

BEFORE THE  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C.



In the Matter of the Application of  
Caryl Trewyn Lenahan  
For Review of Disciplinary Action Taken by  
Financial Industry Regulatory Authority  
File No. 3-15833

**LENAHAN'S ADDENDUM TO APPEAL APPLICATION – AUGUST 14, 2014**

**I. INTRODUCTION**

**On July 3, 2014 I received an email copy of FINRA's Motion to Dismiss Lenahan's Application for Review and To Stay Briefing Schedule.**

After following up with several administrative people at the Securities and Exchange Commission, it became evident that I should seek counsel. I requested an extension for this Purpose, and it was granted on July 18, 2014, by Jill Peterson.

**II. COUNSEL'S REVIEW AND OBSERVATIONS**

Counsel agreed with FINRA that Lenahan failed to exhaust her administrative remedies and Lenahan's application for review after 19 months was untimely.

In reviewing the case with Lenahan, Counsel determined that I failed in my Appeal to fully present that I was inundated with personal, emotional and business pressures, such that it caused David Suddeth of FINRA to reply: "if you don't intend to renew your license during the two year window, then just don't answer the request for information".

Therefore, I have reconstructed for you what caused me to say in my call to David Suddeth why I was emotionally unable to go through a proper response to FINRA's questions, and why I was relieved to hear that I could simply not answer as I had decided not to activate my license by December 31, 2012.

**III. PERSONAL PRESSURES**

[REDACTED]

[REDACTED]

[REDACTED]

#### IV. EMOTIONAL PRESSURES

After 10 years with Investors Capital Corp. as my BD, I had to change BD's in 2010 due to lack of production. When I completed my U-4, I had one "yes" – which related to an arbitration Investors Capital and I were part of in 2002 and 2003. I had no difficulty changing to Resource Horizons Group; nor any problems ever being appointed with insurance carriers. My insurance record was unblemished, and reflected that during my leadership years in the Million Dollar Round Table, I was the first woman to serve as Chair of the Ethics Committee.

On November 18, 2010 I received a FINRA request for information regarding a claim by a real estate investment partner, who had prior to the real estate, been an investment client. As was the case with my investment clients and real estate partners, I kept extensive files, especially detailed because I write notes for every conversation or transaction. Using my investment client notes and real estate property notes I prepared a 19 page report for FINRA's questions and submitted it on December 3, 2010. This was exhausting and emotionally draining!

With such extensive answers, Investors Capital Corp. sent a letter to the claimant's attorney stating that in their view this was not an investment related issue and they accepted no responsibility in the claim. The claim was soon closed for lack of follow-up by the claimant's attorney with FINRA.

During my annual review in December, 2010 by Resource Horizons, I advised him that I had received a Real Estate Foreclosure Deficiency Judgment recorded in Sarasota County on January 5, 2010, and two Chase Bank judgments. He was upset that I had not reported these on my U-4, something I was unaware I had to do.

On December 20, 2010 I receive notice from Resource Horizon's Group that my appointment with them would not be renewed as my compliance issues were too time consuming for their compliance officer. In 2011 I spent four months interviewing BD's and was accepted by one, but because they did not do REITS, I felt this would compromise my work with seniors, so did not place my license. By the December, 2011 conversation with David Suddeth, I was pretty sure I would not activate my license, and his question sealed my decision.

While I had been releasing clients in recent years so that I could retire with my real estate income in place, this was another indication I was winding down my financial services career. I still had my insurance license and had kept my CE credits and E&O insurance up to date, knowing I could still help people with long term care insurance, life and annuities.

Now comes the FINRA letter December 2, 2010 asking for my answers on the Dominique Beynel complaint and I was shocked! Emotionally! And, factually! I had met Dominique in a financial class I was teaching and at the time she had two small IRA's. Coincidentally, in my class I discussed having just returned from a vacation in Sedona, AZ and this ignited a spark for a life change in her. Soon she had sold her home in Sarasota and was moving herself and her two cats

to Sedona. She wanted my help with the proceeds from the sale, and I flew a month later to Sedona, stayed in her rental home and outlined what would provide her the income and peace of mind she desired. Obviously, I got licensed in Arizona.

Because she was a single woman and not experienced with extensive investments, she had an older male friend in Hawaii review my proposal and "give his approval." I was glad for this due to being aware of increasing compliance issues in the industry and my previous arbitration.

After about a year with her Investors Capital investments, I received a frantic call from Dominique and her boyfriend. They were buying a fix-up house in Sedona and felt that they'd lose it if they took the time to get a mortgage. So, she requested that I liquidate \$100,000 plus of her portfolio and cash reserves. I did this. They bought the house, fixed it up, and then couldn't sell it due to the nation's real estate crash. Prior to this time, she called with a question: "Wells Fargo is offering me a big second on my house. Should I do this?" (I presume she had gotten a first mortgage...) I said, "do the paperwork, but DO NOT take the money; just have it approved in case you ever need it." At the time second mortgages in Sarasota were being cut back, so this was a financial "insurance" policy if she ever needed it. Soon, hereafter, she had sent me a letter on December 11, 2006 terminating my relationship as her financial advisor because she wanted to work with someone locally. I do not recall doing anything again until she asked that I be involved again, and this was the Fall of 2010. As I was not licensed in 2011, I referred her to another ICC rep.

Then I get the FINRA letter and am I shocked with her claim that I told her to get a second and then invested her second money irresponsibly.

