

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

TRAVIS SCOTT HUGHES
(CRD No. 7136761),

Respondent.

Disciplinary Proceeding
No. 2019064416201

Hearing Officer–DDM

**HEARING
PANEL DECISION**

February 3, 2021

Respondent is barred from associating with any member firm in any capacity for acting unethically by cheating during a qualification examination, in violation of FINRA Rules 1210.05 and 2010.

Appearances

For the Complainant: Joel Kornfeld, Esq., and Douglas Ramsey, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: Travis Scott Hughes, pro se

DECISION

I. Introduction

Respondent Travis Scott Hughes admitted that he cheated on the Series 79 qualification examination, thereby violating FINRA Rules 1210.05 and 2010. He requested a hearing to contest the sanction sought by the Department of Enforcement – a bar from associating with any FINRA member. After carefully considering the evidence and arguments submitted during the hearing, the Hearing Panel imposes a bar as a sanction.

II. Findings of Fact and Law

Hughes admitted each allegation in the Complaint, including that he violated FINRA Rules 1210.05 and 2010. The hearing was solely to decide the sanctions for his rule violations.

A. Background and Jurisdiction

After studying at the United States Military Academy in West Point, NY, Hughes joined the United States Army on active duty in September 2012.¹ He served in the Army until August 2016.² Hughes worked briefly at two jobs in the private sector before enrolling at Columbia University, where he graduated with a Bachelor of Arts degree in May 2019.³

Hughes associated with Houlihan Lokey Capital, Inc. (“Houlihan Lokey”) in June 2019, when he joined the firm’s financial restructuring group as an analyst.⁴ Several weeks later, in early July 2019, Hughes submitted a Uniform Application for Securities Industry Registration or Transfer (Form U4) to register through Houlihan Lokey.⁵ Houlihan Lokey terminated Hughes’s association with the firm on November 1, 2019.⁶

Hughes is subject to FINRA’s jurisdiction for this proceeding under Article V, Section 4 of FINRA’s By-Laws.⁷ The Complaint was filed within two years of when Houlihan Lokey ended its association with Hughes.⁸ Enforcement charged Hughes with misconduct committed while he was associated with Houlihan Lokey.⁹

B. Hughes Cheats on the Series 79 Exam in October 2019

In May 2019, Hughes accepted a job offer from Houlihan Lokey.¹⁰ That job offer required him to pass three FINRA examinations – the Securities Industry Essentials (“SIE”), the Uniform Securities Agent State Law Exam (“Series 63”), and the Investment Banking Representative Exam (“Series 79”),¹¹ which FINRA uses to qualify candidates to serve as investment banking representatives.¹² Houlihan Lokey required Hughes to pass these three exams within four months of his start date in June 2019.¹³

¹ Hearing Transcript (“Tr.”) 60; Complainant’s Exhibit (“CX-__”) 3.

² Tr. 63-64; CX-3.

³ Tr. 72-73; CX-3.

⁴ Complaint (“Compl.”) ¶ 3; Answer (“Ans.”) ¶ 3; CX-2, at 4.

⁵ Compl. ¶ 3; Ans. ¶ 3; CX-2, at 7.

⁶ Compl. ¶ 3; Ans. ¶ 3; CX-2, at 7.

⁷ Compl. ¶ 4; Ans. ¶ 4.

⁸ Compl. ¶ 4; Ans. ¶ 4.

⁹ Compl. ¶ 4; Ans. ¶ 4.

¹⁰ Compl. ¶ 8; Ans. ¶ 8; CX-4.

¹¹ Compl. ¶ 8; Ans. ¶ 8; CX-4, at 2.

¹² Compl. ¶ 5; Ans. ¶ 5; Tr. 91.

¹³ Compl. ¶ 8; Ans. ¶ 8; Tr. 91; CX-4, at 2.

