

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

HARRY W. HUNT  
(CRD No. 1144385),

Respondent.

Disciplinary Proceeding  
No. 2009018068701

Hearing Officer – MAD

**HEARING PANEL DECISION**

October 17, 2011

**Respondent violated FINRA Conduct Rule 2010 by using the name, address, and social security number of a customer to cosign a student loan for his daughter without the customer’s knowledge or authorization. Respondent also violated FINRA Conduct Rule 2010 and NASD Conduct Rule 2110 by submitting false expense reports, including fabricated supporting documentation, to his member firm. For these violations, Respondent is barred from associating with any member in any capacity. Respondent is also assessed costs.**

**Appearances**

For Complainant: Dale A. Glanzman, Esq., and Richard March, Esq., FINRA Department of Enforcement, Chicago, IL.

For Respondent: Jonathan M. Harris, Esq., Minneapolis, MN.

**DECISION**

**I. INTRODUCTION**

On August 3, 2010, the Department of Enforcement (“Enforcement”) filed an Amended Complaint with the Office of Hearing Officers against Respondent Harry W. Hunt (“Hunt”) relating to falsification of documents. The first cause of action alleges that Hunt used the name, address, and social security number of one of his customers to cosign a student loan application with Sallie Mae Education Trust (“Sallie Mae”) for his daughter without the customer’s knowledge or authorization, in violation of FINRA Conduct Rule 2010. The second cause of

action alleges that, in furtherance of the student loan application, Hunt altered a copy of his daughter's driver's license and submitted it to Sallie Mae, in violation of FINRA Rule 2010. The third cause of action alleges that on six occasions Hunt falsified expense reports by submitting false documentation to his member firm, Wells Fargo Advisors, LLC (f/k/a Wachovia Securities, LLC) ("Wells Fargo"), in violation of NASD Conduct Rule 2110 and FINRA Conduct Rule 2010.<sup>1</sup>

On August 10, 2010, Hunt filed an Answer and requested a hearing. In his Answer, Hunt admitted to some of the factual allegations but stated that his actions did not constitute violations of FINRA Conduct Rule 2010 (formerly NASD Conduct Rule 2110). The parties filed joint stipulations on May 3, 2011, regarding certain facts in the Complaint.

The hearing was held on July 19, 2011, in Minneapolis, Minnesota, before a Hearing Panel composed of the Hearing Officer and one current member and one former member of FINRA's District 4 Committee. Enforcement called three witnesses: Dennis Kellner, Hunt's supervisor at Wells Fargo; Christopher Hoskin, an investigator with Wells Fargo; and Hunt. Hunt testified on his own behalf. He also called Darin Hargreaves, his former branch manager at Wells Fargo, as a character witness.<sup>2</sup>

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<sup>1</sup> Following consolidation of NASD and the member regulation, enforcement, and arbitration functions of NYSE Regulation into FINRA, FINRA began developing a new "Consolidated Rulebook" of FINRA Rules. The first phase of the consolidated rules became effective on December 15, 2008. *See* FINRA Regulatory Notice 08-57, 2008 FINRA LEXIS 74 (Dec. 8, 2008). Because the Complaint in this case was filed after December 15, 2008, the procedural rules that apply are the FINRA rules of procedure. The conduct rules that apply are those that existed at the time of the conduct at issue.

<sup>2</sup> In this decision, "Tr." refers to the transcript of the hearing; "CX" to Enforcement's exhibits; and "Stip." refers to the parties' stipulations. The parties stipulated to the admissibility of Enforcement's eight exhibits, which were entered into evidence. Hunt did not file or offer any exhibits.

## **II. FINDINGS OF FACT**

### **A. The Respondent**

Hunt entered the securities industry in 1983 when he began working for Piper Jaffray and Company.<sup>3</sup> Between April 2002 and April 2009, Hunt worked at Wells Fargo where he was registered with FINRA as a General Securities Representative.<sup>4</sup> On April 20, 2009, Wells Fargo terminated Hunt.<sup>5</sup> The Uniform Termination Notice for Securities Industry Registration (“Form U5”) disclosed that Hunt had used a client’s name and information in order to obtain a student loan, which prompted FINRA to commence an investigation.<sup>6</sup>

Hunt is currently registered with FINRA through his association with another member firm.<sup>7</sup> Accordingly, Hunt is subject to the jurisdiction of FINRA.

