

1 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
2 DIVISION OF FINANCE AND CORPORATE SECURITIES
3 SECURITIES SECTION
4 BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND
5 BUSINESS SERVICES

4 In the Matter of:)
5 BENJAMIN PETER ROSENBAUM,) A-02-0063
6 Respondent.)
7) ORDER TO CEASE AND DESIST
8) DENIAL OF EXEMPTIONS
9) ORDER ASSESSING CIVIL PENALTY
10) AND
11) CONSENT TO ENTRY OF ORDER
12)

10 WHEREAS the Director of the Department of Consumer and
11 Business Services has conducted an investigation of certain
12 business activities conducted by Benjamin Peter Rosenbaum, and
13 the Director has determined that Benjamin Peter Rosenbaum
14 offered and attempted to sell securities in the State of Oregon
15 in violation of the Oregon Securities Law;

16 WHEREAS Benjamin Peter Rosenbaum wishes to resolve and
17 settle this matter with the DIRECTOR;

18 NOW THEREFORE, as evidenced by the authorized signature
19 subscribed on this Order, without admitting or denying the
20 factual allegations herein, Benjamin Peter Rosenbaum hereby
21 CONSENTS to entry of this Order to Cease and Desist upon the
22 Director's Findings of Fact and Conclusions of Law as stated
23 hereinafter.

24 FINDINGS OF FACT

25 The Director FINDS that:

26 1. J.P. Turner & Company, L.L.C. (hereinafter, "J.P.

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1 Turner") is a broker-dealer firm with a principal place of
2 business located at 3340 Peachtree Road, Suite 2300, Atlanta,
3 Georgia 30326-1076. At all times material hereto, J.P. Turner
4 was licensed as a broker-dealer firm in the State of Oregon.
5 The CRD number for J.P. Turner is #43177.

6 2. Benjamin Peter Rosenbaum (hereinafter, "Rosenbaum") was
7 licensed as a securities salesperson in Oregon to work for J.P.
8 Turner from July 23, 2001, to October 19, 2001. The CRD number
9 for Rosenbaum is #2932698. Rosenbaum is not currently licensed
10 as a securities salesperson.

11 3. Rosenbaum's address is 6482 Contempo Lane, Boca Raton,
12 Florida 33433.

13 4. Rob Brunner (hereinafter, "Brunner") is a securities
14 investigator employed by the Oregon Department of Consumer and
15 Business Services, Division of Finance and Corporate Securities.

16 5. Rosenbaum, while employed at J.P. Turner, placed a series
17 of telephone calls to Brunner between September 7, 2001, and
18 October 3, 2001. During those calls, Rosenbaum offered and
19 attempted to sell a security to Brunner, who was working
20 undercover and posed as an investor.

21 6. Rosenbaum called Brunner in Salem, Oregon on September 7,
22 2001, September 26, 2001, September 28, 2001, and October 3,
23 2001. Rosenbaum, through his attorney, filed statements with
24 the Director in March 2002 and May 2002, denying that Rosenbaum
25 called Brunner prior to October 3, 2001, and claiming that other
26 individuals, impersonating Rosenbaum, made the calls to Brunner

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1 on September 7, 2001, September 26, 2001, and September 28, 2001.

2 7. On September 7, 2001, Rosenbaum placed a cold call to
3 Brunner. Rosenbaum identified himself as a branch manager for
4 J.P. Turner and told Brunner that he obtained Brunner's name
5 from a list of accredited investors. Brunner told Rosenbaum
6 that he works for the State and is not an accredited investor
7 yet. Rosenbaum said, "...[W]ell you do have credit cards don't
8 you?" When Brunner indicated that he has credit cards,
9 Rosenbaum said, "Okay. Then...you're on a list of accredited
10 investors."

11 8. On September 7, 2001, Rosenbaum offered and attempted to
12 sell Brunner an investment program that Rosenbaum referred to as
13 a "technical trading program" (hereinafter, "the trading
14 program" or "the investment program").

15 9. On September 7, 2001, Rosenbaum represented to Brunner
16 that returns on the trading program were as follows: "[W]e have
17 a trading program here that's up 72% year to date." Later
18 during the conversation on September 7, 2001, Rosenbaum said,
19 "What matters to us is that consistent eight to ten percent
20 monthly. That's our minimum...That's very, very
21 conservatively."

22 10. Rosenbaum sent Brunner a package of promotional
23 materials postmarked September 10, 2001. The documents included
24 a signed cover letter on J.P Turner letterhead, dated September
25 10, 2001, promoting "our exclusive equity trading program."

26 11. On September 26, 2001, Rosenbaum called Brunner again

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1 and described returns of the trading program as follows: [O]ur
2 program is up 72% on the long side for the year."

3 12. On September 26, 2001, Brunner asked Rosenbaum how
4 many of Rosenbaum's client accounts were showing 72% profits for
5 the year. Rosenbaum said, "...[A]ll of 'em are up, from year to
6 date, the one's who have come aboard from the beginning of the
7 year...are 72% in the profit at the moment...Every one of 'em."