Hughes passed the SIE¹⁴ and Series 63 examinations¹⁵ in August 2019, as required by Houlihan Lokey. But Hughes failed the Series 79 exam in August 2019, and then again in September 2019.¹⁶ So he scheduled an appointment to take the exam a third time, on October 11, 2019, at a Prometric Test Center (“Prometric”) in Houston, Texas.¹⁷

Hughes received an email from Prometric that confirmed his appointment and reminded him of certain examination rules.¹⁸ In particular, the email stated that Hughes had to “attest to FINRA’s [Rules of Conduct], which prohibit the use of, or access to, study materials . . . at any time during the test appointment.”¹⁹ The email reminded Hughes that FINRA could bring disciplinary action against him for violating FINRA’s Rules of Conduct.²⁰ The same warning appeared in an email from Prometric reminding him of his appointment,²¹ and in multiple prior emails from Prometric.²²

Before the exam, Hughes started to prepare “cheat sheets.”²³ When he was at Columbia University, Hughes testified, he found that making “very, very small” notes helped him remember what he was writing.²⁴ So in the morning before the exam, he “took every key concept” in the Series 79 exam “and wrote it all very small.”²⁵ He then cut up his notes so that he could hide and take them into the exam.²⁶ He also had another typed page of notes reflecting SEC rules and regulations relevant to the Series 79 exam.²⁷

¹⁴ Tr. 113.

¹⁵ Tr. 110.

¹⁶ Compl. ¶ 9; Ans. ¶ 9; CX-10.

¹⁷ Compl. ¶ 10; Ans. ¶ 10; CX-12.

¹⁸ Compl. ¶ 11; Ans. ¶ 11; CX-12, at 2; CX-13, at 2.

¹⁹ Compl. ¶ 11; Ans. ¶ 11; CX-12, at 2. The first attestation of Rule of Conduct was that “[f]or the duration of my examination, I will not use or attempt to use any personal items, such as . . . Personal Notes and Study Materials.” The second Rule was that “I will store all personal items in the locker provided by the test vendor prior to entering the test room.”

²⁰ Compl. ¶ 11; Ans. ¶ 11; CX-12, at 2.

²¹ CX-13, at 2.

²² Compl. ¶ 12; Ans. ¶ 12; CX-8, at 2; CX-9, at 2; CX-13, at 2.

²³ Tr. 144.

²⁴ Tr. 144.

²⁵ Tr. 144.

²⁶ Tr. 144-45.

²⁷ Tr. 145.

Hughes took the Series 79 exam for the third time as scheduled.²⁸ Before he arrived at the test center,²⁹ Hughes rolled his cheat sheets and hid them in each leg of his shorts,³⁰ hoping a test center administrator (“TCA”) would not search there.³¹ Hughes testified that he brought his notes “as a way to calm myself down knowing that I had like an alternative in case I completely mentally blanked.”³² In fact, Hughes wore shorts to the exam because it would be easier to pull the notes out of his underwear.³³ He insisted, however, that his notes were only for an “emergency,”³⁴ and he “really had no intention of actually using them.”³⁵

When he arrived at the test center, a TCA reminded him that he could not bring personal notes or study aids into the test room.³⁶ The TCA searched Hughes with a wand and checked his sleeves, pockets, and the hood of the sweatshirt he was wearing.³⁷ While Hughes testified that he was concerned that the TCA would find his notes, he was “more concerned” that he would “lose [his] job.”³⁸

The TCA gave Hughes two dry-erase boards and pens and Hughes entered the test room and sat at a computer terminal.³⁹ Before starting the exam, Hughes again agreed that he would abide by FINRA’s Rules of Conduct.⁴⁰ The first Rule of Conduct prohibited Hughes from using any personal notes or study materials.⁴¹ The second Rule required Hughes to “store all personal items in the locker provided by the test vendor prior to entering the test room.”⁴² Hughes also acknowledged again that FINRA could discipline him if he violated the Rules of Conduct, including by barring him from employment or association with the financial services industry.⁴³

²⁸ Compl. ¶ 13; Ans. ¶ 13; Tr. 145.

