

BEFORE THE NATIONAL ADJUDICATORY COUNCIL  
FINANCIAL INDUSTRY REGULATORY AUTHORITY

In the Matter of

Department of Enforcement,

Complainant,

vs.

Richard Allen Riemer, Jr.,  
Clifton, NJ,

Respondent.

DECISION

Complaint No. 2013038986001

Dated: October 5, 2017

**Respondent willfully failed to timely update his Form U4 to disclose two tax liens and a bankruptcy petition and made false statements to his firm on annual compliance questionnaires. Held, findings and sanctions affirmed.**

**Appearances**

For the Complainant: Leo F. Orenstein, Esq., Robert Kennedy, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: Pro se

**Decision**

Richard Allen Riemer, Jr. appeals a November 4, 2016 Hearing Panel Decision finding that he willfully failed to update and to timely update his Uniform Application for Securities Industry Registration or Transfer (“Form U4”) to disclose two federal tax liens and a bankruptcy petition. The Hearing Panel also found that Riemer failed to disclose these liens and his bankruptcy on four annual compliance questionnaires. For this misconduct, the Hearing Panel suspended Riemer from associating with any member firm in any capacity for six months and fined him \$5,000. The Hearing Panel also found that Riemer’s failures to timely update his Form U4 were willful and, consequently, he is subject to statutory disqualification.

On appeal, Riemer acknowledges that he committed the violations found by the Hearing Panel, but argues that his violations were not willful and that the statutory disqualification resulting from the willfulness finding constitutes an excessive, oppressive, and punitive sanction. Riemer also challenges the Hearing Panel’s rejection of his offer of settlement and its denial of his motion to continue the hearing.

After an independent review of the record, we affirm the Hearing Panel's findings of violation, including that Riemer willfully failed to timely update his Form U4, and the sanctions it imposed.

I. Background

Riemer joined the securities industry in January 2001 when he registered as an investment company products and variable contracts products representative with FINRA member firm Equity Services, Inc. ("Equity Services"). Riemer has worked as an insurance agent for Equity Services' affiliate, National Life of Vermont, since 1998.

Equity Services terminated Riemer's registration on March 17, 2014. The Uniform Termination Notice for Securities Industry Registration ("Form U5") filed by Equity Services indicated that Riemer was "permitted to resign in relation to lack of timely financial disclosures." Riemer is currently not registered with any FINRA member firm, but is still employed by National Life of Vermont as an insurance agent.

II. Procedural History

After an investigation, FINRA's Department of Enforcement ("Enforcement") filed a two-cause complaint against Riemer on March 24, 2016. The first cause of action alleged that Riemer violated Article V, Section 2(c) of FINRA's By-Laws, NASD IM-1000-1, NASD Rule 2110, and FINRA Rules 1122 and 2010 by willfully failing to timely amend his Form U4 to disclose two federal tax liens and a bankruptcy filing. The second cause of action alleged that Riemer violated NASD Rule 2110 by submitting false responses to Equity Services on four compliance questionnaires falsely certifying that he had no unsatisfied liens against him and had not filed for bankruptcy.

After a one-day hearing at which Riemer and his former Equity Services supervisor testified, the Hearing Panel issued a decision finding that Riemer violated FINRA rules as alleged. The Hearing Panel found that Riemer knowingly provided false certifications to his firm and that the violations with respect to his Form U4 disclosures were willful. The Hearing Panel imposed a unitary sanction against Riemer of a six-month suspension in all capacities and a \$5,000 fine. This appeal followed.

III. Facts

A. Riemer's Tax Liens and Bankruptcy

The facts concerning Riemer's tax liens and bankruptcy filing are undisputed and are the subject of the parties' stipulations. On or about June 2, 2002, the Internal Revenue Service filed and recorded a tax lien against Riemer in the amount of \$7,752.13 (the "2002 federal tax lien").<sup>1</sup>

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<sup>1</sup> The 2002 federal tax lien was satisfied on or about February 9, 2006.