When I called the Investors Capital principal that I had turn over her file to in early 2011, I found that he had cleaned out everything but the Investor Profile and the latest investment confirmations. **ALL MY NOTES OF ABOUT SIX YEARS WERE GONE!!!** This would make my answers to FINRA a memory test, and I felt this was too serious to do that. This is when I called David Suddeth to discuss my lack of notes and that I wasn't able to accurately answer the false claims or to go through the emotionally draining process of an arbitration without my notes.

Later, when cleaning out an old computer, I did find my letter and proposal to the older gentleman in Hawaii and I sent this to the Investors Capital Corp. person working on this claim. I answered their questions, by memory, as well.

## V. BUSINESS PRESSURES

For the appropriate years, I have included Real Estate Investment and Property Management on my Outside Business Report. From the time Hurricane Charlie hit just south of Sarasota in 2004, I have been in survival mode – the fight of my life! The delays caused by having to re-direct labor and materials to the hurricane devastated areas of Florida caused delays in finishing houses that I has purchased. These delays dragged on and soon I was caught in **the Bermuda Triangle** of real estate: **(1) rising property taxes and insurance rates, (2) adjustable rate mortgages increasing, and (3) rents and occupancy dropping due to some owners lowering rents just to have someone and the construction labor force moving to where there were jobs. It was HELL for owners and investors!!!**

### 1. Diamond Ventures Bankruptcy \$87,906.45 Claw Back on Lenahan

Each month I was having to come up \$5000 to \$8000 from my savings and retirement to cover the mortgages, property taxes, and association fees.

In 2009, I was introduced to a young foreign exchange trader who was the son of a prominent leader in the community. He was offering a high monthly return from his Diamond Ventures Investment Club and real estate investors jumped into his program as a way of covering monthly property shortfalls, and hopefully saving their properties. My partner in one property and I did the same as our newly

constructed investment house was about \$800 short in cash flow each month. When his program collapsed, I was already "out", but because I had made more than I put in, I was a defendant in the bankruptcy trustee's claw back cases.

Due to my depleted financial situation, I was representing myself "Pro Se", and had to make trips to Tampa's Federal Bankruptcy Court to appear on November 2, December 19, 2011 and January 31, 2012. I sent in two different financials to the Trustee show I had no money to claw back. My case was finally dropped June 25, 2013, two weeks before going to trial, but this added enormous pressure in before the FINRA request.

## **2. Massive Foreclosures and Short Sales on Lenahan's Real Estate Investments**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

## **3 . Lenahan Conducting Financial Workshops in South Bend, Indiana - January 2012**

This was cash flow and had been scheduled in November, 2011. It entailed getting my Bio, Press Release, Picture and the program design and agenda for two days prepared and mailed to the Church sponsoring the workshops.

December and early January were extremely busy and stressful getting the working papers designed and mailed to the church so printing and advertising, and registration could be done ahead of time.

**If I had had the Dominique Beynel files and notes, I would have been really stressed getting both the FINRA questions researched and answered, as well as the workshop preparation.**

## **VI. IN SUMMARY**

I ask myself, "How did I get through this emotional and highly stressed period? Most likely, by not having to STOP EVERYTHING – INCLUDING CHRISTMAS WITH MY OUT OF TOWN FAMILY – to do the file research and then put the answers together for FINRA.

When told by David Suddeth to not answer FINRA's letter of December 2, 2010, I followed the same thinking with the successive letters of December 16, and June 19, 2012 announcing the Suspension.

Obviously, this was wrong. And, to be quite honest, I was dealing with so many "fires" that even in June 2012, I could not "fight another war".

It was not until I was trying to get insurance company appointments in the Fall of 2013 that I found I had been Barred for Life and my appointment requests were being turned down.

When you review my Appeal file, you can see that I have taken considerable time to prepare my case. I have spent considerable money now in consulting with attorneys.

You know that being appointed by insurance carriers with the most relevant products for seniors is the reason for my appeal and this amendment. My desire is to not have to answer these Background Questions with a "YES":

*Have you ever been suspended or barred from the practice of any profession?*

*Do you currently have, or have you ever had, an insurance or securities license denied, suspended, or revoked or been the subject of an administrative or regulatory action by any state or federal regulatory agency?*

**I SINCERELY DO APPRECIATE THAT THE SEC HAS GIVEN ME A FORUM TO BE HEARD, EVEN THOUGH IT DOES NOT FOLLOW YOUR ADMINISTRATIVE OR FINRA'S PROCEDURES,**

However, in researching FINRA's policies, I find a section in Rule 8210 that allows questions to be answered orally, in writing or electronically.

I am wondering why during my call in early December, 2011, David Suddeth didn't say, "Caryl, you say that without your file notes this is impossible for you to do and with other things going on in your life, you aren't emotionally able to handle another claim. So, let's just go through the questions and you answer them the best you can from memory. Your answers will be recorded and this should take care of things on your part."

Instead, Mr. Suddeth said, "If you aren't going to activate your license, then just don't answer the questions. You will get more letters from Enforcement."

If he had said, "If you don't answer the questions in the timely manner requested, you will be given a second opportunity to respond. If you do not then, you will be Suspended from ever being securities licensed again. Additionally, you will be Barred for Life if you do not request removal of the Suspension."

I am sure I would have then asked, "How exact do my answers have to be? Can I just go from memory?" If "yes", we wouldn't be involved with my Appeal.

Thank You,



Caryl Trewyn Lenahan