

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

SPARTAN CAPITAL SECURITIES, LLC
(CRD No. 146251),

JOHN D. LOWRY
(CRD No. 4336146),

and

KIM M. MONCHIK
(CRD No. 2528972),

Respondents.

Disciplinary Proceeding
No. 2019061528001

Hearing Officer–MJD

**ORDER GRANTING, IN PART, ENFORCEMENT’S MOTION
FOR INTERIM CONDITIONS AND RESTRICTIONS
ON RESPONDENTS PURSUANT TO FINRA RULE 9285**

I. Introduction

On March 28, 2023, the Extended Hearing Panel issued its decision in this disciplinary proceeding (“Decision”).¹ The Panel found that the Department of Enforcement proved the allegations in the Complaint and imposed sanctions. It determined that in 220 instances Spartan Capital Securities, LLC (“Spartan” or the “Firm”) failed to amend, or timely amend, the Uniform Application for Securities Industry Registration or Transfer (Form U4) and Uniform Termination Notice for Securities Industry Registration (Form U5) of more than 70 registered representatives and 11 Firm executives to disclose the filing or disposition of customer arbitrations, the receipt or disposition of written customer complaints, and reportable financial events. The Panel found

¹ *Dep’t of Enforcement v. Spartan Cap. Sec., LLC*, No. 2019061528001, 2023 FINRA Discip. LEXIS 8 (OHO Mar. 28, 2023), *appeal docketed* (NAC Apr. 19, 2023).

that the Firm's misconduct violated Article V, Sections 2(c) and 3(b) of FINRA's By-Laws and FINRA Rules 1122 and 2010.²

The Panel also found that John D. Lowry and Kim S. Monchik failed to amend their Forms U4 to disclose, or timely disclose, the filing and disposition of customer arbitrations in which they were a named respondent. Lowry failed to disclose or timely disclose 38 customer arbitrations and Monchik failed to disclose or timely disclose 15 arbitrations. The Panel found that Lowry and Monchik violated Article V, Section 2(c) of FINRA's By-Laws and FINRA Rules 1122 and 2010.³

The Panel found that numerous aggravating and no mitigating factors were present.⁴ The Panel found aggravating the seriousness of the allegations in the undisclosed arbitrations and customer complaints.⁵ The Panel further considered and found aggravating the enormous number of violations, the total dollar value of the undisclosed arbitrations and customer complaints, and the span of time Respondents' violations encompassed.⁶ Additionally, the Panel found that Respondents acted intentionally and attempted to conceal their misconduct.⁷ Finally, the Panel found that the information Respondents failed to disclose was material and that Respondents engaged in this misconduct even after receiving significant warnings, notices, and guidance from FINRA staff.⁸

Accordingly, the Panel censured and fined the Firm \$600,000. It also required it to retain an independent consultant to review its supervisory procedures and to amend the Forms U4 and Forms U5 of its registered persons, including Lowry and Monchik, to reflect the filing and disposition of customer arbitrations and customer written complaints.⁹

The Panel also imposed sanctions on Lowry and Monchik. It fined Lowry \$40,000 and Monchik \$30,000 and suspended each of them for two years from associating with any member firm in any capacity. It also ordered them to amend their Forms U4 to disclose customer arbitration filings and arbitration dispositions they had not yet disclosed.¹⁰

The Panel further found that Spartan acted willfully when it failed to amend the registration forms of its executive officers, and Lowry and Monchik acted willfully when they

² *Id.* at *83–102.

³ *Id.* at *102–07, 137.

⁴ *Id.* at *122, 130–31.

⁵ *Id.* at *122–23.

⁶ *Id.* at *122–26.

⁷ *Id.* at *125, 131–32.

⁸ *Id.* at *107–08, 116–18, 126.

⁹ *Id.* at *130–31.

¹⁰ *Id.* at *131–33, 137.

failed to amend their own registration forms.¹¹ This finding caused Respondents to be statutorily disqualified pursuant to FINRA's By-Laws and Section 3(a)(39) of the Securities Exchange Act of 1934.