8 13. On September 26, 2001, Rosenbaum represented to
9 Brunner that the risks of investment in the trading program were
10 as follows: "[T]he only thing you're risking is 10%...The only
11 thing you'll lose is 10%." Later during the same conversation,
12 Rosenbaum said, "Your down side is 10% max."

13 14. On September 26, 2001, Rosenbaum referred Brunner to
14 the NASDR web site, gave Brunner his CRD number, and stated,
15 "You'll see that I've had a license for nine years...."

16 15. Rosenbaum's CRD record indicates that Rosenbaum
17 attended high school until June 1993. Rosenbaum's CRD record
18 shows that he did not pass the Series 7 exam until October 1997,
19 and he did not pass the Series 63 exam until April 2000.

20 16. On September 26, 2001, Rosenbaum urged Brunner to sign
21 a margin account agreement to join the trading program.

22 Rosenbaum said, "...so let's get you on board, let's get you on
23 the program...there's a couple pieces of paper that need to be
24 signed and picked up, very simple."

25 17. On September 28, 2001, Rosenbaum called Brunner and
26 asked Brunner to invest \$20,000 in the trading program.

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1 Rosenbaum said, "...so let's step up to the plate with that
2 twenty grand so I can go to work for you."

3 18. On September 28, 2001, Brunner asked Rosenbaum to
4 provide documentation to support Rosenbaum's claim of 72%
5 profits year to date. Rosenbaum said, "We can't show you it on
6 paper 'cause the NASD doesn't allow us...I could say it to you
7 verbally...Nobody...no companies can put it on paper."

8 19. On October 3, 2001, Rosenbaum called Brunner three
9 times. During the first call on October 3, 2001, Brunner asked
10 Rosenbaum for the name of the trading program. Rosenbaum said,
11 "There's no formal name of any program. It's just our trading
12 program, so you can put down J.P. Turner's Trading Program,
13 whatever you want to call it. We don't have a formal name of
14 the program, it's just something that I instituted...it's just a
15 trading program that I instituted... There's no...there's no
16 title or anything."

17 20. In fact, the trading program that Rosenbaum touted did
18 not exist, and Rosenbaum became licensed by the NASD and Oregon
19 to work for J.P. Turner on July 23, 2001, less than two months
20 prior to Rosenbaum's first telephone call to Brunner.

21 21. Rosenbaum's representations of 72% profits "year to
22 date" were not true. In a letter to Rob Brunner, dated October
23 30, 2001, S. Cheryl Bauman, Director of Compliance for J.P.
24 Turner (hereinafter, "Bauman") stated: "The firm was unable to
25 confirm the average increase of '72%' for this branches [sic]
26 customers, nor did Mr. Rosenbaum provide documentation to

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1 support this number." Furthermore, a profit/loss analysis of
2 account records contradicts Rosenbaum's claims of 72% profits
3 and, in fact, shows the total of the accounts under Rosenbaum's
4 management suffered a loss year to date.

5 22. Brunner disclosed to Rosenbaum on October 3, 2001,
6 that Brunner is a securities investigator for the Department of
7 Consumer and Business, Division of Finance and Corporate
8 Securities. On or about October 3, 2001, Brunner sent a
9 document request to Rosenbaum, thereby putting Rosenbaum on
10 notice that Rosenbaum was the subject of an investigation for
11 violations of the Oregon Securities Law.

12 23. Rosenbaum, through his attorney, filed statements with
13 the Director in March 2002 and May 2002, denying that Rosenbaum
14 called Brunner prior to October 3, 2001, and claiming that other
15 individuals, impersonating Rosenbaum, made the calls to Brunner
16 on September 7, 2001, September 26, 2001, and September 28, 2001.

17 24. During his telephone calls to Brunner on
18 October 3, 2001, which Rosenbaum does not dispute that he
19 placed, Rosenbaum referred to his prior conversations with
20 Brunner, and Rosenbaum referred to the investment program as his
21 investment program.

22 25. In a letter to Bauman, Rosenbaum admitted to a series
23 of phone conversations with Brunner about the trading program.
24 Rosenbaum did not claim that imposters made any of the calls.
25 Instead, Rosenbaum summarized his conversations with Brunner,
26 including those that occurred prior to October 3, 2001.

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1 untrue statement of a material fact, in violation of ORS
2 59.135(2), by falsely representing that the risks of investment
3 in the trading program were limited to ten percent.

4 6. Respondent Benjamin Peter Rosenbaum, while the subject of
5 an investigation by the Director of the Department of Consumer
6 and Business Services, directly or indirectly filed with the
7 Director a materially-false statement, report or document, in
8 violation of ORS 59.451.

