a general securities and investment company products/variable contracts representative and general securities sales supervisor.

In determining to approve the Sponsoring Firm's application, we have considered many factors, including the fact that X remains on probation for his disqualifying event. We also acknowledge that the misconduct that resulted in X's statutory disqualification was tragic and regrettable. For the following reasons, however, we find that it is appropriate to approve the Sponsoring Firm's application.

The event at issue was an isolated incident and was not securities-related. The record indicates that X does not currently have an alcohol abuse problem. X has 17 years of experience in the insurance industry and 14 years of experience in the securities industry without any disciplinary or regulatory history. His files contain no customer complaints. Although X remains on probation, he was released early for good behavior from a work release facility, and his probation officer reports that X has completed alcohol counseling and 100 hours of community service and has participated in victim impact panels. X's probation officer also reports that he has seen no evidence of drug or alcohol use by X since entering into probation, that X has paid all court-ordered costs and restitution, and that X has fulfilled all of the requirements of his sentence. In addition, X currently participates on a volunteer basis in the Alliance Against Intoxicated Motorists.

The Sponsoring Firm, whose history in the securities industry dates back to 1968, has been the subject of relatively few regulatory actions, given the size of the Firm and the number of individuals it employs. In addition, none of the regulatory actions suggest an overall inattention to regulatory requirements or inadequate supervision on the part of the Sponsoring Firm. The Firm has proposed the Proposed Supervisor 1 as X's primary supervisor. The Proposed Supervisor 1 has significant industry experience and no disciplinary or regulatory history. The Firm also proposes that the Proposed Supervisor 3 and the Proposed Supervisor 2 assist the Proposed Supervisor 1. Both have significant industry experience and no disciplinary or regulatory history. Under the terms of the proposed supervision, the Sponsoring Firm will closely monitor X through three individuals who appear adequately qualified to supervise X.

We conclude that the Sponsoring Firm has proposed an effective plan of supervision. The Sponsoring Firm will implement the following supervisory procedures:

1. The Proposed Supervisor 1 will act as X's primary supervisor regardless of the office from which X is working on any given day;

2. The Proposed Supervisor 3 and the Proposed Supervisor 2 will act as X's supervisors when X is working out of the X Group offices in State 1 and the Firm 1 offices in State 1, respectively;
3. X will report to either the Proposed Supervisor 3 or the Proposed Supervisor 2 on a daily basis, and they will maintain logs of their daily meetings with X. The Proposed Supervisor 3 and the Proposed Supervisor 2 will report to the Proposed Supervisor 1 regarding X on a daily basis;
4. At no time will X report to an office without a supervisor. If either the Proposed Supervisor 3 or the Proposed Supervisor 2 is out of the office, X will be expected to spend his time in the office of the direct supervisor that is in the office that day;
5. If both the Proposed Supervisor 3 and the Proposed Supervisor 2 are out of the office, X will be expected to work out of the Proposed Supervisor 1's office and will report directly to the Proposed Supervisor 1; and
6. For the duration of X's statutory disqualification, the Sponsoring Firm must obtain prior written approval from Member Regulation if it wishes to change X's supervisors from the Proposed Supervisor 1, the Proposed Supervisor 3, and the Proposed Supervisor 2 to anyone else, or if it wishes to change the structure of the supervisory arrangement.

The NASD certifies that: 1) X meets all applicable requirements for the proposed employment; 2) the Firm is not a member of any other self-regulatory organization; and 3) X, the Proposed Supervisor 1, the Proposed Supervisor 2, and the Proposed Supervisor 3 have represented that they are not related by blood or marriage.

Accordingly, in conformity with the provisions of SEC Rule 19h-1, the continued registration of X as a general securities and investment company products/variable contracts representative and general securities sales supervisor with the Sponsoring Firm will become effective within 30 days of the Commission's receipt of this decision, unless otherwise notified by the Commission.

On Behalf of the National Adjudicatory Council,

Barbara Z. Sweeney
Senior Vice President and Corporate Secretary