Respondents appealed the Decision to the National Adjudicatory Council ("NAC") on April 19, 2023. The appeal automatically stayed the sanctions.¹²

On May 2, 2023, Enforcement moved for an order imposing interim conditions and restrictions on Respondents pursuant to FINRA Rule 9285 until FINRA's final decision takes effect and all appeals are exhausted ("Motion").¹³ Enforcement asks that I impose 11 conditions or restrictions on Respondents—eight that apply to Spartan and three involving Lowry and Monchik. The Motion states that the proposed interim conditions or restrictions "are designed to avoid recurrence of the misconduct found, are not as restrictive as the sanctions imposed by the Hearing Panel, and are reasonably necessary to prevent customer harm during the appeal process."¹⁴ It adds that the proposed conditions or restrictions do not impose economic costs on Respondents or affect Lowry's or Monchik's ability to remain associated with Spartan.¹⁵

Respondents filed their opposition to the Motion on May 23, 2023 ("Opposition").¹⁶ Enforcement, they write, "seeks no less than replacing the Hearing Panel's Decision . . . with its own in the form of punitive and unwarranted requirements."¹⁷ The relief Enforcement asks for, according to Respondents, "far exceeds the entirety of remedial obligations ordered in the Decision."¹⁸ They argue that interim conditions contemplated under Rule 9285 are intended as "a protective stop-gap" while the matter is pending on appeal, but Enforcement wants to "rewrite and expand the ultimate Order" in the Panel's Decision.¹⁹

For the reasons set forth below, I grant Enforcement's Motion in part.

¹¹ *Id.* at *107–18.

¹² *See* FINRA Rule 9311(b).

¹³ Department of Enforcement's Motion for an Order Placing Interim Conditions and Restrictions on Respondents Pursuant to FINRA Rule 9285 (May 2, 2023).

¹⁴ Motion 1–2.

¹⁵ *Id.* at 5.

¹⁶ Respondents' Opposition to Enforcement's Rule 9285 Motion Seeking Conditions (May 23, 2023). I granted Respondents' motion for a one-week extension of time to file their Opposition.

¹⁷ Opposition 2.

¹⁸ *Id.*

¹⁹ *Id.* Respondents do not dispute that Spartan is currently registered as a FINRA member firm and that Lowry and Monchik remain associated with it.

II. Legal Standards

Enforcement asks that I order interim conditions or restrictions on Respondents under FINRA Rule 9285(a)(1). The Rule provides that if a respondent appeals a disciplinary decision finding that the respondent “violated a statute or rule provision,” Enforcement may move for an order imposing “conditions or restrictions on the activities” of the respondent “that are reasonably necessary for the purpose of preventing customer harm.”

FINRA Rule 9285(a)(3) permits respondents to file an opposition or other response to the motion. Any such filing “shall explain why no conditions or restrictions should be imposed or specify alternate conditions or restrictions that are sought to be imposed and explain why the conditions or restrictions are reasonably necessary for the purpose of preventing customer harm.” (Respondents did not propose alternate conditions or restrictions.)

A Hearing Officer is authorized by the Rule “to impose any conditions or restrictions that the Hearing Officer considers reasonably necessary for the purpose of preventing customer harm.”²⁰ Under Rule 9285(d), the conditions or restrictions imposed by a Hearing Officer would remain in place until FINRA’s final decision in the underlying disciplinary proceeding takes effect and all appeals are exhausted.²¹

FINRA Rule 9285 became effective on April 15, 2021.²² In Regulatory Notice 21-09, FINRA explained that Rule 9285 is intended to enhance investor protection by potentially preventing “associated persons and firms found to have violated a statute or rule from engaging in additional misconduct during the appeal process.” FINRA described the Rule as adding “an interim layer of investor protection” during that period.²³

The Securities and Exchange Commission (“SEC”) stated in its order approving the adoption of Rule 9285 that the Hearing Officer should “target the misconduct demonstrated in the disciplinary proceeding” and tailor the conditions or restrictions “to the specific risks posed

²⁰ FINRA Rule 9285(a)(5). FINRA Rule 9285(e) provides, among other things, that if an Extended Hearing Panel issues a decision under FINRA Rule 9268 finding that a respondent violated a statute or rule provision, then within 10 days of any party filing an appeal to the NAC, any member firm with which the respondent is associated must adopt a written plan of heightened supervision of the respondent, file it with FINRA’s Office of General Counsel, and serve a copy on Enforcement and the respondent. The Decision was issued under Rule 9268. Respondents represent that Spartan timely implemented a plan of heightened supervision as to Lowry and Monchik before Enforcement filed its Motion. Respondents attached a copy of the plan of heightened supervision to their Opposition. Opposition 4–5; Ex. A (“Heightened Supervision Plan For: John D. Lowry and Kim M. Monchik”).