### **B. Background**

In 2009, Hunt experienced significant financial difficulties,<sup>8</sup> which impacted his ability to timely pay his business and personal expenses. In order to hide the magnitude of his financial difficulties from his wife, Hunt rented a mail box at The UPS Store. He used the store’s street address and his assigned mail box as the mailing address for bills and other items that would have alerted his wife to the true depth of their financial predicament.<sup>9</sup>

Coincidentally, Hunt’s oldest daughter was applying to college.<sup>10</sup> Due to Hunt’s financial problems, he did not have funds readily available to pay for his daughter’s tuition.<sup>11</sup> Accordingly, it was necessary to obtain a short-term \$10,000 student loan.<sup>12</sup>

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<sup>3</sup> Stip. ¶ 4.

<sup>4</sup> *Id.*; CX-1, at 3.

<sup>5</sup> Stip. ¶ 1.

<sup>6</sup> *Id.* ¶¶ 1-2.

<sup>7</sup> CX-1, at 1-2; Tr. 20.

<sup>8</sup> Stip. ¶ 4.

<sup>9</sup> *Id.*; Tr. 32.

<sup>10</sup> Stip. ¶ 4.

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

<sup>12</sup> *Id.*

Hunt, on behalf of his daughter, completed several online student loan applications through Sallie Mae, an originator of federally insured student loans, to obtain the funds necessary for her to begin school in the fall of 2009.<sup>13</sup> The Sallie Mae student loan applications required that a person other than the student cosign the loan as a guarantor in the event of a default by the student.<sup>14</sup> In the initial loan application, in January 2009, Hunt identified himself as the guarantor on his daughter's loan, but Sallie Mae rejected the application because of his poor financial condition.<sup>15</sup> Thereafter, Hunt completed and submitted two more applications, one using his wife as a guarantor and the other using his father as guarantor, but Sallie Mae rejected those applications as well.<sup>16</sup>

### **C. Unauthorized Student Loan Application**

After Sallie Mae rejected the loan applications for Hunt and his relatives, Hunt did not apply to any other lenders to obtain the funds for his daughter's college tuition.<sup>17</sup> Instead, Hunt applied for another student loan through Sallie Mae, using the name, address, and social security number of DL, one of his customers at Wells Fargo, as the cosigner to guarantee his daughter's loan.<sup>18</sup>

Hunt completed and submitted the loan application to Sallie Mae without DL's knowledge or consent.<sup>19</sup> Hunt and DL had been friends for years, and DL had been Hunt's customer since the mid-1990s.<sup>20</sup> Hunt did not ask DL to cosign for his daughter's loan because of his "fear of the answer no" from a very good friend.<sup>21</sup> Hunt testified that he never intended for

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<sup>13</sup> *Id.*; Tr. 122.

<sup>14</sup> *See* CX-2.

<sup>15</sup> Stip. ¶ 4; Tr. 24.

<sup>16</sup> Tr. 122.

<sup>17</sup> Tr. 29.

<sup>18</sup> Stip. ¶ 4; Tr. 26-27, 120-21; CX-2.

<sup>19</sup> Stip. ¶ 4; Tr. 29-30, 46, 122.

<sup>20</sup> Tr. 25.

<sup>21</sup> Tr. 106.

DL to pay the loan.<sup>22</sup> Rather, Hunt was attempting to alleviate his cash flow problem until he received a retention bonus and deferred compensation from his firm.<sup>23</sup>

### **1. Completion of the Application**

The Sallie Mae student loan application was a one-page application accompanied by a Promissory Note.<sup>24</sup> The application required information pertaining to both the borrower and the cosigner.<sup>25</sup>

Hunt provided the required information for his daughter, the borrower. When completing the application, Hunt used The UPS Store street address and his assigned mail box despite the fact that the application requested her “permanent address” and specifically stated “No P.O. Boxes Allowed.”<sup>26</sup> Hunt used the mail box address to ensure that any correspondence relating to the loan application would only be available to him.<sup>27</sup> He also provided his cell phone number and personal email address as the means of contact.<sup>28</sup>