Riemer admitted that he knew about the 2002 federal tax lien around the time it was filed and recorded. Riemer never disclosed the 2002 federal tax lien on his Form U4.

A second federal tax lien in the amount of \$25,837 was filed and recorded against Riemer on or about March 7, 2005 (the “2005 federal tax lien”).<sup>2</sup> Riemer admitted that he knew about the 2005 federal tax lien around the time the lien was filed and recorded. Riemer did not disclose the 2005 federal tax lien on his Form U4 until June 11, 2013, after FINRA had discovered the lien and inquired about it.

On August 4, 2008, Riemer filed a Chapter 13 bankruptcy petition in the United States Bankruptcy Court for the District of New Jersey (the “2008 bankruptcy petition”).<sup>3</sup> Reimer did not disclose the 2008 bankruptcy at the time it was filed. Reimer acknowledged that he did not disclose the bankruptcy at the time it was filed because he feared being fired. The 2008 bankruptcy petition was disclosed on Reimer’s Form U4 on June 11, 2013, after FINRA had discovered the filing and inquired about it.

**B. Riemer’s Annual Compliance Certifications and Compliance Training**

In November of 2005, 2006, 2007, and 2008, Riemer completed and submitted to Equity Services a firm document entitled, “Annual Representative Certification Form” (“Annual Certification”). On each of these Annual Certifications, Riemer stated that he had no unsatisfied judgments or liens against him. On the November 2008 Annual Certification, Riemer also falsely stated that he had not filed for bankruptcy in the year since the previous Annual Certification.

During the periods from 2001 through 2006 and 2008 through 2013, Riemer attended annual compliance trainings provided by Equity Services. Starting in 2005, these trainings included written materials provided to representatives reminding them of their obligation to report any bankruptcies or liens to Equity Services and to update their Forms U4.

In addition to Annual Certifications and annual compliance trainings, Equity Services reminded representatives like Riemer of their reporting obligations on a number of other occasions. On May 9, 2005, Equity Services’ chief compliance officer distributed a document to all representatives entitled, “Important Notice,” which reminded representatives of their responsibility to update their Forms U4 with any bankruptcy filings or liens. On January 8, 2008, Equity Services’ Licensing Department issued a notice to registered representatives entitled, “Late Disclosure Filings.” The notice reminded registered representatives that bankruptcies, judgments, and liens “must be reported to FINRA via the Form U4 within 30 days of the event.” Finally, on December 4, 2012, Equity Services’ Compliance Department issued a

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<sup>2</sup> The record does not reflect whether the 2005 lien was satisfied.

<sup>3</sup> Reimer previously filed for bankruptcy in 1998. He disclosed this bankruptcy on his first Form U4, filed prior to his initial registration with FINRA, in 2001.

notice entitled, “Changes to FINRA Fees and Review of Reporting Obligations,” which reminded registered representatives of their obligation to “immediately report” a bankruptcy filing or unsatisfied lien to the firm.

Equity Services’ written supervisory procedures (“WSPs”) during the relevant period also instructed registered representatives to update their Forms U4. The WSPs also directed registered representatives to “promptly” report bankruptcies to Equity Services’ Compliance Department.

#### IV. Discussion

While Riemer acknowledges his misconduct and does not contest the Hearing Panel’s findings of violation, we nonetheless have conducted a de novo review and affirm the Hearing Panel’s findings.

