

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)  
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DAVID ADAM ELGART  
(CRD No. 825759),

Respondent.

Disciplinary Proceeding  
No. 2013035211801

**COMPLAINT**

The Department of Enforcement alleges:

**SUMMARY**

1. From December 2005 to December 22, 2013, while associated with FINRA member firm Sequoia Investments, Inc. (Sequoia), Respondent David Adam Elgart (Elgart) was subject, at various times, to five unsatisfied tax liens totaling almost \$390,000. Respondent Elgart willfully failed to timely amend his Uniform Application for Securities Industry Registration or Transfer Form (Form U4) to disclose these tax liens as required.
2. Elgart's willful failure to timely amend his Form U4 to disclose the liens was in contravention of Article V, Section 2(c) of the NASD and FINRA By-Laws and violated FINRA Rule 2010 (with respect to conduct occurring on or after December 15, 2008), NASD Conduct Rule 2110 (with respect to conduct occurring before December 15, 2008), FINRA Rule 1122 (with respect to conduct occurring on or after August 17, 2009), and NASD IM-1000-1 (with respect to conduct occurring before August 17, 2009).

3. Elgart also falsely completed and submitted to FINRA a Personal Activity Questionnaire (PAQ), which misled FINRA by attesting that he had not been the subject of any lien filings when he knew that he had been, in violation of FINRA Rule 2010.

#### **RESPONDENT AND JURISDICTION**

4. Elgart first became associated with a FINRA member firm in May 1971. Elgart was first registered as a general securities representative and as a municipal securities principal in January 1976. Elgart was also registered as a general securities principal and as an operations professional. Elgart was associated with various FINRA member firms from May 1971 until July 1998. Elgart was then associated with Sequoia in August 1998. Elgart remains registered with FINRA through Sequoia in each of the above-referenced capacities.
5. Elgart has served as Sequoia's President and Chief Compliance Officer (CCO) since 1998. Furthermore, Elgart is responsible for ensuring that form filings, including Form U4s, are kept current and amended as necessary.
6. By virtue of Elgart's current association and current registration with Sequoia, he is subject to FINRA's jurisdiction under Article V of FINRA's By-Laws.

#### **FACTUAL BACKGROUND**

7. On or about July 17, 1998, