

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

Securities Exchange Act of 1934
Release No. 66844 / April 23, 2012

In the Matter of the Application of the	:	
	:	
Financial Industry Regulatory Authority, Inc.	:	
	:	
For an Order Granting the Approval of	:	ORDER APPROVING
	:	APPLICATION FOR
Kevin J. McCaffrey	:	RELIEF FROM A
	:	STATUTORY
As a	:	DISQUALIFICATION
	:	
General Securities Principal	:	
	:	
With	:	
	:	
Citigroup Global Markets, Inc.	:	
	:	
Securities Exchange Act of 1934	:	
Section 15A(g)(2)	:	
	:	

The Financial Industry Regulatory Authority, Inc.¹ (“FINRA”) has filed a notice containing an application (“Application”) with the Division of Trading and Markets (“Division”), pursuant to Rule 19h-1 of the Securities Exchange Act of 1934 (“Exchange Act”), on behalf of Citigroup Global Markets, Inc. (“CGMI” or “Firm”), seeking Division consent for Kevin J. McCaffrey, a person subject to a statutory disqualification, to associate with CGMI, as a general securities principal, subject to the terms and conditions set forth in the Application. Mr. McCaffrey is currently associated with CGMI as a general securities representative.

¹ On July 26, 2007, the Commission approved a proposed rule change filed by NASD to amend NASD’s Certificate of Incorporation to reflect its name change to the Financial Industry Regulatory Authority, Inc. in connection with the consolidation of the member firm regulatory functions of NASD and New York Stock Exchange Regulation, Inc. See Exchange Act Release No. 56145 (July 26, 2007), 72 FR 42169 (Aug. 1, 2007).

I. Background

A. Basis for Statutory Disqualification

On May 19, 2005, the Securities and Exchange Commission (“Commission”) issued an Order Instituting Administrative Proceedings (“2005 Bar Order”) barring Mr. McCaffrey from associating in a supervisory capacity with any broker, dealer, or investment adviser, with the right to reapply for association in a supervisory capacity after fifteen months.² The 2005 Bar Order also ordered that Mr. McCaffrey pay civil penalties in an amount equal to \$120,001. The 2005 Bar Order subjects Mr. McCaffrey to a statutory disqualification under Section 3(a)(39)(ii) of the Exchange Act.

The 2005 Bar Order found that in 2000 and 2001, Mr. McCaffrey failed to reasonably supervise a person subject to his supervision and allowed him to publish fraudulent research reports and establish unrealistic price targets on several telecommunications companies.

B. Mr. McCaffrey’s Industry Background

Mr. McCaffrey first registered in the securities industry as a general securities representative in October 1988, and requalified in August 2010. He qualified as a general securities principal in December 1988, and requalified in October 2010. Mr. McCaffrey was associated with various broker-dealer affiliates of Citigroup, Inc. (“Citigroup”) from 1994 to 2007 in his capacity as Citigroup’s Head of Investment Opportunities. Prior to joining Citigroup, he was associated with four other broker-dealers.

FINRA represents that, since the 2005 Bar Order Mr. McCaffrey has worked for: (i) Citigroup Alternative Investments (“CAI”) as a managing director and head of Global Sales (in a non-supervisory capacity) from approximately January 2003 through the first quarter of 2005; (ii) CAI as a managing director, where he focused on business development in Asia, from the first quarter of 2005 through October 2007; (iii) a small investment adviser as a portfolio manager of Citigroup’s capital from mid-2006 through October 2007; (iv) an investment adviser to a fund created to make minority investments in established alternative managers as a partner from November 2007 through the end of 2008; and (v) CGMI performing the non-supervisory duties of the current proposed position since June 2010.

C. The Firm

CGMI has been a FINRA member for more than 70 years. The Firm, whose home office is located in New York, New York, has 1,169 branch offices, and employs 2,398 registered principals and 9,090 registered representatives.

² See Exchange Act Release No. 51713 (May 19, 2005).

II. Proposed Business Activities and Supervision

In the Application, FINRA and CGMI represent that CGMI proposes to employ Mr. McCaffrey as a general securities principal. Specifically, the Firm proposes that Mr. McCaffrey would serve as Head of Equity Sales (Americas) in the Firm's Equity Sales department. As such, Mr. McCaffrey's duties would include managing the Firm's U.S. Institutional Equities Sales Group and non-U.S. Institutional Equities Sales representatives in the Americas region. Mr. McCaffrey would directly supervise eleven individuals, and would serve as a "matrix" supervisor for five other individuals (providing supervision in specific cases that touch on Mr. McCaffrey's securities responsibilities). Mr. McCaffrey's proposed responsibilities would largely center on senior, internal management functions. Mr. McCaffrey would oversee and manage the Equity Sales Managers who supervise sales people in their respective CGMI offices. CGMI proposes to pay Mr. McCaffrey a salary and a discretionary annual bonus.