##### A. Riemer Violated FINRA’s By-Laws and Rules by Failing to Disclose His Tax Liens and Bankruptcy Petition on His Form U4

Article V, Section 2(c) of FINRA’s By-Laws provides that a registered representative’s application for registration “shall be kept current at all times by supplementary amendments,” which must be filed “not later than 30 days after learning of the facts or circumstances giving rise to the amendment.” FINRA Rule 1122 prohibits the filing with FINRA of “information with respect to membership or registration which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead.”<sup>4</sup>

The “Form U4 is a critically important regulatory tool,” and “[t]he duty to provide accurate information and to amend the Form U4 to provide current information assures regulatory organizations, employers, and members of the public that they have all material,

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<sup>4</sup> FINRA Rule 1122 replaced former NASD IM-1000-1 effective August 17, 2009. *See Order Approving Proposed Rule Change To Adopt FINRA Rule 1122 (Filing of Misleading Information as to Membership or Registration) in the Consolidated FINRA Rulebook*, 74 FR 18767 (Apr. 24, 2009). IM-1000-1 provided:

The filing with the Association of information with respect to membership or registration as a Registered Representative which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or the failure to correct such filing after notice thereof, may be deemed to be conduct inconsistent with just and equitable principles of trade and when discovered may be sufficient cause for appropriate disciplinary action.

Riemer’s failures to disclose his tax liens and bankruptcy occurred over the period from June 2002 through June 2013 and, accordingly, both FINRA Rule 1122 and NASD IM-1000-1 are applicable.

current information about the securities professional with whom they are dealing.” *See Joseph S. Amundsen*, Exchange Act Release No. 69406, 2013 SEC LEXIS 1148, at \*24-26 (Apr. 18, 2013), *aff’d*, 575 F. App’x 1 (D.C. Cir. 2014). Information disclosed on the Form U4 is used by FINRA, other self-regulatory organizations, and state regulators to determine the fitness of individuals seeking to join and remain in the securities industry. *See Robert D. Tucker*, Exchange Act Release No. 68210, 2012 SEC LEXIS 3496, at \*26 (Nov. 9, 2012). It is also used by the public in deciding whether to entrust their money to a registered representative. *Id.* Disclosures on the Form U4 “can serve as an early warning mechanism, identifying individuals with troubled pasts or suspect financial histories” and “[u]ntruthful answers [on the Form U4] call into question an associated person’s ability to comply with regulatory requirements.” *Id.* A violation of any FINRA Rule, including the rules concerning Form U4 disclosures, violates NASD Rule 2110 and FINRA Rule 2010, which require associated persons to observe high standards of commercial honor and just and equitable principles of trade.<sup>5</sup> *See North Woodward Fin. Corp.*, Complaint No. 2010021303301, 2014 FINRA Discip. LEXIS 32, at \*17 (FINRA NAC July 21, 2014), *aff’d*, Exchange Act Release No. 74913, 2015 SEC LEXIS 1867 (May 8, 2015), *aff’d*, No. 15-3729, Slip Op. at 1 (6th Cir. June 29, 2015).

Question 14M of the Form U4 requires registered representatives to disclose any unsatisfied judgments or liens against them. Question 14K asks registered representatives whether they filed a bankruptcy petition in the past ten years. It is undisputed that tax liens were filed against Riemer in 2002 and 2005 and Riemer has stipulated that he knew about the unsatisfied liens at around the time they were filed. Riemer, however, did not disclose the liens within 30 days as required. Riemer never disclosed the 2002 federal tax lien on his Form U4 and did not disclose the 2005 federal tax lien until more than eight years after it was filed and only after FINRA discovered it. It is also undisputed that Riemer filed a bankruptcy petition in 2008 that he failed to disclose until FINRA discovered it in 2013. Riemer’s failures to disclose and to timely disclose his federal tax liens and bankruptcy filing violated Article V, Section 2(c) of FINRA’s By-Laws, NASD IM-1000-1, NASD Rule 2110, and FINRA Rules 1122 and 2010. Accordingly, we affirm the Hearing Panel’s findings of violations.