²⁹ Compl. ¶ 13; Ans. ¶ 13.

³⁰ Compl. ¶ 1; Ans. ¶ 1.

³¹ Tr. 149.

³² Tr. 146.

³³ Tr. 147.

³⁴ Tr. 147.

³⁵ Tr. 146.

³⁶ Compl. ¶ 13; Ans. ¶ 13; Tr. 147.

³⁷ Tr. 148-49.

³⁸ Tr. 149.

³⁹ Compl. ¶¶ 13-14; Ans. ¶¶ 13-14.

⁴⁰ Compl. ¶¶ 15-16; Ans. ¶¶ 15-16.

⁴¹ Compl. ¶ 15; Ans. ¶ 15; CX-16, at 1.

⁴² Compl. ¶ 15; Ans. ¶ 15; CX-16, at 1.

⁴³ Compl. ¶ 17; Ans. ¶ 17; CX-16, at 4-5.

Hughes testified that he understood that he could be barred from the securities industry if he was caught cheating.⁴⁴

Shortly after starting the exam, Hughes removed a sheet of paper from each leg of his shorts.⁴⁵ One sheet contained his handwritten notes of formulas, valuation metrics, and ratios.⁴⁶ The other sheet was a printed reference guide for SEC rules and regulations.⁴⁷ Both sheets contained information that was relevant to the Series 79 exam.⁴⁸ Hughes hid the sheets under the dry-erase boards on his desk.⁴⁹

Hughes repeatedly reviewed both sheets of paper during the exam.⁵⁰ He removed the notes from under the dry-erase boards, looked at the notes, and then covered them back up with the dry-erase boards.⁵¹ Hughes did this 30 times.⁵² At one point, Hughes looked at his notes for a full minute.⁵³

After about 50 minutes, a TCA noticed and seized the sheet of handwritten notes that Hughes had placed beneath one of his dry-erase boards.⁵⁴ The TCA directed Hughes to speak with her in the reception area of the test center.⁵⁵ Hughes did not tell the TCA that he had another page of notes under a second dry-erase board.⁵⁶ Before leaving his test station, Hughes removed the second page of notes and concealed it in his shorts.⁵⁷

In a brief discussion outside the testing area, Hughes asked the TCA not to report him.⁵⁸ He told the TCA that it was his third time taking the test and he would be fired if she reported

⁴⁴ Tr. 151.

⁴⁵ Compl. ¶ 19; Ans. ¶ 19; Tr. 152.

⁴⁶ Compl. ¶ 19; Ans. ¶ 19; CX-17, at 1-2.

⁴⁷ Compl. ¶ 19; Ans. ¶ 19; CX-25, at 2-3.

⁴⁸ Compl. ¶ 19; Ans. ¶ 19; *see* CX-29 (Content Outline for Investment Banking Representative Qualification Examination).

⁴⁹ Compl. ¶ 19; Ans. ¶ 19; CX-19, at 8:11 a.m. to 8:13:07 a.m.

⁵⁰ Compl. ¶ 20; Ans. ¶ 20; CX-19-22; CX-35, at 1.

⁵¹ Tr. 153.

⁵² Tr. 153; CX-35.

⁵³ CX-21.

⁵⁴ Compl. ¶ 21; Ans. ¶ 21; CX-35, at 1-2; CX-22.

⁵⁵ Compl. ¶ 21; Ans. ¶ 21.

⁵⁶ Tr. 153, 164.

⁵⁷ Compl. ¶ 22; Ans. ¶ 22; Tr. 164; CX-22.

