

BEFORE THE NATIONAL ADJUDICATORY COUNCIL
FINANCIAL INDUSTRY REGULATORY AUTHORITY

In The Matter of
The Continued Association of
Robert J. Greene, Jr.
as a
General Securities Representative
with
Vanderbilt Securities, LLC

Amended Notice Pursuant to
Rule 19h-1
Securities Exchange Act
of 1934¹

SD-2242

October 7, 2021

On March 27, 2019, Vanderbilt Securities, LLC (“Vanderbilt” or the “Firm”), filed with FINRA a Membership Continuance Application (“MC-400” or “Application”). The Application seeks to permit Robert J. Greene, Jr., a person subject to a statutory disqualification, to continue to associate with the Firm as a general securities representative. A hearing was not held in this matter. Rather, pursuant to FINRA Rule 9523(a), FINRA’s Department of Member Supervision (“Member Supervision”) recommends that the Chairperson of the Statutory Disqualification Committee, acting on behalf of the National Adjudicatory Council, approve Greene’s continued association with the Firm pursuant to the terms and conditions set forth below.

For the reasons explained below, we approve the Firm’s Application.

I. Greene’s Statutorily Disqualifying Event

Greene is subject to statutory disqualification, as that term is defined in Section 3(a)(39) of the Securities Exchange Act of 1934 (“Exchange Act”), as a result of his February 14, 2019 plea of guilty to Operating a Motor Vehicle While Under the Influence of .08 of 1% or More Alcohol – Prior Conviction D, in violation of VTL Section 1192.2,

¹ FINRA originally filed a 19h-1 notice, along with the record in support thereof, on August 9, 2021. FINRA files this amended notice because it inaccurately described in the original notice the felony conviction underlying the statutory disqualification at issue. A revised description of the felony conviction is set forth in this amended notice. See *infra* Part I.

a felony, in New York.² A court sentenced Greene to three years conditional discharge and ordered him to participate in the Treatment Accountability for Safer Communities (“TASC”) Program.³ The court also revoked Greene’s driver’s license for one year, ordered that his vehicle be equipped with an ignition interlock device for three years, and imposed fines and fees totaling \$1,570. Greene has paid the fines and fees, and his vehicle remains equipped with an ignition interlock device.

Greene represents that he had drank too much at a business dinner the night he was arrested, and “without thinking it through I proceeded to drive home.” Greene states that he is ashamed of his “reckless” behavior, fully understands the severity of his actions, and has “made a commitment to seek the help and support I need to guide me through the next steps of recovery.” Greene has participated in the court-ordered TASC Program (which will continue until February 2022). He also voluntarily enrolled in a rehabilitative support program through Alcoholics Anonymous (“AA”), completed an outpatient DWI program run by Catholic Charities, and participated in DWI awareness classes. The Firm represents that Greene continues to participate in the TASC Program and attend AA meetings.

II. Greene’s Background Information

Greene qualified as a general securities representative (Series 7B) in March 1996 and as a general securities representative (Series 7) in October 2000. He passed the uniform securities agent state law examination in April 2001. Greene has been associated with the Firm since March 2016. He was previously associated with seven firms. Greene also works as an insurance agent and devotes approximately 2% of his time to this outside business activity.

FINRA’s Central Registration Depository (“CRD”®) records show that in December 2013, Greene filed a bankruptcy petition, for which he received a discharge of debts. Other than this bankruptcy petition and the incidents underlying Greene’s statutory disqualification (including the December 2010 misdemeanor that resulted in

² FINRA’s By-Laws provide that a person is subject to “disqualification,” and thus must seek and obtain FINRA’s approval prior to associating with a member firm, if he is disqualified under Exchange Act Section 3(a)(39). *See* FINRA By-Laws, Art. III. Exchange Act Section 3(a)(39)(F) provides that a person is subject to statutory disqualification if he has been convicted of any offense specified in Exchange Act Section 15(b)(4)(B), or any other felony, within the past 10 years. On September 27, 2021, FINRA verified with the Suffolk County Criminal Court Clerk that Greene pleaded guilty to the offense as described on the Certificate of Disposition from February 2019. Greene’s offense was a felony because in December 2010, he was convicted of Operating a Motor Vehicle Under the Influence of Drugs or Alcohol, a misdemeanor.