B. Riemer’s False Responses on Firm Compliance Questionnaires Violated NASD Rule 2110

NASD Rule 2110 required all persons associated with member firms to observe high standards of commercial honor and just and equitable principles of trade. This standard includes the obligation to truthfully disclose material information to an associated person’s firm. *See Dep’t of Enforcement v. John Edward Mullins*, Complaint Nos. 20070094345, 20070111775, 2011 FINRA Discip. LEXIS 61, at \*30 (FINRA NAC Feb. 24, 2011), *aff’d in rel. part*, Exchange Act Release No. 66373, 2012 SEC LEXIS 464 (Feb. 10, 2012). Failure to truthfully disclose such information “calls into question the registered representative’s ability to comply

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<sup>5</sup> NASD Rule 2110 applied until December 15, 2008, when FINRA Rule 2010, which is identical, became effective. NASD Rule 0115 provided and FINRA Rule 0140 provides that all FINRA and NASD rules apply to FINRA members and all persons associated with members.

with regulatory requirements necessary for the proper functioning of the securities industry and the protection of the public.” *Id.*

Riemer does not dispute that he falsely reported on several of his firm’s annual compliance questionnaires that he had no unsatisfied liens against him and had not filed for bankruptcy when, in fact, he knew there were two federal tax liens filed against him and he had filed for bankruptcy. Riemer acknowledged that he concealed the bankruptcy from his firm because he believed it would result in his termination. Accordingly, we affirm the Hearing Panel’s finding that Reimer provided false responses on firm compliance questionnaires in violation NASD Rule 2110.

C. Riemer’s Form U4 Violations Were Willful and Result in His Statutory Disqualification

While he acknowledges his violations with respect to his Form U4 disclosures, Riemer challenges the Hearing Panel’s finding that those violations were willful and, consequently, result in his statutory disqualification. Our review of the record, including in particular Riemer’s own admissions, compels us to uphold a finding of willfulness. We accordingly affirm this finding.

Under Section 3(a)(39)(F) of the Securities Exchange Act of 1934 (the “Exchange Act”), a person is subject to statutory disqualification if, among other things, he “has willfully made or caused to be made in any application . . . to become associated with a member of a self-regulatory organization . . . any statement which at the time, and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state . . . any material fact which is required to be stated therein.” 15 U.S.C. § 78c(a)(39)(F). Article III, Section 3 of FINRA’s By-Laws provides that a person subject to a statutory disqualification cannot become or remain associated with a FINRA member unless the disqualified person’s member firm applies for, and is granted by FINRA, relief from the statutory disqualification. *See Amundsen*, 2013 SEC LEXIS 1148, at \*35.

It is well established that a willful violation of the securities laws means that “the person charged with the duty knows what he is doing” and does not require that he also “be aware that he is violating one of the Rules or Acts.” *See Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000) (internal quotation marks and citation omitted). “A failure to disclose is willful . . . if the respondent of his own volition provides false answers on his Form U4.” *See Tucker*, 2012 SEC LEXIS 3496, at \*41; *see also Michael Earl McCune*, Exchange Act Release No. 77375, 2016 SEC LEXIS 1026 (Mar. 15, 2016), *aff’d*, 672 F. App’x 865 (10th Cir. 2016) (finding that respondent acted willfully where he knew about a bankruptcy and liens but failed to amend his Form U4 to disclose them).

The undisputed facts here are that Riemer knew about and did not disclose his bankruptcy and federal tax liens. By failing to update his Form U4 under these circumstances, Riemer acted willfully. Riemer’s false answers concerning liens and his bankruptcy on numerous firm compliance questionnaires further evidences that his violations were willful. *See McCune*, 2016 SEC LEXIS 1026, at \*17-18 (finding that the respondent’s false responses on annual compliance

questionnaires supported a finding that he willfully failed to disclose a bankruptcy and liens). Though there is no requirement that Riemer acted with a culpable state of mind, he has nevertheless admitted that he did not disclose his bankruptcy to his firm because he believed his firm would terminate him. The record establishes that Riemer's Form U4 violations were willful.