⁵⁸ Compl. ¶ 23; Ans. ¶ 23; CX-35, at 2.

him.⁵⁹ Hughes testified that he was “freaking out about what the rest of [his] life would look like.”⁶⁰ After the discussion with the TCA, Hughes resumed the exam.⁶¹

About an hour after he resumed the exam, Hughes took an unscheduled break.⁶² When he returned from the break, Hughes was confronted by the TCA, who had reviewed video footage of Hughes taking the exam.⁶³ The TCA asked Hughes for his second page of notes, which Hughes gave to her.⁶⁴ Hughes again tried to persuade the TCA not to report him for potential cheating.⁶⁵ He told the TCA that he had suffered concussions while in combat in the Army, and that he did not learn until the day before the exam that he could have requested a testing accommodation.⁶⁶

Hughes completed the exam but missed passing by one point.⁶⁷ According to Hughes, his notes were “worthless” because “[t]he test was completely different than what I had prepared for[.]”⁶⁸ Because Hughes failed the Series 79 exam for the third time, Houlihan Lokey terminated his employment.⁶⁹ Before his employment was terminated, Hughes told only one other person at Houlihan Lokey that he cheated on the October exam: a manager who allegedly told Hughes earlier that *he* had cheated on *his* FINRA exam by concealing notes in *his* underwear.⁷⁰

C. FINRA Learns That Hughes Cheated on a Prior Series 79 Exam

Prometric submitted a report to FINRA about Hughes’s conduct during the October exam.⁷¹ After receiving this report, FINRA began to investigate Hughes for possibly cheating on the exam.⁷² As part of the investigation, FINRA requested a written statement from Hughes,⁷³

⁵⁹ Tr. 154.

⁶⁰ Tr. 154.

⁶¹ Compl. ¶ 23; Ans. ¶ 23.

⁶² Compl. ¶ 24; Ans. ¶ 24.

⁶³ Tr. 155; CX-23.

⁶⁴ Compl. ¶ 24; Ans. ¶ 24; Tr. 155.

⁶⁵ Tr. 168; CX-23, at 10:04 a.m. to 10:05:17 a.m.

⁶⁶ Tr. 166-67.

⁶⁷ Compl. ¶ 25; Ans. ¶ 25.

⁶⁸ Tr. 155.

⁶⁹ Tr. 184.

⁷⁰ Tr. 184.

⁷¹ Tr. 212.

⁷² Tr. 212.

⁷³ CX-14.

which he provided.⁷⁴ Several months later, FINRA questioned Hughes under oath, in on-the-record testimony (“OTR”).⁷⁵

During his OTR, Hughes disclosed, for the first time, that he also brought notes into his second attempt to pass the Series 79 exam, in September 2019.⁷⁶ But Hughes claimed that he could not remember whether he used his notes during the exam.⁷⁷ This testimony prompted FINRA to request from Prometric the surveillance video of Hughes during the September 2019 exam.⁷⁸

At the hearing, Hughes admitted that he had notes hidden in his shorts during his second attempt to pass the Series 79 exam.⁷⁹ After he was shown the surveillance video,⁸⁰ he also admitted that he looked at the notes during his second attempt.⁸¹ At one point during the exam, Hughes consulted his notes for about a minute.⁸² Hughes looked at his notes 19 times over approximately 70 minutes of the exam, according to an associate principal examiner at FINRA who reviewed the entire surveillance video.⁸³ Hughes never told anybody at Houlihan Lokey that he had also cheated on his second attempt to pass the Series 79 exam.⁸⁴

D. Hughes Violated FINRA Rules 1210.05 and 2010

FINRA Rule 1210 governs registration requirements. FINRA Rule 1210.05 provides that associated persons taking a representative examination, like the Series 79 exam, are subject to FINRA’s Rules of Conduct. Rule 1210.05 also provides that “[a]n applicant cannot receive assistance while taking the examination and shall certify that no assistance was given to or received by him or her during the examination.” Finally, FINRA Rule 1210.05 states that a violation of the Rules of Conduct also violates FINRA Rule 2010, which requires associated persons to “observe high standards of commercial honor.”

⁷⁴ CX-15.

⁷⁵ Tr. 220-21.

⁷⁶ Tr. 221.

⁷⁷ Tr. 221.

⁷⁸ Tr. 221-22.

⁷⁹ Tr. 179.