²¹ FINRA also amended Rule 9556 when it adopted Rule 9285. The amendments to Rule 9556 give FINRA staff the authority to bring an expedited proceeding against a respondent who fails to comply with conditions and restrictions imposed pursuant to Rule 9285 and create the process for the new expedited proceeding. *See* FINRA Rule 9556(a)(2).

²² FINRA Regulatory Notice 21-09 (Mar. 2021), <https://www.finra.org/rules-guidance/notices/21-09>.

²³ *Id.* at 3.

by the Respondents during the appeal period.”²⁴ Furthermore, any conditions or restrictions “are not intended to be as restrictive as the underlying sanctions and would likely not be economically equivalent to imposing the sanctions during the appeal.”²⁵ The SEC determined that post-Decision conditions or restrictions “will lead to greater oversight of disciplined Respondents’ activities during the appeal period, thereby reducing the potential risk of customer harm that may occur during this period.”²⁶

III. Discussion

Enforcement asserts that the conditions or restrictions it requests meet the standards of Rule 9285 and are appropriate given the Panel’s findings. It cites the Panel’s determination that many of the unreported arbitrations at issue in the underlying proceeding “included serious allegations against Lowry, Monchik, and the Firm’s other executives, which makes disclosure even more necessary in determining their fitness as securities professionals.”²⁷ The Panel also found, the Motion points out, that Respondents’ engaged in “repeated violative actions over an extended period” that “deprived customers of valuable information when considering whether to retain the services of the Firm and various brokers.”²⁸

In their Opposition, Respondents state that, “in a show of good faith,” they have already implemented “a voluntary plan to substantially comply with the Decision,” including retaining a compliance consultant and making corrective disclosures, while the matter is on appeal.²⁹ Spartan retained what Respondents describe as “a well-known independent compliance consulting firm” that Spartan has “mandated to evaluate and implement the directives of the Decision regarding a review and implementation of changes to Spartan’s reporting process.”³⁰ The contract with the compliance consultant states that, during the pendency of the appeal, Spartan intends to retain the compliance consultant as the independent consultant the Panel required the Firm to retain as part of the sanctions it imposed.³¹

Respondents further state that they informed Enforcement before it filed the Motion that the Firm intended to retain a compliance consultant and would make corrective disclosures on its

²⁴ SR-FINRA-2020-011, Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Address Brokers With a Significant History of Misconduct, Exchange Act Release No. 34-90635, 85 Fed. Reg. 81540, 81542 (Dec. 16, 2020).

²⁵ *Id.*

²⁶ *Id.* at 81543–44.

²⁷ Motion 6 (citing *Spartan Cap.*, 2023 FINRA Discip. LEXIS 8, at *118).

²⁸ *Id.* (citing *Spartan Cap.*, 2023 FINRA Discip. LEXIS 8, at *126).

²⁹ Opposition 5.

³⁰ *Id.* Respondents attached a copy of Spartan’s contract with the compliance consulting firm. Ex. B (“Proposal and Agreement for Independent Compliance Consultant Services”). The parties to the contract executed the agreement on May 4, 2023. *Id.* Ex. B, at 6.

³¹ Opposition Ex. B, at 4.

associated persons' Forms U4. According to Respondents, rather than resolve the matter, Enforcement responded that it intended to seek post-Decision conditions or restrictions in order to "rewrite the relief granted in the Decision."³² Respondents urge me to deny the Motion because the conditions Enforcement seeks are unreasonable and unnecessary for the prevention of customer harm.³³

On June 5, 2023, Respondents filed a motion to supplement the record and asked for oral argument ("Motion to Supplement").³⁴ I determined that oral argument is not necessary to decide Enforcement's Motion. Accordingly, on June 6, I denied Respondents' request.³⁵ In their Motion to Supplement, Respondents state that, as of June 5, they have complied with the directives in the Panel's Decision by updating Forms U4 to disclose the arbitrations, arbitration dispositions, and written customer complaints identified in Schedules A through D of the Decision.³⁶ Respondents essentially restate arguments they made in their Opposition. They argue that conditions or restrictions are not needed because they have voluntarily complied with the directives in the Decision.³⁷ They characterize Enforcement's requested relief as "overreaching and purely punitive" because it seeks sanctions not contained in the Decision.³⁸

A. Enforcement's Proposed Conditions or Restrictions on Spartan

I address below each requested condition or restriction Enforcement seeks as to Spartan, the parties' request-specific arguments, and my determination as to the imposition of each condition or restriction.