Moreover, it is well established that information about bankruptcies and liens is material. *See, e.g., McCune*, 2016 SEC LEXIS 1026, at \*21-22 (finding that the tax liens and bankruptcy that respondent failed to disclose were material); *Tucker*, 2012 SEC LEXIS 3496, at \*47 (finding judgments, liens, and bankruptcies to be material); *Scott Mathis*, Exchange Act Release No. 61120, 2009 SEC LEXIS 4376, at \*29-30 (Dec. 7, 2009), *aff'd*, 671 F.3d 210 (2d Cir. 2012) (finding tax liens to be material). A fact is material if "there is a substantial likelihood that a reasonable regulator, employer, or customer would have viewed it as significantly altering the total mix of information made available." *McCune*, 2016 SEC LEXIS 1026, at \*21-22. Information about Riemer's tax liens and bankruptcy would have alerted regulators, his firm, and customers about the financial pressures he was facing and affected customers' assessment of his ability to appropriately provide financial advice.

For the reasons discussed above, we affirm the Hearing Panel's findings that Reimer willfully failed to disclose and to timely disclose material information on his Form U4. The consequence of these findings is that Riemer is subject to statutory disqualification.

#### D. Riemer's Procedural Arguments

Riemer argues that the Hearing Officer erred in denying his motion for a continuance and challenges the Hearing Panel's rejection of his contested offer of settlement. We have considered both of these arguments and find them to be without merit.

##### 1. The Hearing Officer Did Not Abuse His Discretion in Denying Riemer's Motion for a Continuance

During the appellate argument, Riemer withdrew his challenge to the Hearing Officer's denial of his pre-hearing motion for a continuance. We address this argument briefly here, however, because it was raised in Riemer's notice of appeal. After an independent review of the record, we find that the Hearing Officer acted within the scope of his discretion when he denied Riemer's motion for a continuance.

The record shows that the Hearing Officer issued an order on May 4, 2016, which, among other things, scheduled the hearing for September 27-28, 2016. On September 1, 2016, Riemer filed a motion for a continuance on the grounds that he did not have the funds to pay his attorney to attend the hearing. He claimed, without providing any support, that he would have the funds in two months and asked that the hearing be postponed. The Hearing Officer denied Riemer's motion, explaining that he had known about the hearing dates for four months and had not shown "good cause" for the postponement. We agree.

Under FINRA Rule 9222(b), a hearing officer may postpone a hearing “for good cause shown.” The rule directs the hearing officer to consider: (1) the length of the proceeding; (2) the number of previous postponements; (3) the stage of the proceedings at the time of the request; (4) potential harm to the investing public from the postponement; and (5) “such other matters as justice may require.” It is well-settled that a hearing officer has “broad discretion as to whether or not a continuance should be granted.” *Harold B. Hayes*, 51 S.E.C. 1294, 1303 (1994); *see also Robert J. Prager*, 58 S.E.C. 634, 664 (2005) (explaining that in “NASD proceedings, the trier of fact has broad discretion in determining whether to grant a request for a continuance”).

We find that the Hearing Officer did not abuse his discretion in denying Riemer’s motion for a continuance. Riemer was aware of the hearing dates for four months, but waited until just a month before the hearing (and shortly after his contested offer of settlement was rejected by the Hearing Panel) to request the adjournment. He made no showing that he would have the funds to pay for his attorney in two months as he claimed. Finally, we agree with the Hearing Officer that the case involved straightforward legal issues that did not justify a delay in the hearing. Under these circumstances, the Hearing Officer’s denial of the motion was not an abuse of discretion.

## 2. Rejection of Riemer’s Offer of Settlement

Riemer challenges the Hearing Panel’s decision rejecting a contested offer of settlement that he made prior to the hearing. We find that the Hearing Panel was not required to accept Riemer’s settlement offer and its denial of the offer is not subject to review by the National Adjudicatory Council (“NAC”).

