

UNITED STATES OF AMERICA
before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.

SECURITIES EXCHANGE ACT OF 1934
Rel. No. 50786 / November 30, 2004

Admin. Proc. File No. 3-11426

In the Matter of the Application of

MICHAEL T. STUDER
and
CASTLE SECURITIES CORP.

45 Church Street
Freeport, New York 11520

For Review of Disciplinary Action Taken by
NASD

ORDER DENYING MOTION FOR RECONSIDERATION

On October 14, 2004, the Commission issued an opinion sustaining disciplinary action by NASD against Michael T. Studer and Castle Securities Corp ("Castle"), a former NASD member. We found that Studer and Castle violated the federal securities laws and NASD rules. Castle churned a Castle customer's account; both applicants failed to supervise the trading in that account; and Castle induced the customer to guarantee the margin accounts of other Castle customers without compensation. We sustained NASD's expulsion of Castle from membership and bar of Studer from associating with any NASD member in any capacity. 1/

On October 18, 2004, Studer moved for reconsideration of the Commission's decision. On November 1, 2004, Studer supplemented his motion for reconsideration disputing two specific findings in the October 14, 2004 Opinion. 2/

1/ Michael T. Studer, Securities Exchange Act Release No. 50543 (Oct. 14, 2004), __ SEC Docket ____.

2/ While this additional submission was untimely, we have determined in our discretion to address it.

Studer objects that the Opinion indicated that "NASD found Applicants violated Rule 2110 by inducing the customer" to guarantee unrelated margin accounts. He states that NASD'S Hearing Panel in its decision dated March 28, 2003, dismissed the charge that Castle violated NASD Rule 2110 by inducing the customer to guarantee the margin accounts of five other, unrelated Castle customers. While the Hearing Panel did dismiss this charge, the NASD National Adjudicatory Council reinstated it in its decision of February 19, 2004. We do not view the Opinion as finding that Studer engaged in the guarantee violations. 3/

Studer argues that the sanctions sustained in the October 14, 2004 Opinion were excessive. Studer asserts that he was never charged with churning. The sanctions imposed on Studer were not based on the churning activity but rather for his failure to supervise to prevent that violation. 4/

IT IS ORDERED that the motion for reconsideration filed by Michael T. Studer and Castle Securities Corp. on November 1, 2004, be, and it hereby is, denied.

By the Commission.

Jonathan G. Katz
Secretary

3/ We have clarified the Opinion in this regard.

4/ Studer also claims that the sanctions should have reflected that NASD offered to settle the failure to supervise charge on more favorable terms than the sanctions ultimately imposed. Studer's contentions are without merit. The record does not include any settlement agreement between Studer and NASD. In any event, the Commission does not consider the results of failed settlement negotiations in its determination of the public interest. Stonegate Securities, Inc., Exchange Act Release No. 44933 (October 15, 2001), 76 SEC Docket 111, 116. NASD rules also deem a rejected offer of settlement withdrawn and without effect. Eric M. Diehm, 51 S.E.C. 938, 942 (1994). Cf. Fed. R. Evid. 408 ("Evidence of conduct or statements made in compromise negotiations is . . . not admissible.")