1. Require Spartan to send, by email and within 10 days of the issuance of this Order, a copy of the Panel's Decision to each of its current customers.

Enforcement argues that the Decision's findings and sanctions as summarized in BrokerCheck are of little use to the investing public. Providing a copy of the Decision will help

³² Opposition 10.

³³ *Id.* at 11.

³⁴ Respondents' Expedited Motion to Supplement the Record in Opposition to Enforcement's Rule 9285 Motion Seeking Conditions and Request for Oral Argument (June 6, 2023).

³⁵ FINRA Rule 9285(a)(5) states in relevant part that "Unless ordered otherwise by the Hearing Officer, the motion for conditions or restrictions shall be decided based on the moving and opposition papers and without oral argument."

³⁶ Motion to Supplement 3. Schedules A through D of the Decision were provided only to the parties in this case and are not public.

³⁷ *Id.*

³⁸ *Id.*

ensure, Enforcement asserts, that customers are aware of the existence of reportable events relating to Respondents that they may not otherwise know about.³⁹

Respondents counter that the substance of the Decision is publicly available in BrokerCheck and that the Panel did not order the mailing of the Decision to customers. Such a requirement is also not provided for in any FINRA Rule. They argue that the true purpose of Enforcement's request is to interfere with Spartan's business relations.⁴⁰ They add that the 90-page Decision could cause customer confusion and prejudice Spartan's registered representatives who have no reportable events, or have made timely disclosures, because the Decision does not identify the registered representatives or customers.⁴¹ Respondents add that emailing the Decision is a "far excessive measure" with respect to Lowry because he services fewer than ten customer accounts and Monchik because she holds only an administrative position and services no customers.⁴²

I find this proposed condition is not reasonably necessary to protect Spartan's customers and the investing public. The Decision, which is pending appeal, is summarized in BrokerCheck for any customer to review. The other conditions imposed in this Order will ensure that Spartan's customers and potential customers receive sufficient disclosure of information. As such, I do not impose this condition as I do not find it necessary to protect investors.

2. Require Spartan to disclose on its associated persons' Forms U4 (and former associated persons' Forms U5), within 10 days of the issuance of this Order, all the events (arbitrations and arbitration dispositions, written customer complaints and settlements, and financial events) the Hearing Panel found in its Decision should have been disclosed.

Enforcement argues that because many reportable events were not disclosed "it would only compound existing [Spartan] customers' and the investing public's harm" to allow the unreported events to remain undisclosed while the appellate process runs its course. Enforcement adds that Spartan could note any disagreement with a disclosure in the comments section of the Forms U4 and Forms U5.⁴³

In their Motion to Supplement, Respondents represent that by June 5, 2023, Spartan completed updating the required disclosures identified in Schedules A through D of the Decision.⁴⁴

³⁹ Motion 6.

⁴⁰ Opposition 7–8.

⁴¹ *Id.* at 8.

⁴² *Id.*

⁴³ Motion 7.

⁴⁴ Motion to Supplement 3.

In the Decision, the Panel ordered Respondents to disclose arbitration filings and dispositions and written customer complaints and settlements that they had not already disclosed.⁴⁵ I find that it is appropriate to impose this condition to protect the investing public. Particularly under the circumstances prevailing here that involve so many disclosure failures, prompt disclosure of outstanding reportable events is reasonably necessary to prevent customer harm. I find that even though Respondents represent that they have already accomplished this condition, it is nonetheless appropriate to impose the condition. This ensures compliance. In this case, the Firm is not prejudiced or burdened with additional costs to ensure the condition is accomplished. In any event, Spartan must conform with its reporting obligations for the benefit of investors, as required by this condition.