FINRA Rule 9270(f) provides that when a respondent makes an offer of settlement that is rejected by Enforcement, the respondent may submit a written offer of settlement to the Hearing Panel. Under FINRA Rule 9270(h), if the Hearing Panel rejects a contested offer of settlement, “the [r]espondent shall be notified in writing and the offer of settlement and proposed order of acceptance shall be deemed withdrawn” and the “rejected offer and proposed order of acceptance shall not constitute a part of the record in any proceeding against the [r]espondent making the offer.” There is no requirement that the Hearing Panel accept an offer of settlement. *See, e.g., Clyde J. Bruff*, 53 S.E.C. 880, 886 (1998), *aff’d*, 1999 US App. LEXIS 27405 (9th Cir. 1999) (explaining that the “NASD is not obligated to accept an offer”); *Dep’t of Enforcement v. U.S. Rica Fin., Inc.*, Complaint No. C01000003, 2003 NASD Discip. LEXIS 24, at \*31 (NASD NAC Sept. 9, 2003) (same).

The Hearing Panel’s denial of Riemer’s contested offer of settlement is not appealable to the NAC. Under FINRA Rule 9311, decisions issued pursuant to FINRA Rules 9268 and 9269 are appealable to the NAC. Rule 9268 requires the issuance of final written decisions of hearing panels in disciplinary proceedings. Rule 9269 provides for final decisions in disciplinary decisions where the respondent has defaulted. With respect to offers of settlement, FINRA Rule 9270 provides that the NAC shall review both uncontested and contested offers of settlement that are *accepted*, but contains no similar review for offers of settlement that are *rejected*. Based on our review, we conclude that the rules do not contemplate review by the NAC when an offer of settlement is rejected. This view is consistent with the principle that FINRA need not accept an



offer of settlement and the part of FINRA Rule 9270 that provides that rejected offers of settlement shall not be included in the record of any proceedings against the respondent.

V. Sanctions

For his violation of FINRA rules, the Hearing Panel fined Riemer \$5,000 and suspended him from associating with any member firm in any capacity for six months.<sup>6</sup> On appeal, Riemer does not challenge the appropriateness of this sanction; instead, he argues that the statutory disqualification resulting from his willful violation constitutes an excessive and punitive sanction. As discussed below, Riemer mischaracterizes his statutory disqualification as a sanction. We have conducted an independent review of the record and find that the fine and suspension imposed by the Hearing Panel are appropriately remedial.

A. The Sanctions Imposed by the Hearing Panel Are Appropriately Remedial

In assessing the sanctions for Riemer's violations, we have considered FINRA's Sanction Guidelines ("Guidelines"), including the Principal Considerations in Determining Sanctions (the "Principal Considerations").<sup>7</sup> The Guidelines for filing false, misleading, or inaccurate Form U4 amendments, or for failing to file a required amendment, recommend a fine of \$2,500 to \$37,000.<sup>8</sup> In a case where aggravating factors predominate, the Guideline also recommends a suspension of 10 business days to six months.<sup>9</sup> The Principal Considerations specifically applicable to Form U4 violations include: (1) the nature and significance of the information at issue; (2) the number, nature, and dollar value of the disclosable events at issue; (3) whether the omission was in an intentional effort to conceal information; and (4) the duration of the delinquency.

While there are no Guidelines specifically for false statements to an employer, we agree that the Guidelines for recordkeeping violations and falsification of records are analogous because Riemer's failures to disclose his tax liens and bankruptcy caused his firm to maintain inaccurate books and records. For recordkeeping violations, the Guidelines recommend a fine of \$1,000 to \$15,000 and a suspension in any and all capacities up to 30 business days. In egregious cases, the Guidelines recommend a fine of \$10,000 to \$146,000 and a suspension of two years or consideration of a bar.<sup>10</sup> For falsification of records, the Guidelines recommend a

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<sup>6</sup> We agree with the Hearing Panel's imposition of a unitary sanction for Riemer's violations given that they are based on related misconduct.

<sup>7</sup> See *FINRA Sanction Guidelines* (2017), [http://www.finra.org/sites/default/files/Sanctions\\_Guidelines.pdf](http://www.finra.org/sites/default/files/Sanctions_Guidelines.pdf).