Hunt also provided Sallie Mae with the required information for the cosigner, using DL’s personal information, which included his name, address, social security number, gross monthly income, and monthly mortgage payment.<sup>29</sup> While Hunt testified that he knew some of this information as a result of his close personal relationship with DL, he admitted that he obtained DL’s social security number from his customer file at Wells Fargo.<sup>30</sup> Again, Hunt provided his personal email address, knowing that the application required the cosigner’s email address.<sup>31</sup> He also provided his own cell phone number instead of DL’s.<sup>32</sup>

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<sup>22</sup> Stip. ¶ 4; Tr. 106.

<sup>23</sup> Stip. ¶ 4.

<sup>24</sup> CX-2.

<sup>25</sup> *Id.*

<sup>26</sup> Tr. 32-34; CX-2, at 1.

<sup>27</sup> Tr. 35-36.

<sup>28</sup> CX-2; Tr. 43, 127.

<sup>29</sup> Stip. ¶ 4; CX-2.

<sup>30</sup> Tr. 26-27.

<sup>31</sup> Tr. 43.

<sup>32</sup> Tr. 127.

The Sallie Mae application required the signatures of both the borrower and the cosigner.<sup>33</sup> By signing, they declared that (1) the information provided was true and complete, (2) they had read and agreed to terms of the Promissory Note, and (3) they promised to pay the lender.<sup>34</sup> The Promissory Note highlighted the significant obligations associated with entering into the loan agreement. It contained important notices, such as the Notice to Cosigner, which stated:

**You are being asked to guarantee this debt. Think carefully before you do. If the borrow doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.**

**You may have to pay up to the full amount of the debt if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount.**

**The lender can collect this debt from you without first trying to collect from the borrower. The lender can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become part of *your* credit record.**<sup>35</sup>

On March 24, 2009, Hunt signed DL's name as the cosigner and electronically submitted the loan application to Sallie Mae, thereby creating a potential liability for DL.<sup>36</sup>

## **2. Denial of the Loan Application**

In early April 2009, immediately after Hunt and his family returned from a vacation in Florida,<sup>37</sup> Sallie Mae contacted DL regarding his guarantee of the student loan.<sup>38</sup> Customer DL

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<sup>33</sup> CX-2.

<sup>34</sup> CX-2, at 1.

<sup>35</sup> *Id.* at 5 (emphasis in original).

<sup>36</sup> *Id.* at 1; Tr. 23-25. When the application is submitted electronically, the borrower's and cosigner's names are typed on the signature line of the application prior to submission. *See* CX-2, at 1.

<sup>37</sup> Hunt's vacation expenses included, but were not limited to, flights and a rental home. Tr. 30-31. The flights totaled over \$1,200, and the vacation home rental cost between \$2,500 and \$3,000. Tr. 30-31, 121. When questioned about how he could afford to take his family on vacation given his financial difficulties, Hunt stated that the vacation plans had been made and paid for in October 2008. Tr. 121.

<sup>38</sup> Stip ¶ 4; Tr. 31.

disavowed his role as guarantor and notified Wells Fargo of Hunt's actions without his permission.<sup>39</sup> Sallie Mae denied the loan application, and Wells Fargo terminated Hunt's employment.<sup>40</sup> As a consequence of his termination, Hunt lost the opportunity to collect the deferred compensation and the retention bonus because both required him to be employed by the firm at the time of their payment.<sup>41</sup>

#### **D. Falsified Driver's License**

In connection with one of the student loan applications, Sallie Mae requested documentation verifying his daughter's residential address.<sup>42</sup> As stated above, when completing the borrower portion of the application, Hunt used his mail box address instead of his actual residential address.<sup>43</sup> In order to ensure that the requested documentation was consistent with loan application, Hunt altered a photocopy of his daughter's driver's license, changing her residential address to the mail box address.<sup>44</sup> Hunt testified that when he submitted the initial student loan application to Sallie Mae, which identified Hunt as the cosigner, the documentation included the altered driver's license.<sup>45</sup>

#### **E. Falsified Expense Reports**

Wells Fargo reimbursed its brokers for certain business-related expenditures, such as meals with customers, printing bills, and telephone expenses incurred in the course of the broker's employment.<sup>46</sup> The funds used for these reimbursements were derived from two sources: those designated by the broker, and set aside from pre-tax earnings, and "contributions" by the firm for attaining certain production levels.<sup>47</sup> The broker could then draw down against

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<sup>39</sup> Stip. ¶ 4; Tr. 45-46.

