

February 22, 2006

Barbara Z. Sweeney
Office of the Corporate Secretary
NASD
1735 K Street
Washington, DC 20006-1506

Re: NTM 06-06

Dear Ms. Sweeney,

This letter and the following response to the proposed IM-3060 have been thought through the eyes and experiences of a small business owner that has been in this industry since 1987. I will give my arguments against this proposed rule change in bullet points that follow the NTM and Attachment A.

- Creating legal definitions of a “customer” is insidious, at best. This approach appears to be setting up a more restrictive line of rules coming down the track. All businesses have different types of customers. They all have “natural persons” working for them. If we want to endear ourselves to and enrich our relationships with them, we handle that through “entertaining” many times and different ways. The NASD is stating that entertaining the employees of a customer might somehow influence them to do more business or conduct business in a fashion other than in an honorable way. A rule that makes a NASD member responsible for others actions is not in the realm of regulatory oversight and the NASD assumes that the “customer” will act inappropriately.
- The basic definition being presented is anything we do outside our business location that promotes business relationships by getting to know our “customers” as “entertainment”. What I am reading is a means for regulators to restrict the way that business is conducted in the USA and has been for many, many years. This form of sales prevention and destruction of relationships is classic in an over reaching governmental autocracy. Giving tickets to a client or their employees, when no one from the member attends, is a good way to get the interest of the customer and in fact will usually lead to good and viable business discussion either before or after such said event. Trying to codify this is a huge mistake! The more promulgated rules, the more reason for a slowdown in commerce. I can only imagine that we will see the NASD conducting sweeps that are geared toward how we entertain our clients. I do not think that most of the examiners have the business acumen to discern what business results from the various ways of entertaining, much less life experiences on the subject.
- Some clients require more time and energy throughout the relationship to maintain an understanding of their needs; this can’t always be handled via telephone calls and emails. We need and want to spend our hard earned dollars (yes, they are “earned”) on our “customer”. The amount we spend will logically be dictated by the size of the customer. I do believe that we should be able to reach that decision on our own and not by some examiner’s or attorney’s subjective decision. The IRS acknowledges that business entertainment is allowable as long as a bona fide business reason/discussion takes place before, during or after the event in question.
- We have plenty of rules and required procedures that already dictate that our customer receives all appropriate disclosures and transparent pricing. This coupled with more written procedures is

going to restrict the ability for us to create business relationships in the entrepreneurial and capitalistic society of the USA.

- All firms maintain business records. Requiring us to have additional documentation is credulous and another way to impede business. I suppose that you will want us to have a signed receipt from the customer and a sworn affidavit that they won't be unduly influenced because they went to a sporting event. I have an idea that even our government entertains various customers so that we might have better relations with countries, etc. Those events aren't even directly related to a single "customer" often times.
- Creating more written policies and procedures to regulate because a customer's employee might do something like direct more business to me seems galactically stupid and written by someone that has not done any entertaining or more bluntly, run a business! Having a supervisor approve everything just creates more bureaucracy and I guess gives the NASD more room to charge people with offenses and get more fines. I believe that a business's records are their private records and if a client wants to ask for an inspection of what was spent, that should be up to the member and that customer. I am sure that if something illegal took place, then attorneys and the court system will prevail. We don't need a rule that requires us to turn over everything we do. I have a small private business for many reasons and should not have to operate like a public company because the NASD wants everyone to be layered like the big firms.

Trying to regulate morality seems to be the mantra of government these days. I do not endorse anything illegal but fail to see that we need this additional layering of rules just because some people went to "clubs" (with their client) or gave tickets to sporting events. I'm certain that these functions somehow promoted more business and that the participants felt closer and strengthened their relationships. I am almost certain however that the money spent on these clients were in direct proportion to the business that they brought to the member firm. I believe that hiring a staff attorney for a dunking booth might be a valid entertainment expense, and I'd speculate that there would be a line of customers wanting to participate.

Finally, I do believe that this rule is an attempt to once again restrict the creativity whereby members can expand business. I can see the next step as being a way to regulate "natural persons" entertainment. I believe that almost all other industries entertain without having to go through such hoops and burdensome procedures. I do not believe that the investing public gets harmed by us when we entertain so as long as we provide suitable investments, executions and products that achieve their goals. The subjectivity that will be afforded to the regulators scares me. More Government is not always better. I want to state that I believe the NASD is overreaching its bounds here and respectfully submit that you cancel this IM.

Enough!

Respectfully submitted,

Daniel C Dooley
President and CEO
Maplewood Investment Advisors, Inc.