

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

Securities Exchange Act of 1934
Release No. 34-60133 / June 17, 2009

In the Matter of the Application of	:	
	:	
Financial Industry Regulatory Authority, Inc.	:	
	:	
For an Order Granting the Approval of	:	ORDER APPROVING
	:	APPLICATION FOR
Sean P. Brennan	:	RELIEF FROM A
	:	STATUTORY
As an	:	DISQUALIFICATION
	:	
Associated Person	:	
	:	
With	:	
	:	
Trinity Distributors, LLC	:	
	:	
Securities Exchange Act of 1934	:	
Section 15A(g)(2)	:	
	:	

The Financial Industry Regulatory Authority, Inc. (“FINRA”) has filed a notice (“Notice”) containing an application (“Application”) pursuant to Rule 19h-1 of the Securities Exchange Act of 1934 (“Exchange Act”) on behalf of Trinity Distributors, LLC (“Trinity” or “Firm”) seeking Commission consent for Sean P. Brennan, a person subject to a statutory disqualification, to associate with Trinity, subject to the terms and conditions set forth in the Application. FINRA represents that Mr. Brennan will not perform activities that will require him to register with FINRA.

I. Background

A. Basis for Statutory Disqualification

On December 23, 1998, the Commission issued an Order Making Findings, Imposing Remedial Sanctions and Cease-and-Desist Order (“Bar Order”) fining Mr. Brennan \$50,000 and barring him from associating with any broker, dealer, investment adviser, or investment company, with the right to reapply after five years.¹ In the Bar Order, the Commission found that Mr. Brennan willfully violated Section 17(a) of the Securities Act of 1933, Section 10(b) of the Exchange Act and Rule 10b-5 thereunder, and willfully aided and abetted violations of Sections 206(1) and 206(2) of the Investment Advisers Act of 1940. Generally, the Commission found that Mr. Brennan, while associated with an investment adviser affiliate of CS First Boston, Inc., a registered broker-dealer, as the affiliate’s vice president for sales and marketing, engaged in fraudulent conduct with respect to the offering of the CS First Boston Offshore Cash Reserve Fund, made material misrepresentations to an investor and other potential investors about the fund, and distributed false and misleading marketing materials. The Bar Order subjects Mr. Brennan to a statutory disqualification under Section 3(a)(39)(B)(i)(II) of the Exchange Act.

B. Mr. Brennan’s Industry Background

Mr. Brennan first registered in the securities industry as an investment company and variable contracts products limited representative (Series 6) in December 1990. He re-qualified for the Series 6 in January 2005. He also qualified as a uniform securities agent state law (Series 63) in March 1991 and re-qualified in February 2005. Mr. Brennan was associated with a total of seven broker-dealers, including CS First Boston, Inc., from 1985 until 1998.

II. Terms of the Proposed Association

In the Application, FINRA and Trinity represent that Trinity proposes to employ Mr. Brennan in a non-registered capacity to act as a consultant to broker-dealers and other financial services institutions with respect to developing exchange-traded funds (“ETFs”). FINRA and Trinity also represent, among other things, that:

1. Trinity, headquartered in Mequon, Wisconsin, became a FINRA member in September 2000. Trinity employs one registered principal and one registered representative, and acts as a mutual fund retailer and engages in “solicitation activities with respect to separately managed accounts, mutual funds, private investment funds, and other collective investment vehicles.”
2. Mr. Brennan will not have any involvement in securities sales activities, including the marketing of any ETFs that he develops. Mr. Brennan’s activities will consist

¹ In the Matter of Sean P. Brennan and Keith E. Walsh, Exchange Act Release No. 40830 (December 23, 1998).