<sup>40</sup> Stip. ¶ 4.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Tr. 33, 141.

<sup>46</sup> Stip. ¶ 5.

<sup>47</sup> *Id.*

these funds over the course of the year to pay the designated business expenses that he incurred.<sup>48</sup> Wells Fargo's reimbursement policy required each employee to incur and pay the expense prior to the submission of the claim for reimbursement.<sup>49</sup>

Between February 2008 and March 2009, Hunt submitted claims for reimbursement to Wells Fargo after he had incurred the expenses but prior to his actual payment of them.<sup>50</sup> In order to submit the required evidence of payment with his reimbursement forms, Hunt created false supporting documentation. Hunt understood that Wells Fargo did not verify the supporting documentation submitted with the expense reimbursement forms.<sup>51</sup> With that knowledge, he photocopied and altered his personal checks to give the appearance that he had paid the vendor and that the checks had been cleared by the vendor's bank.<sup>52</sup> Each of Hunt's false expense reports is described below.

On February 8, 2008, Hunt submitted a claim for reimbursement of \$266.62 in telephone expenses owed to AT&T.<sup>53</sup> Hunt altered a previously submitted reimbursement form by changing the amount to \$266.62.<sup>54</sup> Hunt also photocopied the back of a previously cleared check in support of the reimbursement claim, thereby creating the appearance that his check to AT&T had cleared, when in fact he had not yet written a check to AT&T.<sup>55</sup> Upon receipt of the reimbursement funds, Hunt used the funds to pay his bill.<sup>56</sup>

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<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Tr. 39.

<sup>52</sup> Stip. ¶ 5; Tr. 39. After learning of the unauthorized Sallie Mae application, Wells Fargo conducted an investigation. Tr. 84. Wells Fargo's investigator discovered bills and related financial documents in Hunt's office, as well as paper clippings with different size numbers and fonts. Tr. 87-88, 95; CX-7, at 5.

<sup>53</sup> Stip. ¶ 5.

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*



On August 6, 2008, Hunt submitted a claim for reimbursement of \$477.85 in expenses from Omega Lithograph, a company Hunt used to acquire printed business materials.<sup>57</sup> Hunt altered the front of a previously cleared check by changing the date to August 1, 2008, the check number, and the amount of the check.<sup>58</sup> Then, he submitted the altered check for reimbursement, creating the appearance that his personal check to Omega Lithograph had been paid.<sup>59</sup> Hunt also photocopied the back of a different check that had not been written to Omega Lithograph on August 1, 2008, but had previously cleared, and used the photocopy to represent that the Omega Lithograph expense check had been paid and cleared.<sup>60</sup> Hunt stated on his Wells Fargo reimbursement form that the check cleared on July 25, 2008.<sup>61</sup> However, Hunt actually paid \$477.85 to Omega Lithograph, on August 8, 2008, by charging it to his American Express credit card.<sup>62</sup> No check was ever written to pay Omega Lithograph for the \$477.85 expense.<sup>63</sup> Later, he used the proceeds of the reimbursement to pay his American Express bill.<sup>64</sup>

On March 2, 2009, Hunt submitted four claims for reimbursement for expenses associated with the following vendors: Blue Point Restaurant, Gianis Steak House, California Pizza Kitchen, and NorthCoast Restaurant. On the Blue Point Restaurant claim, Hunt sought reimbursement of \$500 and included a photocopy of a \$500 check made payable to Blue Point Restaurant, dated February 17, 2008.<sup>65</sup> He photocopied the back of a previously cleared check to represent that the Blue Point Restaurant check had cleared.<sup>66</sup> Hunt represented on the claim

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<sup>57</sup> *Id.*

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* The parties stipulated that Hunt's reimbursement conduct occurred between February 2008 and March 2009. Accordingly, the references to February 2008 in the context of this expense report appear to be an error given that the expense report was submitted in March 2009.