⁸⁰ Tr. 179-81; CX-39, at 9:23 a.m. to 9:53 a.m., and 9:24:48 a.m. to 9:25:18 a.m.

⁸¹ Tr. 180.

⁸² Tr. 180-81; CX-39, at 10:32 a.m. to 10:33 a.m.

⁸³ Tr. 222-23; CX-34; CX-39.

⁸⁴ Tr. 184.

Hughes admitted that he violated FINRA Rule 1210.05 by possessing personal notes and study materials while he took the Series 79 exam in October 2019.⁸⁵ He also admitted that he violated FINRA Rule 1210.05 by consulting personal notes and study materials while he took the Series 79 exam.⁸⁶ He admitted that he violated FINRA Rule 2010 independently because of his violations of FINRA Rule 1210.05.⁸⁷ Indeed, cheating on qualification examinations constitutes unethical conduct that violates both FINRA Rules 1210.05 and 2010.⁸⁸ Further, violating the Rules of Conduct surrounding FINRA qualification examinations violates FINRA Rule 2010.⁸⁹ The Hearing Panel finds, as Hughes has admitted, that he violated FINRA Rules 1210.05 and 2010.

III. Sanctions

A bar is a standard sanction for cheating during a qualification examination, according to FINRA's Sanction Guidelines.⁹⁰ The only principal consideration in the Guidelines specific to this violation is whether it is clear, based on the content of the material the respondent used, that the respondent did not intend to cheat.⁹¹ That consideration does not apply here: Hughes intended to cheat.

The Guidelines "are not intended to be absolute," however.⁹² They "merely provide a 'starting point' in the determination of remedial sanctions."⁹³ We must consider each case on its own facts⁹⁴ and tailor sanctions to respond to the misconduct at issue.⁹⁵

⁸⁵ Compl. ¶ 29; Ans. ¶ 29.

⁸⁶ Compl. ¶ 30; Ans. ¶ 30.

⁸⁷ Compl. ¶¶ 29-30; Ans. ¶¶ 29-30.

⁸⁸ See, e.g., *Dep't of Enforcement v. Shelley*, No. C3A050003, 2007 NASD Discip. LEXIS 8, at *27-29 (NAC Feb. 15, 2007) (affirming the hearing panel's finding that respondent's attempt to cheat on a Series 24 examination was unethical); *Dist. Bus. Conduct Comm. v. Harris*, No. C10960149, 1998 NASD Discip. LEXIS 56, at *13 (NAC Dec. 22, 1998); *Dep't of Enforcement v. Rubino*, No. 2008014873201, 2010 FINRA Discip. LEXIS 36 (OHO June 15, 2010).

⁸⁹ *Shelley*, 2007 NASD Discip. LEXIS 8, at *28.

⁹⁰ FINRA Sanction Guidelines ("Guidelines") at 40 (Oct. 2020), <http://www.finra.org/sanctionguidelines>.

⁹¹ *Id.*

⁹² *Id.* at 1.

⁹³ *Hattier, Sanford & Reynoir*, Exchange Act Release No. 39543, 1998 SEC LEXIS 55, at *14 n.17 (Jan. 13, 1998) (quoting *Peter C. Bucchieri*, Exchange Act Release No. 37218, 1996 SEC LEXIS 1331, at *15 (May 14, 1996)), *aff'd*, No. 98-60134, 1998 U.S. App. LEXIS 39067 (5th Cir. Nov. 18, 1998).

⁹⁴ *McCarthy v. SEC*, 406 F.3d 179, 190 (2d Cir. 2005).

⁹⁵ Guidelines at 3.

Hughes urges the Panel to impose a sanction less than a bar. He points to several circumstances that he contends are mitigating. He argues that these mitigating circumstances justify departing from the standard sanction in the Guidelines for exam-cheating cases.