3. Require Spartan to report on Forms U4 and Forms U5 all arbitrations and arbitration dispositions, written customer complaints and settlements, and financial events from the end of the relevant period covered by the Complaint [December 31, 2020] and the Panel's Decision through the present and on a going forward basis consistent with the guidance provided by the Panel's Decision. Amendments to Forms U4 and Forms U5 of existing reportable events shall be made within 30 days, and amendments to Forms U4 and Forms U5 on a going forward basis shall be made within the time prescribed by FINRA's By-Laws and Rules.

Respondents argue that because Enforcement did not allege in the Complaint potential misconduct that occurred after December 31, 2020, it is now trying “to obtain a disclosure remedy beyond the scope of the Decision.”⁴⁶ Respondents state that Spartan will address post-December 2020 reporting obligations in connection with the review the compliance consultant it retained would perform and its recommendations. No order is necessary to impose this proposed condition, Respondents argue, because Spartan already must follow FINRA Rules.

As with Request No. 2 above, I find that this condition is appropriate and necessary to protect the investing public. Indeed, as Spartan noted in its Opposition, FINRA Rules already require timely disclosure of reportable events, making this condition something with which Spartan should already voluntarily comply as a FINRA member. Furthermore, the Firm has committed to conforming with the compliance consultant's directives, which no doubt will direct the Firm to comply with FINRA Rules. Disclosure of reportable events pending or arising since December 2020, and on a going forward basis for new or future reportable events, is reasonably necessary to prevent customer harm and is something the Firm must do to comply with FINRA Rules.

⁴⁵ As for disclosing financial events, the Decision found that the Firm untimely disclosed 51 financial events—not that it failed to disclose them altogether. *Spartan Cap.*, 2023 FINRA Discip. LEXIS 8, at *99–100.

⁴⁶ Opposition 9.

4. Require Spartan to conduct quarterly background checks on all its current associated persons and to disclose all reportable events on Forms U4 within 30 days of receipt of background check results. A principal at the Firm, other than Lowry and Monchik, shall certify quarterly, in writing, to FINRA Enforcement staff that the Firm complied with this requirement.

Respondents argue that this condition is beyond the scope of the Order in the Decision and arbitrarily seeks to impose unnecessary costs and burdens. They claim that Enforcement is trying to “usurp the independent judgment of” the compliance consultant Spartan retained.⁴⁷ They say that Spartan conducts background checks on all new employees and now does so annually for current employees. Quarterly frequency is not based on industry norms, they argue. They say the Firm will comply with whatever the compliance consultant recommends, including the method and frequency of background checks, which they anticipate will be “in accordance with reasonable [industry] practices.”⁴⁸ Furthermore, neither Lowry nor Monchik will be involved in the process, which will instead be overseen by Spartan’s chief compliance officer.⁴⁹

Respondents misconstrue the purpose of Rule 9285 when they argue that a proposed condition is not in accord with industry practices. By their nature, conditions and restrictions under the Rule impose obligations on a respondent who has been found to have engaged in misconduct and must be tailored to target that misconduct, as quarterly background checks do in this case. Additionally, the Firm’s compliance consultant has not yet completed its overall review of the Firm’s processes and may not do so for some time, after which it may take the Firm additional time to enact new processes and procedures. The purpose of this condition (and all other conditions) is to provide customer protection now and target specific risks posed during the pendency of the appeal.

The Panel found that Spartan “did not perform background checks on its brokers in a systematic fashion.”⁵⁰ It often ignored or was late in responding to warnings from regulators that it had not properly disclosed its registered representatives’ financial events. Spartan also told the SEC that it would perform background checks quarterly but did not do so.⁵¹ It told FINRA staff during the investigation that led to this disciplinary proceeding that it would perform background checks twice a year instead of quarterly as it had represented to the SEC, but also contradicted itself by saying it had performed background checks randomly based on brokers’ financial events.⁵²

⁴⁷ *Id.* at 10.

⁴⁸ *Id.* at 9–10.

⁴⁹ *Id.* at 10.

⁵⁰ *Spartan Cap.*, 2023 FINRA Discip. LEXIS 8, at *44.

⁵¹ *Id.* at *43–44.

⁵² *Id.* at *45.

Given the egregiousness and number of disclosure violations committed by Spartan, which the Panel addressed in the Decision, I find that this requested condition is appropriate and necessary to protect the investing public.