<sup>66</sup> *Id.*

reimbursement form that the check had cleared on February 18, 2008.<sup>67</sup> In fact, Hunt paid the \$500 to Blue Point Restaurant on February 19, 2008, using his American Express credit card.<sup>68</sup> No check was written to pay Blue Point Restaurant for the \$500 expense.<sup>69</sup> He later used the proceeds of the reimbursement to pay his American Express bill.<sup>70</sup>

For the Gianis Steak House claim, Hunt sought reimbursement of \$500 and included a photocopy of a \$500 check made payable to Gianis Steakhouse, dated February 6, 2009.<sup>71</sup> Hunt photocopied the back of a previously cleared check, representing that the Gianis Steak House check had cleared on February 10, 2009.<sup>72</sup> In reality, Hunt paid the \$500 to Gianis Steak House on February 24, 2009, charging the expense to his American Express credit card.<sup>73</sup> No check had been written to pay Gianis Steak House for the \$500 expense.<sup>74</sup> Hunt then used the proceeds of the reimbursement to pay his American Express bill.<sup>75</sup>

Regarding the California Pizza Kitchen claim, Hunt submitted a claim for reimbursement of \$75 in expenses and included a photocopy of a \$75 check made payable to California Pizza Kitchen, dated January 5, 2009.<sup>76</sup> Hunt photocopied the back of a previously cleared check, representing that the California Pizza Kitchen check had cleared on January 6, 2009.<sup>77</sup> In fact, Hunt paid the \$75 to California Pizza Kitchen on January 27, 2009, by charging it on his American Express credit card.<sup>78</sup> No check had been written to pay California Pizza Kitchen for

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<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

the \$75 expense.<sup>79</sup> He later used the proceeds of the reimbursement to pay his American Express bill.<sup>80</sup>

Lastly, for the NorthCoast Restaurant claim, Hunt sought reimbursement of \$50 in expenses and included a photocopy of a check made payable to NorthCoast Restaurant, dated January 21, 2009.<sup>81</sup> Hunt photocopied the back of a previously cleared check, representing that the NorthCoast Restaurant check had cleared on January 23, 2009.<sup>82</sup> No check had been written to pay NorthCoast Restaurant for the \$50 expense because Hunt paid the NorthCoast Restaurant on January 23, 2009, by using his American Express credit card.<sup>83</sup> Upon reimbursement, he used the proceeds to pay his American Express bill.<sup>84</sup>

### III. CONCLUSIONS OF LAW

NASD Conduct Rule 2110 (now FINRA Conduct Rule 2010) requires a registered person, “in the conduct of his business,” to “observe high standards of commercial honor and just and equitable principles of trade.” As the Securities and Exchange Commission (“SEC”) recently reiterated in *John M.E. Saad*, “conduct that reflects negatively on an applicant’s ability to comply with regulatory requirements fundamental to the securities industry is inconsistent with just and equitable principles of trade.”<sup>85</sup>

In *Department of Enforcement v. Shvarts*, the National Adjudicatory Council (“NAC”) explained that Rule 2110 “is not limited to rules of legal conduct but rather...it states a broad ethical principle.”<sup>86</sup> “[FINRA] has authority to impose sanctions for violations of ‘moral

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<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> *John M.E. Saad*, Exchange Act Rel. No. 62178, 2010 SEC LEXIS 1761, at \*13 (May 26, 2010) (citations omitted), *appeal docketed*, No. 10-1195 (D.C. Cir. July 23, 2010).

<sup>86</sup> *Dep’t of Enforcement v. Shvarts*, No. CAF980029, 2000 NASD Discip. LEXIS 6, at \*11 (NAC June 2, 2000) (citations omitted).

standards’ even if there was no ‘unlawful’ conduct.”<sup>87</sup> In *Shvarts*, the NAC applied a two-part test to determine whether the conduct at issue violated Rule 2110: (1) the misconduct must occur “in the conduct of” the respondent’s business; and (2) the misconduct must violate just and equitable principles of trade.<sup>88</sup> “Rule 2110 is sufficiently broad to encompass any unethical business-related misconduct, regardless of whether it involves a security.”<sup>89</sup>

#### **A. Unauthorized Loan Application**

Hunt’s use of customer DL’s name and identifying information satisfies the requirements delineated in *Shvarts*. Hunt’s misconduct occurred “in the conduct of” his business. DL was Hunt’s customer at Wells Fargo, and Hunt admitted that he accessed DL’s customer file to complete the student loan application and submitted it without DL’s knowledge or consent. Hunt’s misconduct is contrary to the ethical standard of the industry, which requires the promotion of “profession[alism in] the securities industry.”<sup>90</sup> Accordingly, the Hearing Panel finds that Hunt violated FINRA Conduct Rule 2010, as alleged in the first cause of action in the Complaint.