At the hearing, Hughes admitted that he cheated twice on the Series 79 exam and expressed remorse for his actions. He repeatedly expressed disgust at his misconduct,⁹⁶ calling it “reprehensible.”⁹⁷ He also acknowledged that he “made the wrong decision on two separate occasions.”⁹⁸ This is relevant to the second Principal Consideration in the Guidelines, which asks whether a respondent “accepted responsibility for and acknowledged the misconduct to his employer” or to FINRA before “detection and intervention” by the firm or FINRA.⁹⁹

While Hughes accepted responsibility for his misconduct, his acceptance was limited and belated. When a TCA caught him using a page of notes during the October 2019 exam, he concealed his second page of notes,¹⁰⁰ which he relinquished only after the TCA reviewed surveillance video and saw the second page.¹⁰¹ After he was caught, he implored the TCA not to report him.¹⁰² Once FINRA began its investigation, he equivocated on whether he cheated on the September 2019 exam, claiming in his OTR that he could not remember whether he used his notes during his exam.¹⁰³ And he never acknowledged that he cheated on either exam to anyone at Houlihan Lokey other than a manager who allegedly advised Hughes on how to cheat on the exam.¹⁰⁴ This undercuts the mitigation attributable to Hughes’s acceptance of responsibility.

Hughes also testified that various adverse circumstances led him to cheat on the exam. Before joining Houlihan Lokey, he had “no prior training or any of the base knowledge that is required to be in investment banking[.]”¹⁰⁵ He felt enormous pressure to pass the exam, he testified, because this was his first “real job” after leaving the military, and he had moved to Houston where he had “no friends,” and “no support system.”¹⁰⁶ According to Hughes, this pressure was compounded by an “abusive associate” at Houlihan Lokey, who forced him “to work numerous days until 3 – 4am while [he] should have been studying” for his first two

⁹⁶ Tr. 171, 182, 238.

⁹⁷ Tr. 159.

⁹⁸ Tr. 182.

⁹⁹ Guidelines at 7 (Principal Consideration No. 2).

¹⁰⁰ Compl. ¶ 22; Ans. ¶ 22; Tr. 153, 164; CX-22.

¹⁰¹ Compl. ¶ 24; Ans. ¶ 24; Tr. 155.

¹⁰² Compl. ¶ 23; Ans. ¶ 23; Tr. 168; CX-23, at 10:04 a.m. to 10:05:17 a.m.; CX-35, at 2.

¹⁰³ Tr. 221.

¹⁰⁴ Tr. 184.

¹⁰⁵ Tr. 238.

¹⁰⁶ Tr. 119.

attempts to pass the Series 79 exam.¹⁰⁷ Houlihan Lokey terminated the abusive associate and gave him about a month to study for his third attempt, Hughes acknowledged.¹⁰⁸ But his best friend died during that time, Hughes testified, which “devastated” him, and required him to travel home for the funeral, interrupting his studies.¹⁰⁹ And the tutor that he hired at his own expense¹¹⁰ to help him on his third attempt ultimately proved “worthless.”¹¹¹

These problems were exacerbated by a cognitive disability stemming from multiple concussions that he incurred before and during his military service, Hughes testified.¹¹² According to Hughes, “memorization is a major issue” for him and if he is “not writing things down actively” he forgets them.¹¹³ In his time at Columbia, he “routinely required more time on exams and expressly avoided classes that required a lot of memorization to pass exams.”¹¹⁴

As the National Adjudicatory Council (NAC) has noted, “[i]n general, personal problems such as stress and health issues do not mitigate violations of FINRA rules.”¹¹⁵ Personal problems may be mitigating “if there is evidence that such problems interfered with an ability to comply with FINRA rules or that violations resulted from, or were exacerbated by, such problems.”¹¹⁶ The NAC cited two cases of adjudicators finding that personal problems constituted mitigating factors: (1) when an applicant introduced “uncontroverted expert medical evidence” that his false statements to a prospective employer about his sales production were caused by stress, clinical depression, and a chronic sleep disorder;¹¹⁷ and (2) when a respondent’s chronic fatigue syndrome, which left him bedridden and hospitalized, contributed to his failures to respond to FINRA requests for information.¹¹⁸

¹⁰⁷ CX-15, at 2; see also Tr. 117-18.