- 5. Require a Spartan principal, other than Lowry and Monchik, to certify quarterly, in writing, to Enforcement staff that he or she has reviewed all disclosure letters on [the Central Registration Depository (“CRD”)] received by Spartan and that the Firm has reported on Forms U4 and Forms U5 all outstanding events addressed in the disclosure letters.**

Respondents also object to this condition on the same grounds that it objected to Request No. 3 above (requiring disclosure of reportable events since December 31, 2020). They claim that this condition would impermissibly provide a disclosure remedy beyond the scope of the Decision. They state that Spartan will comply with the compliance consultant’s eventual recommendations. They state that no order is needed because Spartan is already obligated to follow FINRA Rules.⁵³

I find that this condition is necessary to protect the investing public. The Panel found that Spartan often ignored disclosure letters from FINRA staff inquiring into its failures to disclose arbitration filings on the Forms U4 of the Firm’s associated persons, including Lowry and Monchik and other executives.⁵⁴ It also found that Spartan was lax in reacting to disclosure letters asking why financial events such as judgments and liens had not been timely reported on the Forms U4 of the Firm’s brokers.⁵⁵ The Panel found that, as a result of the Firm’s failures to review and react to disclosure letters in CRD, it failed to disclose multiple customer complaints and arbitration filings and dispositions.⁵⁶ This deprived customers of valuable information about the Firm and its registered persons. The Firm’s failures to review and act on disclosure letters in CRD compounded these failures. I therefore find this condition is necessary to protect the investing public.

- 6. Require a Spartan principal, other than Lowry and Monchik, to send monthly questionnaires to all its current associated persons asking them if they are aware of any reportable events not already disclosed and, if they are aware of any, to disclose the events to the Firm. The Firm will file amended Forms U4 within 30 days of receipt of the completed questionnaires and certify compliance, in writing, to Enforcement.**

Respondents state that a monthly questionnaire is “unduly burdensome and not standard within the industry.”⁵⁷ Spartan employees are already required to certify annually that they have

⁵³ Opposition 9.

⁵⁴ *Spartan Cap.*, 2023 FINRA Discip. LEXIS 8, at *66–69.

⁵⁵ *Id.* at *40–41.

⁵⁶ *Id.* at *66–69.

⁵⁷ Opposition 10.

disclosed reportable events, according to Respondents. Furthermore, Spartan represents that it will follow the procedures implemented by its compliance consultant concerning the method and frequency of employee compliance questionnaires.⁵⁸

I find that this condition is necessary to protect the investing public, particularly in this case, where the Panel found that Spartan failed to disclose, or timely disclose, over 200 reportable events.⁵⁹ Fifty-one instances involved failures to disclose financial events,⁶⁰ many of which were egregious occurrences that customers would find material to their determination whether to invest funds through the Firm. In some cases, the Firm failed to timely disclose a broker's financial event even after the broker informed the Firm of the event.⁶¹ And Spartan's retention of a compliance consultant is not sufficient to dissuade me from concluding that this condition is necessary to protect investors. The compliance consultant has not had sufficient time to conduct a comprehensive review of the Firm's policies and procedures, and the Firm has not even begun to implement them. The purpose of this and every condition is to provide protection now for Spartan's numerous customers in the face of a Firm that the Panel found engaged in significant misconduct over an extended period.

7. Require a Spartan principal, other than Lowry or Monchik, who will be responsible for the Firm's Form U4 and Form U5 reporting for its associated persons, to complete five hours of continuing education or training on disclosure obligations within a month of this Order and to certify compliance, in writing, to Enforcement.

Respondents do not specifically address this proposed condition in their Opposition.

I find that, given Spartan's egregious disclosure failures set forth in the Decision and the Panel's determination that the Firm "exhibited a culture of regulatory noncompliance,"⁶² it is appropriate to attempt to ensure that the person responsible for disclosure obligations for Spartan is properly trained by requiring the person to complete five hours of continuing education.

8. Require all associated persons at Spartan to complete one hour of continuing education or training every six months on FINRA's Form U4 and Form U5 disclosure obligations.

I find that this proposed condition is not reasonably necessary to prevent customer harm. It is not tailored to the misconduct the Panel found. The Panel found that Spartan, Lowry, and Monchik failed in their disclosure obligations—not the Firm's other associated persons.