#### **B. Falsified Driver’s License**

For the purposes of the student loan application, Hunt falsified a photocopy of a state-issued driver’s license to represent that his daughter’s residential address was his mail box address. However, Enforcement failed to prove that Hunt’s misconduct was associated with the same loan application for which customer DL was identified as the cosigner. Hunt testified that

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<sup>87</sup> *Id.*

<sup>88</sup> *Id.* at \*18; see *Dep’t of Enforcement v. DiFrancesco*, 2010 FINRA Discip. LEXIS 37, at \*15 (NAC Dec. 17, 2010) (analyzing respondent’s conduct under Rule 2110 (now Rule 2010) to determine if his conduct was: (1) business-related; and (2) inconsistent with high standards of commercial honor and just and equitable principles of trade).

<sup>89</sup> *Dep’t of Enforcement v. Saad*, 2009 FINRA Discip. LEXIS 29, at \*11 (NAC Oct. 6, 2009) (finding that a registered person’s submission of false expense reimbursement requests and receipts to his broker-dealer violated Rule 2110 (now Rule 2010)), *aff’d*, Exchange Act Rel. No. 62178, 2010 SEC LEXIS 1761 (May 26, 2010), *appeal docketed*, No. 10-1195 (D.C. Cir. July 23, 2010).

<sup>90</sup> *Dep’t of Enforcement v. Schwartz*, No. E102004083703, 2007 FINRA Discip. LEXIS 22, \*7 (OHO Nov. 16, 2007) (citing *Dep’t of Enforcement v. Shvarts*, No. CAF980029, 2000 NASD Discip. LEXIS 6, at \*11 (NAC June 2, 2000)).

he altered the driver's license for the application that identified himself as the cosigner.

Accordingly, while Hunt's conduct was unethical, it was not business-related. The second cause of action is dismissed.

### **C. Falsified Expense Reports**

Hunt's falsification of expense reports occurred "in the conduct of" his business. Wells Fargo allowed its brokers to submit reimbursement claims for expenses related to their business, and Hunt does not dispute that he fabricated supporting documentation for his business expenses and submitted false expense reports to Wells Fargo. The Hearing Panel finds that Hunt violated FINRA Conduct Rule 2010 and NASD Conduct Rule 2110, as alleged in the third cause of action in the Complaint.

## **IV. SANCTIONS**

### **A. Sanctions Guidelines**

FINRA Sanction Guidelines ("Guidelines") governing sanctions for forgery and/or falsification of records recommend a fine of \$5,000 to \$100,000 and a suspension for up to two years where mitigating factors exist, or a bar in egregious cases.<sup>91</sup> The Guidelines also direct adjudicators to consider the nature of the documents falsified, and whether the respondent had a good-faith, but mistaken, belief of express or implied authority to falsify the documents. The Sallie Mae application is an essential document for an applicant to obtain funding for education expenses. Without a cosigner, Sallie Mae would not process or approve the student loan application. Similarly, the reimbursement forms are important business records. Further, the evidence clearly demonstrates that Hunt did not believe he had any authority to create the unauthorized loan application or the false expense reports. Both of these factors aggravate Hunt's misconduct.

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<sup>91</sup> FINRA Sanction Guidelines 37 (2011), [www.finra.org/sanctionguidelines](http://www.finra.org/sanctionguidelines).