¹⁰⁸ Tr. 142-43.

¹⁰⁹ Tr. 142-43.

¹¹⁰ Tr. 138.

¹¹¹ Tr. 135.

¹¹² Tr. 36, 59; CX-15, at 1.

¹¹³ Tr. 236, 243.

¹¹⁴ CX-15, at 1.

¹¹⁵ *Dep’t of Enforcement v. Saad*, No. 2006006705601r, 2015 FINRA Discip. LEXIS 49, at *21 (NAC Mar. 16, 2015), *aff’d*, Exchange Act Release No. 76118, 2015 SEC LEXIS 4176 (Oct. 8, 2015), *petition for review denied in part and remanded in part*, 873 F.3d 297 (D.C. Cir. 2017), *aff’d*, Exchange Act Release No. 86751, 2019 SEC LEXIS 2216 (Aug. 23, 2019), *petition for review denied*, No. 19-1214, 2020 U.S. App. LEXIS 35153 (D.C. Cir. Nov. 6, 2020).

¹¹⁶ *Id.* at *22.

¹¹⁷ *Id.* at *23 (quoting *Paul David Pack*, Exchange Act Release No. 34660, 1994 SEC LEXIS 2866, at *9 (Sept. 13, 1994)).

¹¹⁸ *Id.* at *23-24 (citing *Dist. Bus. Conduct Comm. v. Nelson*, No. C9A920030, 1996 NASD Discip. LEXIS 17, at *9, *15 (NBCC Mar. 8, 1996)).

But the NAC also cautioned that, “as numerous cases demonstrate, showing that stress or personal circumstances interfered with an ability to comply with FINRA rules, or that violations resulted from such circumstances, is a difficult burden to meet and, in fact, one that has rarely been met.”¹¹⁹ And “[e]ven where personal circumstances such as stress are mitigating, they are weighed together with all other relevant considerations, including any other aggravating or mitigating factors.”¹²⁰ Those “other relevant considerations” include the nature of the misconduct and the danger of any possible recurrence.¹²¹

Even by his own account, Hughes’s personal circumstances and health issues did not prevent him from complying with FINRA Rules. Hughes admitted that he could have passed the exam without cheating if only he had more time to study.¹²² But he never asked Houlihan Lokey for more time to study¹²³ because he did not want to be the “squeaky wheel”¹²⁴ in his “first corporate job.”¹²⁵ He never requested any other type of accommodation for the exam,¹²⁶ despite communications from both Houlihan Lokey¹²⁷ and FINRA¹²⁸ telling him that was an option. Instead, Hughes testified, he decided to “suck it up and just drive on.”¹²⁹ As Hughes put it, he faced a choice: his integrity or his job.¹³⁰ He chose his job.¹³¹

And there are aggravating factors that outweigh these personal circumstances and health issues. His cheating consisted of premeditated and intentional acts.¹³² Before the exam, he

¹¹⁹ *Id.* at *24 (citing cases).

¹²⁰ *Id.* at *26.

¹²¹ *Id.*; see *Dist. Bus. Conduct Comm. v. Klein*, No. CO20940041, 1995 NASD Discip. LEXIS 229, at *13-14 (NBCC June 20, 1995) (barring respondent with right to re-apply after five years even though misconduct was mitigated by substance abuse and psychological problems because “the violation was serious” and “it is critical to ensure that the investing public is protected from any possible recurrence of misconduct”), *aff’d*, Exchange Act Release No. 36595, 1995 SEC LEXIS 3418 (Dec. 14, 1995); *Dist. Bus. Conduct Comm. v. Parks*, No. C8A930055, 1995 NASD Discip. LEXIS 206, at *19-20 (NBCC Apr. 6, 1995) (barring respondent despite her “considerable pain” and “stress” because her misuse of customer funds could not be “condone[d]” and there was “a danger . . . she might repeat her misconduct, notwithstanding that she may not have intended to convert any customer funds”).