9 **ORDER**

10 **NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:**

11 1. Respondent Benjamin Peter Rosenbaum is **ORDERED TO**
12 **CEASE AND DESIST** from:

13 a. Making any untrue statements of a material fact
14 or omitting to state a material fact necessary in order to make
15 the statements made, in light of the circumstances under which
16 they are made, not misleading, in violation of ORS 59.135(2);

17 b. Filing with the Director any statement, report,
18 or document which is false in any material respect or manner,
19 pursuant to ORS 59.451;

20 c. Violating any provision of ORS Chapter 59 and
21 Oregon Administrative Rules Chapter 441.

22 2. Pursuant to ORS 59.045, Respondent Benjamin Peter
23 Rosenbaum is **DENIED** the use of any exemptions that would
24 otherwise be available to him under ORS 59.025 and 59.035,
25 concerning securities and transactions exempt from the
26 registration requirements of the Oregon Securities Law.

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1 3. Respondent is permanently **DENIED** the right to apply
2 for any securities license or registration in Oregon.

3 4. Pursuant to the authority of ORS 59.995, the DIRECTOR
4 hereby **ASSESSES a CIVIL PENALTY** in the amount of \$50,000 (fifty
5 thousand dollars) against Respondent Benjamin Peter Rosenbaum,
6 the payment of \$30,000 (thirty thousand dollars) of which is
7 suspended so long as Respondent complies with all terms of this
8 Order; **PROVIDED HOWEVER**, that the suspended portion of the this
9 penalty will be immediately due and payable upon a determination
10 by the Director that Respondent has violated any term of this
11 Order, or any provision of ORS Chapter 59 and Oregon
12 Administrative Rules Chapter 441.

13 a. Respondent Benjamin Peter Rosenbaum will pay
14 \$5,000 (five thousand dollars) of the civil penalty at the time
15 of execution of this Order, and will pay the remaining \$15,000
16 (fifteen thousand dollars) of the due and payable portion of the
17 civil penalty no later than twenty-four months from the date of
18 execution of this Order, in monthly installments of no less than
19 \$500.00 (five hundred dollars) beginning the first month
20 following the date of execution of this Order.

21 b. Payments will be due on or before the tenth day
22 of each month.

23 c. If Respondent Benjamin Peter Rosenbaum fails to
24 comply with the payment schedule, is late with a monthly
25 payment, or skips a monthly payment, then the entire unpaid
26 portion of the civil penalty, including but not limited to, the

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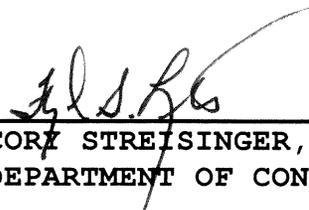


1 \$30,000 (thirty thousand dollars) suspended portion of the civil
2 penalty, will become immediately due and payable.

3 d. If Respondent Benjamin Peter Rosenbaum complies
4 with all terms of this Order and pays a total of \$17,500
5 (seventeen thousand five hundred dollars) of the civil penalty
6 within twelve months from the time of execution of this Order,
7 then the Director will suspend an additional \$2,500 (two
8 thousand five hundred dollars) of the \$50,000 (fifty thousand
9 dollar) civil penalty assessed against Respondent Benjamin Peter
10 Rosenbaum.

11 The entry of this order in no way limits further remedies
12 which may be available to the Director under Oregon law.

13 Dated this 31st day of December 2003 at Salem,
14 Oregon.

15
16 
17 **CORY STREISINGER, DIRECTOR**
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

18 **CONSENT OF BENJAMIN PETER ROSENBAUM TO ENTRY OF ORDER**

19 I, Benjamin Peter Rosenbaum, state that I am a resident of
20 the State of Florida; that I have read the foregoing Order and
21 that I know and fully understand the contents hereof; that I
22 have been advised of my right to a hearing, and that I am
23 represented by counsel in this matter; that without admitting or
24 denying the factual allegations herein, I voluntarily consent to
25 the entry of this Order without any force or duress, expressly
26 waiving any right to a hearing in this matter; that I understand

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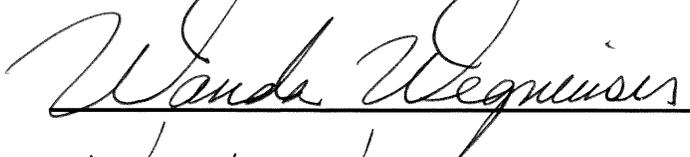


1 that the Director reserves the right to take further actions
2 against me to enforce this Order or to take appropriate action
3 upon discovery of other violations of the Oregon Securities Law
4 by me; and that I will fully comply with the terms and
5 conditions stated herein.

6 I understand that this Consent Order is a public document.
7 Dated this 22 day of December 2003.

8
9
10 
11 **BENJAMIN PETER ROSENBAUM**

12 **SUBSCRIBED AND SWORN** before me this 22 day of December
13 2003.

14 
15 
16 (Printed name of Notary Public)

17  Wanda Wegweiser
18 My Commission DD238675
19 Expires November 11, 2007

20 **NOTARY PUBLIC** for State of: Florida
21 My commission expires: _____

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