⁵⁸ *Id.* at 10.

⁵⁹ *Spartan Cap.*, 2023 FINRA Discip. LEXIS 8, at *96–102.

⁶⁰ *Id.* at *100–02.

⁶¹ *Id.* at *41–42.

⁶² *Id.* at *131.

B. Enforcement's Proposed Conditions or Restrictions on Lowry and Monchik

I address below each requested condition or restriction Enforcement seeks as to Lowry and Monchik, the parties' request-specific arguments, and my determination as to each condition or restriction.

1. Require Lowry and Monchik to disclose, within 10 days of this Order, all the arbitrations and dispositions the Panel identified in its Decision.

In their Opposition, Respondents state that Spartan is updating disclosures as directed in the Decision and expect to complete the process by June 30, 2023.⁶³ In the Motion to Supplement, Respondents represent that they completed the process by June 5.⁶⁴

In Schedules C and D (made available only to the parties) attached to the Decision, the Panel identified 22 customer arbitration filings and dispositions that Lowry failed to disclose and 11 that Monchik failed to disclose. The Panel ordered them to amend their Forms U4 to disclose the filing of customer arbitrations and the disposition of the arbitrations.⁶⁵

I find that this condition or restriction is reasonably necessary to prevent customer harm. It places the obligation to amend Forms U4 squarely on Lowry and Monchik—not on the Firm—and Lowry and Monchik are principals of the Firm. As I stated above, I find it appropriate to impose a condition even though Respondents represent that they have completed it. This condition ensures Lowry's and Monchik's disclosures are completed during the pendency of the appeal. Furthermore, as registered individuals, Lowry and Monchik must comply with FINRA's rules. This Order ensures they conform with FINRA's reporting obligations for the benefit of investors.

2. Require Lowry and Monchik to report on Forms U4 all arbitrations, dispositions, written customer complaints and settlements, and financial events up to the present and on a going forward basis consistent with the guidance set forth in the Decision, within the time prescribed by FINRA's By-Laws and Rules.

In their Opposition, Respondents state that Spartan "will be reviewing for completeness any further reporting that is required" for reportable events after December 2020.⁶⁶ They add that this process will be performed "in coordination" with the compliance consultant's "review of Spartan's . . . disclosure procedures and standards."⁶⁷

⁶³ Opposition 6.

⁶⁴ Motion to Supplement 3.

⁶⁵ *Spartan Cap.*, 2023 FINRA Discip. LEXIS 8, at *133, 137.

⁶⁶ Opposition 6.

⁶⁷ *Id.*

I find this proposed condition to be appropriate and reasonably necessary to prevent customer harm. It specifically addresses Lowry's and Monchik's own obligations—as opposed to the Firm's—to amend their Forms U4 to disclose reportable events. Furthermore, it imposes on Lowry and Monchik, both of whom remain associated as principals with Spartan, the disclosure requirements already in place under FINRA Rules.

3. Require Lowry and Monchik to take two hours of continuing education or training on Form U4 and Form U5 disclosure obligations within two weeks following the issuance of this Order. Lowry and Monchik shall certify compliance, in writing, to FINRA Enforcement staff, providing details about the continuing education or training, including the course name and instructor.

Respondents do not address this proposed condition in their Opposition.

The Panel determined that Lowry and Monchik “set the tone for the Firm's lax regulatory culture and sought to conceal Firm executives' arbitration-related disclosures (including their own arbitration-related disclosures) at all costs.”⁶⁸ I therefore find it appropriate and reasonably necessary to prevent customer harm to require Lowry and Monchik to take two hours of continuing education on their disclosure obligations.

IV. Order

For the foregoing reasons, I **GRANT** Enforcement's Motion, **IN PART**, as follows:

A. Spartan Capital Securities, LLC

I **GRANT** six of Enforcement's eight proposed conditions or restrictions on Spartan. Specifically, I grant Requests Nos. 2 through 7 as set forth in Section III.A above. I deny Enforcement's Requests Nos. 1 and 8.