³ Under the TASC Program, Greene is required to, among other things, remain drug and alcohol free (verified through random office visits and toxicology screenings) and have weekly contact with a case manager.

Greene's felony conviction), the record reflects no customer complaints or arbitrations involving Greene, or any other regulatory, disciplinary, or criminal history.

III. Background of the Firm

The Firm is based in Woodbury, New York, and has been a FINRA member since 1965. The Firm currently employs 182 registered representatives, of which 38 are registered principals, three are operations professionals, and 52 are non-registered fingerprinted individuals. The Firm has 59 branch offices, seven of which are Offices of Supervisory Jurisdiction ("OSJs"). The Firm engages in a general securities business, and it currently does not employ any other individuals who are subject to statutory disqualification.

A. Recent FINRA Examination History

In the past two years, FINRA has conducted two routine examinations of the Firm, which resulted in Cautionary Actions. In January 2020, FINRA issued the Firm a Cautionary Action for the following deficiencies: (1) failing to make adequate suitability determinations in connection with "like-kind exchange" transactions under Section 1031 of the Internal Revenue Code; and (2) failing to maintain adequate written supervisory procedures ("WSPs") for reviewing customer escrow agreements in connection with like-kind exchange transactions. The Firm responded in writing that it corrected the deficiencies noted.

In January 2019, FINRA issued the Firm a Cautionary Action for the following deficiencies: (1) failing to establish and enforce WSPs concerning the review and supervision of mutual fund switches; and (2) failing to establish and enforce adequate procedures to conduct and document due diligence for recommended securities. The Firm responded in writing that it corrected the deficiencies noted.

B. Recent Formal Disciplinary History

In July 2018, FINRA accepted from the Firm a Letter of Acceptance, Waiver and Consent ("AWC") for violations of FINRA Rules 3110 and 2010 and NASD Rule 3010. Without admitting or denying the allegations, the Firm consented to findings that, between March 2011 and March 2015, the Firm failed to establish and maintain a supervisory system and WSPs reasonably designed to identify and prevent unsuitable excessive trading and churning in customer accounts. It also consented to findings that the Firm, through a registered principal, failed to reasonably supervise a registered representative who engaged in churning and unsuitable excessive trading. FINRA censured the Firm and fined it \$100,000.⁴ The Firm represents that in response to the

⁴ The AWC also resolved allegations against the supervisor of the registered representative who engaged in the misconduct, who consented to findings that he failed to reasonably supervise the representative. FINRA fined the supervisor \$5,000, suspended him in all capacities for three months, and ordered that he requalify as a general securities principal. Because the AWC contained findings that the Firm failed to supervise an individual who violated federal securities laws in connection with his

AWC, it made operational and compliance system improvements to detect and prevent future incidents, including hiring additional qualified compliance professionals, providing additional training to compliance personnel, updating and upgrading its processes and procedures, and using a trade review system to monitor customer transactional activity.

The record does not show any additional recent disciplinary or regulatory history against the Firm.

IV. Greene's Proposed Business Activities

The Firm proposes that Greene will continue to work from its home office in Woodbury, New York. The Firm represents that Greene will continue to service his existing retail customers (comprised of approximately 130 households, which primarily hold general securities through the Firm's custodial platform). Greene will be compensated through commissions.

V. Greene's Proposed Supervision

The Firm designated Michael Ward ("Ward") to serve as Greene's primary supervisor. Ward has supervised Greene since March 2019. Ward registered as a general securities representative in October 1985, as a general securities principal in October 1995, as a municipal securities principal in April 2001, and as a registered options principal in February 2007. He also passed the uniform securities agent state law examination in December 1985 and the uniform investment adviser law examination in September 1999 (which he passed again in April 2007 and March 2011). Ward has worked at the Firm (and its affiliated registered investment adviser) since July 2015. He was previously associated with 11 other firms.