- of: (A) consulting with clients regarding the strategic development of a product, including selecting the product niche (*e.g.*, fixed income, equity, sub-advised products, and wrap products). For sub-advised products, Mr. Brennan will consult regarding selection of a “sub-adviser” to assist the ETF sponsor in developing the ETFs’ investment strategy; (B) assisting with the retention of key service providers, including requests for proposals from potential legal counsel, administrators, custodians, specialist firms, and any other necessary vendors; and (C) working with clients and their legal counsel to prepare registration statements or other regulatory filings, to obtain all necessary regulatory approvals, and to request any necessary exemptions. Mr. Brennan will be compensated by a percentage of the fees received from the client, and his compensation will not be contingent upon any ETF sales.
3. Mr. Brennan will act only in an associated capacity and will not be a registered representative of the Firm. Mr. Brennan will not accept any customer funds or securities, and will not supervise any Trinity employees.
 4. Mr. Brennan will be based out of his home in Merrimac, Massachusetts, and will be supervised by Kirt Bjork, the Firm’s president. Trinity will amend its supervisory procedures to clearly specify that Mr. Bjork is the responsible supervisor for Mr. Brennan.
 5. Mr. Brennan will conduct all of his client communications via Trinity-issued electronics, including, but not limited to, cell phones, facsimile machines, and computers.
 6. Mr. Bjork will have access to Mr. Brennan’s work calendar, and Mr. Brennan will inform Mr. Bjork of the date, time, and location of all of Mr. Brennan’s outside client appointments. Mr. Brennan will be responsible for entering all meetings into his meeting calendar to ensure that Mr. Bjork is aware of them when reviewing the work calendar. Mr. Brennan will keep a log of all of the meetings that he enters on his calendar for ease of review.
 7. Mr. Brennan will have a dedicated phone line. Mr. Bjork will have access to Mr. Brennan’s phone at all times, and Mr. Brennan’s line will be accessible from Mr. Bjork’s phone. Mr. Bjork will have the ability to listen in on Mr. Brennan’s calls at any time by picking up the phone. When Mr. Brennan’s phone rings, Mr. Bjork will be alerted and have the ability to listen to the entire call. For audit and compliance purposes, Mr. Bjork will randomly listen in on Mr. Brennan’s phone line at least twice a week, throughout an entire conversation. If Mr. Bjork finds that any aspect of the call is not in compliance with Mr. Brennan’s stated duties, Mr. Bjork will discuss the issue with Mr. Brennan immediately, maintain a record of this discussion, and present that record to a FINRA examiner during the next statutory disqualification examination of Mr. Brennan. Mr. Bjork will maintain a log of Mr. Brennan’s telephone calls, review it on a monthly basis to ensure that

- Mr. Brennan's calls are in compliance with his stated responsibilities, and keep the log segregated for ease of review.
8. All of Mr. Brennan's incoming paper correspondence will be received by Mr. Bjork, at the Firm's home office. Mr. Bjork will review and approve all of this correspondence upon its arrival, and forward it to Mr. Brennan. Mr. Bjork will also review all of Mr. Brennan's outgoing paper correspondence before it is sent. Mr. Brennan will keep a record of all of his outgoing paper correspondence and will keep a copy for ease of review. Mr. Bjork will keep a written record evidencing his review of all of Mr. Brennan's paper correspondence.
 9. For the purposes of client communication, Mr. Brennan will only be allowed to use an e-mail account that is held at the Firm. Mr. Bjork will have immediate access to all e-mail communications on Mr. Brennan's Firm e-mail account that are either sent to or received by Mr. Brennan. If Mr. Brennan receives a business related e-mail message in another e-mail account outside the Firm, he will immediately deliver that message to the Firm's e-mail account. Mr. Brennan will also inform the Firm of all outside e-mail accounts that he maintains. Mr. Bjork will conduct a weekly review of all e-mail messages that are either sent or received by Mr. Brennan, will preserve the e-mail messages in electronic format, and keep them segregated for ease of review.
 10. Mr. Bjork will review, approve, and execute all of Mr. Brennan's client agreements. To evidence review, Mr. Bjork will make copies of the agreements, initial them, and keep the copies segregated for ease of review.
 11. If Mr. Bjork is to be on vacation or out of the office for more than one week, he will call Mr. Brennan at least once during the second week. Mr. Brennan will not be permitted to negotiate any client agreements in Mr. Bjork's absence, unless Mr. Bjork is able to review and approve the agreement remotely. If Mr. Bjork is in a position to review the agreement remotely, he will preserve a copy of the agreement with his initials and keep it segregated for ease of review. Mr. Brennan will not send any written correspondence in Mr. Bjork's absence, without Mr. Bjork's review and approval. No correspondence that is received by the Firm during Mr. Bjork's absence will be forwarded to Mr. Brennan.
 12. Mr. Bjork must certify quarterly (March 31, June 30, September 30, and December 31) to FINRA's Department of Member Regulation that he and Mr. Brennan are in compliance with all of the conditions of heightened supervision to be accorded Mr. Brennan.

III. Relief Sought

In the Application, FINRA seeks an order declaring that, notwithstanding the statutory disqualification, the Commission:

1. Will not institute proceedings against the Firm or Mr. Brennan pursuant to Section 15(b) of the Exchange Act; and
2. Will not direct FINRA to bar the proposed association, as provided in Section 15A(g)(2) of the Exchange Act.

IV. Conclusion

The Division of Trading and Markets, pursuant to delegated authority, has reviewed the instant Application and the record before FINRA. Relying on the representations made by FINRA and Trinity concerning the proposed association of Mr. Brennan,² the Division of Trading and Markets has concluded that it is appropriate for the Commission to approve the Application permitting Mr. Brennan to associate with Trinity as an associated, but not registered, person subject to the conditions of this order.

Accordingly, IT IS ORDERED that said Application of FINRA on behalf of Trinity Distributors, LLC and Mr. Brennan be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.³

Elizabeth M. Murphy
Secretary

² All representations, terms, and conditions of employment not specifically listed are incorporated herein by reference. This Order is further conditioned on the representations in FINRA's Exchange Act notice filing, which includes Trinity's MC-400 Application to FINRA.

³ 17 CFR 200.30-3(a)(4).