- Spartan shall amend the Forms U4 and Forms U5 of its current and former associated persons, within 10 days of the issuance of this Order, to disclose the customer arbitrations and arbitration dispositions and written customer complaints and settlements the Panel determined Respondents should have disclosed and that are identified in Schedules A through D (made available only to the parties) of the Decision.
- Spartan shall amend the Forms U4 and Forms U5 of its current and former associated persons to disclose customer arbitrations and dispositions, written customer complaints and settlements, and financial events from December 31,

⁶⁸ *Spartan Cap.*, 2023 FINRA Discip. LEXIS 8, at *131.

2020, to the present, and on a going forward basis, consistent with the guidance set forth in the Decision.

- Spartan shall conduct background checks on all current associated persons on a quarterly basis and disclose all reportable events on Forms U4 within 30 days of learning of the event as a result of the background checks. A Firm principal, other than Lowry and Monchik, shall certify to Enforcement staff, in writing, on a quarterly basis, that the Firm has complied with this condition.
- A Spartan principal, other than Lowry or Monchik, shall certify, in writing, on a quarterly basis, to Enforcement staff that he or she has reviewed all disclosure letters received by the Firm in CRD and the Firm has disclosed all outstanding reportable events addressed in the disclosure letters on Forms U4 and Forms U5.
- A Spartan principal, other than Lowry or Monchik, shall send monthly questionnaires to all persons currently associated with Spartan asking them to disclose all reportable events not already disclosed to Spartan. Spartan shall amend Forms U4 within 30 days of learning of a reportable event from an associated person. The Firm principal shall certify compliance with this condition, in writing, on a quarterly basis, to Enforcement staff.
- The Spartan principal, other than Lowry or Monchik, responsible for the Firm's Form U4 and Form U5 reporting shall complete five hours of continuing education or training on disclosure obligations within one month after the issuance of this Order. The principal shall certify compliance, in writing, to Enforcement staff.

B. John Lowry and Kim Monchik

I GRANT all three of Enforcement's proposed conditions or restrictions on Lowry and Monchik, as set forth in Section III.B above.

- Lowry and Monchik shall, within 10 days of the issuance of this Order, amend their Forms U4 to disclose the customer arbitrations and arbitration dispositions the Panel ordered to be disclosed in the Decision and that are identified in Schedules C and D (made available only to the parties) of the Decision.
- Lowry and Monchik shall amend their Forms U4 to disclose all arbitrations and dispositions, written customer complaints and settlements, and financial events up to the present and on a going forward basis consistent with the guidance set forth in the Decision, within the time prescribed by FINRA's By-Laws and Rules.
- Lowry and Monchik shall take two hours of continuing education or training on Form U4 disclosure obligations within two weeks of the issuance of this Order.

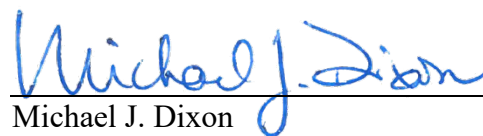
They shall also certify, in writing, to Enforcement staff that they have complied with this condition.

* * *

The conditions or restrictions imposed by this Order that are not subject to any stay, or imposed by the NAC Review Subcommittee, shall remain in effect until FINRA's final decision in the underlying disciplinary proceeding takes effect.⁶⁹

If the parties have any questions about this Order, they should contact Case Administrator Tonya Howe at tonya.howe@finra.org.

SO ORDERED.



Michael J. Dixon
Hearing Officer

Dated: June 12, 2023

Copies to:

Amalia O. Chin, Chief Compliance Officer of Spartan Capital Securities, LLC

(via email and overnight courier)

John D. Lowry (via email and overnight courier)

Kim M. Monchik (via email and overnight courier)

David A. Schrader, Esq. (via email)

Richard J. Babnick, Jr., Esq. (via email)

Michael H. Ference, Esq. (via email)

John R. Baraniak, Jr., Esq. (via email)

Jeffrey E. Baldwin, Esq. (via email)

Sathish Dhandayutham, Esq. (via email)

David Monachino, Esq. (via email)

Jennifer L. Crawford, Esq. (via email)

Alan Lawhead, Esq. (via email)

Paxton Dunn, FINRA Member Supervision (via email)

rmstandards@finra.org

⁶⁹ See FINRA Rule 9285(d) (“Conditions or restrictions imposed by a Hearing Officer that are not subject to any stay, or imposed by the Review Subcommittee, shall remain effective until FINRA’s final decision in the underlying disciplinary proceeding takes effect.”).