Ward works in the Firm's Woodbury, New York office, and does not supervise any other individuals. The Firm represents that Ward services a small number of retail customers and performs management duties in the Firm's sales department.

The record shows that several customers have filed complaints against Ward. In May 1995, a customer filed an arbitration claim against Ward and his firm alleging unsuitable recommendations and excessive trading. The customer alleged \$165,000 in damages. A FINRA arbitration panel awarded the customer \$29,823 (of which Ward was individually liable for \$8,742).

churning of a customer account, it is subject to statutory disqualification. *See* Exchange Act Section 3(a)(39)(F) (incorporating by reference Exchange Act Section 15(b)(4)(E)). The Firm, however, was not required to undergo a FINRA eligibility proceeding in connection with the AWC because the sanctions are no longer in effect based upon the Firm having paid the fine. *See FINRA Regulatory Notice 09-19*, 2009 FINRA LEXIS 68, at *11-12 (Apr. 2009) (providing that for statutory disqualifications involving an order such as the AWC where the sanctions are no longer in effect, a Membership Continuance Application is not required).

In July 2003, a customer filed an arbitration claim against Ward and several others alleging unauthorized trades. The customer alleged \$500,000 in damages. The complaint was settled for \$11,500, which Ward paid.

In December 2003, a customer filed an arbitration claim against Ward alleging unsuitable recommendations and failure to supervise. The customer alleged \$300,000 in damages. The complaint was settled for \$17,500, which Ward paid. Ward states that when the firm he was working for ceased operations, he was erroneously named as a manager in connection with this matter and settled the case solely based upon financial considerations.

In December 2003, a customer filed an arbitration claim against Ward alleging unauthorized margin trading and failure to supervise. The customer alleged \$2 million in damages. The complaint was settled for \$100,000, with Ward personally contributing \$9,900. Ward states that when the firm he was working for ceased operations, he was erroneously named as a manager in connection with this matter and settled the case solely based upon financial considerations.⁵

The record shows no other customer complaints, arbitrations, or other regulatory, disciplinary, or criminal history for Ward.

If Ward is unavailable, the Firm designated Dana Brandes (“Brandes”) to serve as Greene’s alternate supervisor. Brandes registered as a general securities representative in April 1996 and as a general securities principal in February 2008. She passed the uniform securities agent state law examination in March 2001 and the uniform investment adviser law examination in March 2007. Brandes has worked at the Firm (and its affiliated registered investment adviser) since May 2019. She has previously worked at four other firms. Brandes works in the Woodbury, New York office and does not currently supervise any other individuals.

The record shows no customer complaints, arbitrations, or other regulatory, disciplinary, or criminal history for Brandes.⁶

⁵ CRD also shows that two other customer complaints, filed in 1992 and 1994, were denied by Ward’s firm. No other action was taken in connection with these complaints.

⁶ CRD shows that Brandes was discharged from her former firm in March 2019 based upon concerns related to trading in her personal account. FINRA investigated the matter and closed its investigation in July 2019, taking no further action. Member Supervision represents that FINRA took no further action based, in part, upon the fact that Brandes held the securities at issue for almost six years and there was no evidence that she traded on material non-public information.

VI. Discussion

After carefully reviewing the entire record in this matter, we approve the Firm's Application to continue to employ Greene as a general securities representative, subject to the supervisory terms and conditions set forth below.

The Firm has the burden of demonstrating that Greene's continued association with the Firm is in the public interest and does not create an unreasonable risk of harm to the market or investors. *See Continued Ass'n of X*, Redacted Decision No. SD06002, slip op. at 5 (NASD NAC 2006), available at <http://www.finra.org/web/groups/industry/@ip/@enf/@adj/documents/nacdecisions/p036476.pdf>; *see also Frank Kufrovich*, 55 S.E.C. 616, 624 (2002) (holding that FINRA "may deny an application by a firm for association with a statutorily-disqualified individual if it determines that employment under the proposed plan would not be consistent with the public interest and the protection of investors"); FINRA By-Laws, Article III, Section 3(d) (providing that FINRA may approve association of statutorily disqualified person if such approval is consistent with the public interest and the protection of investors).