¹²² Tr. 252.

¹²³ Tr. 241-42.

¹²⁴ Tr. 97, 118, 127, 241.

¹²⁵ Tr. 118.

¹²⁶ Tr. 237 (“I think that my inability to ask for the accommodation was a point of pride.”).

¹²⁷ CX-5, at 2.

¹²⁸ Tr. 198-99; CX-30.

¹²⁹ Tr. 118.

¹³⁰ Tr. 246.

¹³¹ Tr. 246.

¹³² Guidelines at 8 (Principal Consideration No. 13).

prepared notes in small writing that he cut up and rolled into his underwear,¹³³ in an area that he knew the TCAs were unlikely to search.¹³⁴ He used this method to cheat during two separate exams, over a period of two months, thus establishing a pattern of misconduct.¹³⁵ He tried to conceal his misconduct¹³⁶ when he asked the TCA not to report him for cheating.¹³⁷ He ignored many warnings from FINRA and Prometric that FINRA’s Rules prohibited bringing personal study materials into the exam.¹³⁸

The Guidelines recommend a bar as the standard sanction for only three types of violations.¹³⁹ Cheating on a qualification examination is one of those three.¹⁴⁰ This is due to the “vital importance of examinations in the program of upgrading the level of competence in the securities business.”¹⁴¹ Because of that “vital importance,” the SEC has held that “a deception in connection with the taking of those examinations [is] so grave that we would not find the extreme sanction of revocation or expulsion to be excessive or oppressive unless the most extraordinary mitigative facts were shown.”¹⁴² There are no extraordinary mitigating facts here. Rather than request more time to study or another accommodation, Hughes decided to cheat on the exam. We find that a bar serves “to protect the investing public by deterring misconduct and upholding high standards of business conduct.”¹⁴³

IV. Order

We find that Respondent Travis Scott Hughes violated FINRA Rules 1210.05 and 2010 by engaging in unethical misconduct during a qualification examination. For his violations, he is barred from associating with any member firm in any capacity.¹⁴⁴

¹³³ Tr. 144-45.

¹³⁴ Tr. 149.

¹³⁵ Guidelines at 7 (Principal Consideration Nos. 8, 9).

¹³⁶ Guidelines at 7 (Principal Consideration No. 10).

¹³⁷ Tr. 168.

¹³⁸ Guidelines at 8 (Principal Consideration No. 14); *see* Tr. 147; CX-12, at 2; CX-13, at 2.

¹³⁹ *John Edward Mullins*, Exchange Act Release No. 66373, 2012 SEC LEXIS 464, at *73-74 (Feb. 10, 2012); *Dep’t of Enforcement v. Doni*, No. 2011027007901, 2016 FINRA Discip. LEXIS 10, at *67 n.157 (OHO Apr. 18, 2016), *aff’d*, 2017 FINRA Discip. LEXIS 46 (NAC Dec. 21, 2017).

¹⁴⁰ *Id.*

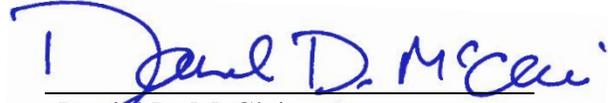
¹⁴¹ *Hugh M. Casper*, Exchange Release Act No. 7479, 1964 SEC LEXIS 415, at *5 (Dec. 7, 1964).

¹⁴² *Id.*

¹⁴³ Guidelines at 2.

¹⁴⁴ The Hearing Panel has considered and rejects without discussion all other arguments of the parties.

He is also ordered to pay costs in the amount of \$2,966.76, which includes a \$750 administrative fee and \$2,216.76 for the cost of the transcript. If this decision becomes FINRA's final disciplinary action, the bar shall take effect immediately.



Daniel D. McClain
Hearing Officer
For the Hearing Panel

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