FINRA and CGMI represent that CGMI proposes that Richard Bartlett would be McCaffrey's direct supervisor. Mr. Bartlett is currently employed by CGMI as Managing Director, Head of Equities for the Americas in its home office in New York, New York. Mr. Bartlett first registered as a general securities representative in January 1990. He qualified as a general securities principal in February 2001, and passed the uniform securities agent state law exam in October 2002. Mr. Bartlett became associated with CGMI in March 1990, where he currently supervises approximately twenty individuals. Prior to that time, he was associated with two other securities firms.

FINRA and CGMI also represent that the Firm proposes that John F. Gallo, Jr. will also be responsible for the supervision of Mr. McCaffrey as a matrix supervisor and backup supervisor when Mr. Bartlett is unavailable. Mr. Gallo is currently employed by the Firm as Managing Director and Head of North American Sales in its home office in New York, New York. Mr. Gallo first registered as a general securities representative in June 1995. He qualified as a general securities sales supervisor (Series 9 (options)) in August 2005, as a general securities sales supervisor (Series 10) in October 2005, and as a registered commodity representative in December 2005. Mr. Gallo also passed the uniform securities agent state law exam in April 1997. Mr. Gallo became associated with CGMI in November 2008, and was previously associated with three other securities firms.

In the Application, FINRA and CGMI represent, among other things, that:

1. The written supervisory procedures for CGMI will be amended to state that Mr. Bartlett (Head of Equities for the Americas) will be the primary supervisor responsible for Mr. McCaffrey and that Mr. Gallo (Head of North America Sales) will be the matrix supervisor responsible for Mr. McCaffrey. Mr. McCaffrey will be supervised by Mr. Bartlett and Mr. Gallo in the CGMI home office located at 390 Greenwich St., New York, NY 10013. In addition to serving as a matrix supervisor, Mr. Gallo will act as Mr. McCaffrey's direct supervisor in Mr. Bartlett's absence.

2. Mr. McCaffrey will attend weekly management meetings with both Mr. Bartlett and Mr. Gallo. In addition, Mr. McCaffrey will formally meet in person with Mr. Bartlett at least four times a month to review Mr. McCaffrey's performance and his supervisory responsibilities ("Formal Supervisory Meetings"). If Mr. Bartlett is unavailable, Mr. McCaffrey will attend the Formal Supervisory Meetings with Mr. Gallo (or a person of similar status or occupying a similar role as Mr. Bartlett or Mr. Gallo who is designated by Mr. Bartlett to conduct such meetings). The Firm's compliance department ("Compliance Department") will maintain a record of the Formal Supervisory Meetings and Mr. McCaffrey will sign the record acknowledging his participation in each meeting. The record of the Formal Supervisory Meetings will be segregated and maintained for a period of three years to facilitate review during FINRA Statutory Disqualification Examinations, and will be subject to CGMI's internal audit process and procedures.
3. Mr. Bartlett and Mr. Gallo will report any compliance concerns regarding Mr. McCaffrey or his reports to the Compliance Department. The Compliance Department will handle any concerns according to compliance policies and procedures, including, if necessary, escalation of the event as set forth in the Firm's Escalation Policy.
4. Mr. McCaffrey will be assigned a dedicated senior compliance officer ("Dedicated Senior Compliance Officer") – currently Edward Arnold, Managing Director, Head of Equity Compliance – who will be responsible for answering any compliance, regulatory or supervisory questions or concerns that Mr. McCaffrey might have, and for helping Mr. McCaffrey address any such issues. Mr. McCaffrey will be required to meet formally in person with the Dedicated Senior Compliance Officer at least twice a month to discuss compliance, regulatory and supervisory issues that have arisen since their last meeting ("Formal Compliance Meetings"). The Compliance Department will maintain a record of the Formal Compliance Meetings and Mr. McCaffrey will sign the record acknowledging his participation in each meeting. The record of meetings will be segregated and maintained for a period of three years to facilitate review during FINRA Statutory Disqualification Examinations, and will be subject to CGMI's internal audit process and procedures.
5. The Dedicated Senior Compliance Officer will participate in calls, at least once every other month, with Mr. McCaffrey and his direct reports to discuss regulatory and compliance issues, such as existing firm policies and procedures, changes to firm policies and procedures, Commission and FINRA rule proposals and rule changes, and legal and regulatory events in the news that are relevant to the industry. The Dedicated Senior Compliance Officer will respond to questions raised in these calls.