In reviewing this type of application, we have considered whether the particular felony at issue, examined in light of the circumstances related to the felony and other relevant facts and circumstances, creates an unreasonable risk of harm to the market or investors. *See Kufrovich*, 55 S.E.C. at 625-26 (upholding FINRA's denial of a statutory disqualification application for an individual who had committed non-securities related felonies "based upon the totality of the circumstances" and FINRA's explanation of the bases for its conclusion that the applicant would present an unreasonable risk of harm to the market or investors). We assess the totality of the circumstances in reaching a judgment about Greene's future ability to work in the securities industry in a manner that comports with FINRA's requirements for high standards of commercial honor and just and equitable principles of trade in the conduct of his business.

For the reasons set forth below, we conclude that the Firm has satisfied its burden and that Greene's participation in the securities industry, subject to the supervisory terms and conditions set forth below, will not present an unreasonable risk of harm to the market or investors.

We acknowledge the seriousness of Greene's recent criminal conviction. We note, however, that his felony conviction did not involve securities or fraudulent misconduct. We are not aware of any intervening misconduct by Greene, and he has been registered in the securities industry for more than 25 years without any evidence of regulatory wrongdoing or customer complaints. Further, Greene has stated his remorse and has accepted responsibility for his behavior. Indeed, he has taken steps to rectify and prevent its reoccurrence, including attending and completing several treatment programs. Greene continues to participate in the TASC Program and AA meetings, and is otherwise in compliance with his sentence.

We also find that Ward and Brandes are well-qualified to supervise Greene. They have been registered in the securities industry for 36 years and 25 years, respectively, and

both have substantial supervisory experience. Ward has supervised Greene for more than two years without incident, and we agree with Member Supervision that the aged arbitration awards and settlements involving Ward (the most recent of which was filed more than 17 years ago) should not prevent him from stringently supervising Greene. Moreover, the heightened supervisory plan is comprehensive and tailored to Greene and his disqualifying event. Greene will be supervised onsite, and Ward and Brandes will be able to monitor Greene for signs of alcohol abuse.

Finally, we find that the Firm has a relatively clean regulatory history and has corrected deficiencies previously identified by FINRA. On balance, the Firm's history does not warrant a denial of Greene's continued association with the Firm considering his misconduct and the specific supervisory structure in place for him.

We find that the following heightened supervisory procedures, if they are diligently followed, will enable the Firm to reasonably monitor Greene's activities on a regular basis:

1. The Firm's WSPs will be amended to state that Ward will be the primary supervisor responsible for Greene and that Brandes will be the alternate supervisor.
2. If at any time Ward is not available to perform these functions, Brandes, who has been designated as Greene's alternate supervisor, shall be responsible for supervising Greene.⁷ Ward and Brandes will supervise Greene onsite, from the Firm's home office, which is located at 125 Froelich Farm Boulevard, Woodbury, New York.
3. Ward shall be involved in the daily review of transactions in accordance with the Firm's written supervisory procedures, will review flagged communications and will monitor other investment related actives such as complaints, if any.⁸ Evidence of such reviews shall be retained in the ordinary course of business and kept segregated for ease of review for FINRA staff.
4. Greene will not act in a supervisory capacity.
5. Greene will be prohibited from opening or maintaining any accounts in which he is authorized to make individual transactions without seeking prior client approval (e.g., discretionary accounts).

⁷ In terms of Plan provisions, Ward's name is to be replaced with Brandes, at any time Ward is not available to perform his duties as primary supervisor.