## **B. Principal Considerations**

In determining sanctions, the Hearing Panel also considered the Guidelines' Principal Considerations, and concluded that this case involves several aggravating factors.<sup>92</sup> Hunt's misconduct was not the result of a temporary lapse in judgment; rather, it was intentional and premeditated.<sup>93</sup> He suspected that DL would not cosign the loan; yet, he signed DL's name on the loan application. Similarly, Hunt deliberately falsified expense reports. He knew Wells Fargo's reimbursement policy, and he also knew that Wells Fargo did not check with a representative's bank to verify the accuracy of the checks that were submitted as supporting documentation.

Hunt also attempted to conceal his misconduct and deceive his firm.<sup>94</sup> He deliberately used his private mail box, his personal email, and his cell phone number on the loan application to ensure that only he would receive communications regarding the loan application. And, on six occasions, Hunt went to great lengths to deceive his firm by altering checks in order to receive reimbursement prior to paying his expenses. Wells Fargo trusted its employees to honestly complete the forms and provide accurate supporting documentation. Hunt violated that trust by submitting the false expense reports.

Hunt's misconduct provided him with the potential for monetary gain.<sup>95</sup> While Sallie Mae denied the student loan application once DL was contacted, Hunt's purpose in completing the application was to obtain \$10,000 to pay his daughter's tuition. Additionally, Hunt's submittal of false expense reports enabled him to receive reimbursements prior to paying the vendors.

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<sup>92</sup> *Id.* at 6-7.

<sup>93</sup> *Id.* at 7 (Principal Consideration No. 13.)

<sup>94</sup> *Id.* at 6 (Principal Consideration No. 10).

<sup>95</sup> *Id.* at 7 (Principal Consideration No. 17).

The Hearing Panel noted that while Hunt appeared to be remorseful and forthcoming, he did not accept responsibility for his actions prior to detection by the firm.<sup>96</sup> Plus, at no time did Hunt attempt to remedy his misconduct.<sup>97</sup> He left for vacation without informing DL or Sallie Mae about the unauthorized application, and he continued to submit false expense reports to Wells Fargo for over a year.<sup>98</sup>

### **C. Hunt's Mitigation Arguments**

The Hearing Panel also considered Hunt's arguments for mitigation of sanctions, but found them to be unpersuasive. First, Hunt claimed that it was mitigating that he caused no financial injury to DL. However, the Principal Consideration that addresses injury is not limited solely to financial injury to public customers.<sup>99</sup> Rather, it directs adjudicators also to consider the nature and extent of injury to the member firm with which a respondent is associated.<sup>100</sup> The Hearing Panel finds that Hunt caused injury to his firm. DL's complaint to Wells Fargo, which entailed the use of personal information without his authorization, stemmed directly from Hunt's misconduct. Such an experience threatens investor confidence in the firm that employs the person responsible.<sup>101</sup>

Second, Hunt argued that he has already suffered a great deal as a result of his misconduct. Namely, he lost his job with Wells Fargo, as well as his bonus and deferred compensation. However, "[a]s a general matter, [FINRA], in determining the appropriate sanction, does not give weight to the fact that a firm terminated a respondent," and the Hearing Panel declines to do so in this case.

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<sup>96</sup> *Id.* at 6 (Principal Consideration No. 2).

<sup>97</sup> *Id.* at 7 (Principal Consideration No. 14).

<sup>98</sup> *Id.* at 6 (Principal Consideration No. 9).

<sup>99</sup> *Id.* (Principal Consideration No. 11).

<sup>100</sup> *Id.*

<sup>101</sup> *Cf. Paul David Pack*, 51 S.E.C. 1279, 1282 (1994) (forging client signatures is the type of conduct that threatens "the integrity of the industry or investor confidence").

Third, Hunt stated that his misconduct resulted from his efforts to be an honorable family man and protect the needs of his family. When describing his life as a high producing representative, Hunt stated that he and his wife were “able to do things we never did before....”<sup>102</sup> “[I]t became a lifestyle that we were comfortable with. When things got tougher, unfortunately I chose to mask things a bit.”<sup>103</sup> There is nothing honorable about lying and falsifying important documents to continue living above one’s means. Simply put, Hunt chose to put his own self-interest over the integrity and professionalism of the securities industry.