6. The Dedicated Senior Compliance Officer will implement a quarterly individualized training program for Mr. McCaffrey, which will cover such issues as supervisory processes and procedures, gifts and entertainment practices, customer correspondence, allocation practices, market commentary, employee trading, insider trading, outside activities, and escalation of compliance issues. The Dedicated Senior Compliance Officer will document each training class and Mr. McCaffrey will sign the record acknowledging his participation in the training. The record of these training sessions and any related materials will be segregated and maintained by the Compliance Department for a period of three years to facilitate review during FINRA Statutory Disqualification Examinations, and will be subject to CGMI's internal audit process and procedures.
7. Mr. McCaffrey will conduct all Firm-related business using Firm-provided devices and accounts (e.g., Blackberry, email accounts). Any business communications received by Mr. McCaffrey on a personal device or account will be forwarded by Mr. McCaffrey immediately to Mr. Bartlett (or, in his absence, to the Dedicated Senior Compliance Officer). To the extent such communications raise a "red flag," Mr. Bartlett (or the Dedicated Senior Compliance Officer) will escalate the item pursuant to the Firm's Escalation Policy.
8. In addition to CGMI procedures for correspondence and email review that apply generally, the Compliance Department also will separately review all of Mr. McCaffrey's outgoing and incoming electronic correspondence to and from external sources (which would include email communications, instant messages and Bloomberg messages) for compliance issues. This correspondence will be collected by the Compliance Department for each day and reviewed weekly. The Compliance Department also will review a random sample of Mr. McCaffrey's daily incoming and outgoing internal electronic correspondence on a weekly basis. These electronic correspondence reviews will be in addition to any supervision of electronic communications conducted pursuant [to] FINRA Notice-to-Members 07-59.³ Any "red flags" resulting from the internal and external electronic correspondence reviews will be reported to Mr. Bartlett, who will, as necessary, escalate the issue pursuant to CGMI's Escalation Policy.
9. In addition to CGMI procedures for correspondence and email review that apply generally, the Compliance Department separately will, on a monthly basis, review a sampling of outgoing and incoming electronic correspondence of Mr. McCaffrey's direct reports to and from external sources (which would include email communications, instant messages, and Bloomberg messages)

³ See *FINRA Regulatory Notice 07-59*, Supervision of Electronic Communications; FINRA Provides Guidance Regarding the Review and Supervision of Electronic Communications (Dec. 2007).

for compliance issues. Any “red flags” resulting from a review will be reported to Mr. Bartlett, who will, as necessary, escalate the issue pursuant to CGMI’s Escalation Policy.

10. Any complaints (internal or external) pertaining to Mr. McCaffrey, whether oral or written, will be referred to Mr. Bartlett immediately for review, as well as to the Compliance Department. Mr. Bartlett will prepare a memorandum to the file as to the measures taken to investigate the merits of the complaint and the resolution of the matter. Documents pertaining to any complaints will be segregated and maintained by the Compliance Department for a period of three years to facilitate review during FINRA Statutory Disqualification Examinations.
11. Mr. Bartlett and the Dedicated Senior Compliance Officer will certify quarterly to the Compliance Department that both the person making the certification and Mr. McCaffrey are in compliance with the above-referenced conditions of heightened supervision. A record of these certifications will be segregated and maintained by the Compliance Department for a period of three years to facilitate review during FINRA Statutory Disqualification Examinations, and will be subject to CGMI’s internal audit process and procedures.
12. For the duration of Mr. McCaffrey’s statutory disqualification, CGMI will obtain prior approval from FINRA before changing the permanent supervisor of Mr. McCaffrey from Mr. Bartlett to another person.

III. Relief Sought

In the Application, FINRA seeks an order declaring that, notwithstanding Mr. McCaffrey’s statutory disqualification, the Commission:

1. Will not institute proceedings pursuant to Section 15(b) of the Exchange Act solely on the basis of Mr. McCaffrey’s association as a general securities principal with CGMI pursuant to the representations contained in the Application; 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, pursuant to delegated authority, has reviewed the instant Application and the record before FINRA. Relying on the representations made by FINRA and CGMI

concerning the proposed association of Mr. McCaffrey,⁴ the Division has concluded that it is appropriate for the Commission to approve the Application for Mr. McCaffrey to associate as a general securities principal subject to the conditions of this order.

Accordingly, IT IS ORDERED that said Application of FINRA on behalf of CGMI and Mr. McCaffrey be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁵

Kevin M. O'Neill
Deputy Secretary

⁴ All representations, terms, and conditions of employment not specifically listed are incorporated herein by reference. This order is further conditioned on FINRA's Rule 19h-1 notice filing which includes CGMI's MC-400 Application to FINRA.

⁵ 17 CFR 200.30-3(a)(4).