

**PLEASE NOTE THE LATER CASE HISTORY OF THIS DECISION FOLLOWING THE TEXT OF THE DECISION.**

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BEFORE THE NATIONAL BUSINESS CONDUCT COMMITTEE

NASD REGULATION, INC.

In the Matter of  
the Association

of

X

as a

Registered Representative

with

The Sponsoring Firm

**Redacted Decision**

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

Decision No. SD97006

This matter involves the association of X<sup>1</sup>, a person subject to a statutory disqualification, as a registered representative with an NASD and New York Stock Exchange ("NYSE") member firm located in New York ("the Sponsoring Firm" or "the Firm"). A hearing on the matter was held in August 1997 before a subcommittee ("SD hearing panel") of the Statutory Disqualification Committee ("SD Committee") of NASD Regulation, Inc. ("NASD Regulation"). X appeared and was accompanied by the Vice President of the Sponsoring Firm and counsel.

X is subject to a statutory disqualification as a result of his conviction in a U.S. District Court in December 1990 of possession of false Social Security cards, a misdemeanor. He was fined \$500. (X was not sentenced until April 1993.)

X has been employed by the Sponsoring Firm since January 1991. He was originally employed as a sales assistant in the Operations area, and in 1993 he was promoted to the trading area as an

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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.

assistant data clerk. X did not disclose his conviction on his Form U-4 filed at that time. X amended his Form U-4 in 1995 upon notification by the NYSE that the submission of his fingerprint card to the Department of Justice indicated a conviction for possession of false Social Security cards. X was suspended by the Firm in December 1996 pending the outcome of the NYSE investigation and NASD eligibility proceeding. (The NYSE investigation into this matter is still pending.)

X's misconduct involved renting apartments under false pretenses, and verifying false employment histories and fictitious financial information. He stated at the hearing that, as a favor to a friend, he would attempt to rent apartments for Hispanic individuals who were being discriminated against in their search for housing. X testified that, unbeknownst to him, the apartments were actually being used for illegal drug transactions. His guilty plea for possession of false Social Security cards was the result of extensive negotiations between X's counsel and federal prosecutors.

X testified at the hearing as to his employment history since his disqualification. He stated that he was employed by the Sponsoring Firm in various clerical capacities from January 1991 until he was suspended by the Firm in December 1996. He has been unemployed since that time.

X also testified that his failure to disclose his conviction on his Form U-4 was based on advice obtained from his defense attorney and the Assistant District Attorney who prosecuted the case. He testified that both attorneys told him the conviction would have no impact on his employment in the securities industry.

The Sponsoring Firm has been a member of the NASD since 1990 and is engaged in a general securities business. The Sponsoring Firm clears on a fully disclosed basis, employs 16 registered principals and 111 registered representatives, and has one branch office. The Firm proposes to employ X as a registered representative to work from the Firm's home office which is located in New York. X will be supervised by the Vice President and NYSE branch office manager ("Proposed Supervisor"). The Proposed Supervisor has been a registered sales supervisor since July 1997 and has no disciplinary history. It is proposed that X's primary duties will be to enter orders, troubleshoot clearing and hedge fluid problems, and to perform general clerical duties associated with the trading desk.

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

1. X and the Proposed Supervisor will be located in close physical proximity.
2. X and the Proposed Supervisor will meet on a daily basis and the Proposed Supervisor will oversee all X's activities.

The Sponsoring Firm employs no other individuals who are subject to a statutory disqualification and no familial relationship exists between X and his Proposed Supervisor. In 1994 the Firm was enjoined by a state from further violations of state recordkeeping provisions, thus making the firm subject to a statutory disqualification. The Firm was also the subject of two other state actions in 1994: a State Commission of Securities imposed a censure and \$2,500 fine for failing to supervise an

unlicensed agent and another State Securities Commission also imposed a \$2,500 fine for failing to supervise an agent in that state and failing to report that an arbitration award had been entered in favor of a state resident. The 1996 NASD options examination was filed without action. The 1996 NASD municipal examination resulted in a Letter of Caution for violation of MSRB Rule G-19 (suitability).

After a careful review of the entire record in this matter, we conclude that the application of X to become associated with the Sponsoring Firm as a registered representative should be denied. We are concerned by the serious nature of X's conviction and note that, although the misconduct resulted in a misdemeanor, X admitted to providing false information on various occasions to various persons. We are also concerned by X's failure initially to verbally disclose his conviction to the Firm upon first being hired and subsequently to disclose the matter on his Form U-4. We note that X did not affirmatively respond to a question concerning misdemeanor convictions on a Form U-4 that was filed shortly after he was sentenced. In addition, we are quite concerned by the Firm's disciplinary history, and note that the Firm itself is subject to a statutory disqualification as a result of a state injunction. The Sponsoring Firm has also been the subject of two other state actions, both alleging supervisory deficiencies.

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

On Behalf of the National Business Conduct Committee,

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Joan C. Conley  
Corporate Secretary

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**LATER CASE HISTORY:**

X subsequently appealed this decision to the SEC. The SEC dismissed the appeal as abandoned for X's failure to file a brief. Accordingly, the NAC decision is the final decision in this matter.