⁸ The Firm represents that Ward reviews Greene's customer activity on trade date +1 and will continue to do so. This activity includes trades, incoming and outgoing funds, and other normal account activity.

6. Greene will be prohibited from soliciting new client accounts directly through advertising or seminars for the duration of the disqualification.
7. Ward will review and pre-approve each securities account opened by Greene. Paperwork relating to the opening of the account will be documented as approved with a date and signature. Copies of all documents shall be maintained and kept segregated for ease of review for FINRA staff.
8. Ward will review Greene's incoming written correspondence (which includes e-mail communications) upon arrival and will review outgoing correspondence before it is sent. Records of such reviews will be kept segregated for ease of review during any FINRA examination. Ward will maintain and keep copies of all initialed correspondences and email communications. Copies of all documents shall be segregated for ease of review for FINRA staff.
9. With all business-related matters, Greene will be permitted to use only an e-mail account that is held at the Firm, with all e-mails running through the Firm's email system. If Greene receives a business-related email communication in a non-Firm e-mail account, he must immediately inform Ward, as well as provide him with a copy of such email, and forward the email to his Vanderbilt e-mail address. Ward shall document any occurrence of Greene receiving such an e-mail. Copies of all documentation shall be maintained and kept segregated for ease of review for FINRA staff.
10. Ward or Brandes shall promptly alert the Firm's Compliance Department and Legal Department if there is any indication that Greene is under the influence of alcohol or drugs while at work, including but not limited to unexplained lateness or absence, or other erratic behavior. Copies of all documentation shall be maintained and kept segregated for ease of review for FINRA staff.
11. Greene must report to Ward, in writing, changes or completion of any court appointed obligations, such as his participation in the TASC Program. All documentation of Greene's compliance with court appointment obligations shall be maintained and kept segregated for ease of review for FINRA staff.
12. Greene must promptly report to Ward, in writing, any change in his sentencing, including when the period of the conditional discharge of his felony conviction has elapsed. Greene must provide court documentation, evidencing that his conditional discharge has been completed. All documentation shall be maintained and kept segregated for ease of review for FINRA staff.

13. Greene shall immediately (within the same day received by him) report all complaints, whether written or verbal, to Ward for review, and then to the Compliance Department. Ward shall prepare a memorandum to the file that describes the measures taken to investigate the merits of the complaint (e.g., contact with the customer) and the resolution of the matter. All documentation shall be maintained and kept segregated for ease of review for FINRA staff.
14. Ward must certify quarterly (March 31st, June 30th, September 30th, and December 31st) in writing to Vanderbilt's Compliance Department that he and Greene are in compliance with all of the above conditions of heightened supervision to be accorded Greene. Additionally, the Quarterly Review Form shall require Greene's verification that he is in compliance with the terms and conditions imposed by the Court with respect to his felony conviction. All documents shall be maintained and kept segregated for ease of review for FINRA staff.
15. For the duration of Greene's statutory disqualification, the Firm must obtain prior approval from Member Regulation if it wishes to change Greene's primary or alternate supervisors or if the Firm wishes to change any provisions of this plan. The Firm will submit any proposed changes or other requested information under this Plan to FINRA's Statutory Disqualification Program at SDMailbox@finra.org.

FINRA certifies that: (1) Greene meets all applicable requirements for the proposed employment; (2) the Firm is not a member of another self-regulatory organization; (3) the Firm has represented that Greene, Ward, and Brandes are not related by blood or marriage; and (4) the Firm does not currently employ any other individuals who are subject to statutory disqualification.

VII. Conclusion

Accordingly, we approve the Firm's Application to continue to employ Greene as a general securities representative, subject to the above-mentioned heightened supervisory procedures. In conformity with the provisions of Exchange Act Rule 19h-1, the association of Greene with the Firm will become effective within 30 days of the receipt of this notice by the Commission, unless otherwise notified by the Commission.

On Behalf of the National Adjudicatory Council,

Jennifer Piorko Mitchell

Jennifer Mitchell Piorko
Vice President and Deputy Corporate Secretary