Fourth, Hunt asserted that the conduct at issue was aberrant.<sup>104</sup> He argued that the investing public would not be at risk if he remained in the industry as a registered representative.<sup>105</sup> However, while Hunt was experiencing financial difficulties, he falsified six expense reports. During that time, Hunt also utilized his customer’s personal information, without his authorization, and submitted a false student loan application to Sallie Mae. Further, Hunt acknowledged that his current firm recently disciplined him for violating firm policy by borrowing money from a firm customer.<sup>106</sup>

The Hearing Panel found that Hunt minimized his misconduct, stating that it was “foolish” and attributing it to “cash flow” problems. While Hunt did not blame Wells Fargo, he commented that the reimbursement system at Piper Jaffray, his former employer, was fairer because it provided the representatives with a corporate credit card for their expenses.<sup>107</sup> However, Hunt voluntarily incurred these expenses at Wells Fargo, and at no time did he tell his firm that he was experiencing financial difficulties that would prevent him from paying his

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<sup>102</sup> Tr. 113.

<sup>103</sup> Tr. 113.

<sup>104</sup> Tr. 16 (noting that Hunt “has had no disciplinary issues arise at any point in time”).

<sup>105</sup> Hunt’s Pre-Hr’g Br. at 11.

<sup>106</sup> When determining sanctions, the Hearing Panel did not consider Hunt’s recent discipline at his current firm as a formal FINRA disciplinary action. Hunt has no prior disciplinary history; however, that lack of disciplinary history is not mitigating.

<sup>107</sup> Tr. 128.



expenses pursuant to the firm's policy.<sup>108</sup> Instead, he chose to incur the expenses and deceive Wells Fargo. In short, the Hearing Panel finds that Hunt does not understand and accept the serious nature of his wrongful conduct.

#### **D. Conclusion**

In conclusion, the Hearing Panel considered the seriousness of the offenses and the potential for recurrence.<sup>109</sup> Hunt's dishonesty and willingness to violate firm policies "indicates a troubling disregard for fundamental ethical principles which, on other occasions, may manifest itself in a customer-related or securities-related transaction."<sup>110</sup> Accordingly, the Hearing Panel finds that Hunt's conduct was egregious and that the aggravating facts and lack of mitigating facts require that Hunt be barred from associating with any member in any capacity. "A bar will prevent [Hunt] from putting customers at risk and will serve as a deterrent to others in the securities industry who might engage in similar misconduct."<sup>111</sup>

#### **V. ORDER**

Harry W. Hunt is barred from association with any member firm in any capacity for: (1) using a customer's name and other personal information to secure a student loan for his daughter without the customer's knowledge or authorization, in violation of FINRA Conduct Rule 2010, and (2) falsifying expense reports, in violation of NASD Conduct Rule 2110 and FINRA Conduct Rule 2010. In addition, he is ordered to pay costs in the amount of \$2,027.15, which includes a \$750 administrative fee and the cost of the hearing transcript. The fine and costs shall be payable on a date set by FINRA, but not less than 30 days after this decision becomes

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<sup>108</sup> Tr. 50.

<sup>109</sup> See *McCarthy v. SEC*, 406 F.3d 179 (2d Cir. 2005) (finding that, in connection with sanctions, it is appropriate to consider: (1) all mitigating factors that the respondent has raised; (2) the seriousness of his offenses; (3) the corresponding harm that he caused to members of the trading public; (4) his potential gain for disobeying the rules; (5) the potential for repetition of his misconduct in light of the current regulatory regime; and (6) the deterrent value to the respondent and others).

<sup>110</sup> *Dep't of Enforcement v. Saad*, 2009 FINRA Discip. LEXIS 29, at \*28 (citing *Thomas E. Jackson*, 45 S.E.C. 771, 772 (1975) (finding that, although respondent's misconduct did not involve securities, NASD was justified in concluding that, on another occasion, it might)).

<sup>111</sup> *Saad*, 2010 SEC LEXIS 1761, at \*32 (citations omitted).

FINRA's final disciplinary action in this matter. The bars will become effective immediately if this Decision becomes FINRA's final disciplinary action in this proceeding.<sup>112</sup>

**HEARING PANEL**

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By: Maureen A. Delaney  
Hearing Officer  
For the Hearing Panel

Copies to:

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<sup>112</sup> The Hearing Panel has considered and rejects without discussion all other arguments of the parties.