<sup>8</sup> *Guidelines*, at 71.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 29.

fine of \$5,000 to \$146,000 and a suspension in any and all capacities of up to two years. In egregious cases, the Guidelines direct us to consider a bar.<sup>11</sup>

Riemer failed to disclose on his Form U4 two tax liens and a bankruptcy filing.<sup>12</sup> As discussed above, the information at issue was important to regulators, Riemer's member firm, and customers in assessing Riemer's fitness as a securities professional. Riemer acknowledged that he did not disclose the bankruptcy to his firm because he believed he would be terminated and, accordingly, his misconduct was intentional and he attempted to conceal his misconduct from his firm.<sup>13</sup> His false answers on firm questionnaires further evidence that his failures to disclose were intentional. Riemer's failure to disclose the liens and bankruptcy continued for an extended period of time, ranging from almost five to more than eight years<sup>14</sup> and he did not disclose either the lien or the bankruptcy until it was discovered by FINRA.<sup>15</sup> While we note that Riemer has taken responsibility for his misconduct throughout this disciplinary proceeding, the numerous applicable aggravating factors support the sanctions imposed by the Hearing Panel.

B. The Statutory Disqualification is a Consequence of Riemer's Willful Misconduct and Not a Sanction Imposed by FINRA

Riemer's primary argument on appeal is that the statutory disqualification resulting from his willful failures to update and timely update his Form U4 is actually a sanction imposed by FINRA, which renders the sanctions imposed excessive and punitive. Riemer's argument has no merit.

As discussed above, Riemer's statutory disqualification is a consequence imposed by operation of Section 3(a)(39)(F) of the Exchange Act and is not a sanction imposed by FINRA. *See McCune*, 2016 SEC LEXIS 1026, at \*37; *see also Anthony A. Grey*, Exchange Release No. 75839, 2015 SEC LEXIS 3630, at \* 47 n.60 (Sept. 3, 2015) (explaining that a "statutory disqualification is not a FINRA-imposed penalty or remedial sanction"). The imposition of the statutory disqualification is "automatic" where, as here, a respondent has willfully failed to disclose material information of a Form U4. *See McCune*, 2016 SEC LEXIS 1026, at \*37.

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<sup>11</sup> *Id.* at 37.

<sup>12</sup> *Id.* at 7 (Principal Considerations, No. 8).

<sup>13</sup> *Id.* at 7-8 (Principal Considerations, Nos. 10, 13).

<sup>14</sup> The 2002 federal tax lien was never disclosed by Riemer.

<sup>15</sup> *Id.* at 7 (Principal Considerations, Nos. 4, 9).

VI. Conclusion

Riemer violated FINRA By-Laws Article V, Section 2(c), NASD IM-1000-1, NASD Rule 2110, and FINRA Rules 1122 and 2010 by willfully failing to amend and timely amend his Form U4 to disclose two federal tax liens and a bankruptcy filing. Riemer also violated NASD Rule 2110 by providing false responses on his member firm's annual compliance questionnaires. For these violations, Riemer is fined \$5,000 and suspended for six months from associating with any member firm in any capacity. As a consequence of Riemer's willful violations, he is also subject to statutory disqualification. We also affirm the Hearing Panel's order that Riemer pay \$1,539.55 in hearing costs and we order him to pay appeal costs in the amount of \$1,330.69.<sup>16</sup>

On Behalf of the National Adjudicatory Council,

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Marcia Asquith  
Executive Vice President and Corporate Secretary

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<sup>16</sup> Pursuant to FINRA Rule 8320, any member that fails to pay any fine, costs, or other monetary sanction imposed in this decision, after seven days' notice in writing, will summarily be suspended or expelled from membership for non-payment. Similarly, the registration of any person associated with a member who fails to pay any fine, costs, or other monetary sanction, after seven days' notice in writing, will summarily be revoked for non-payment.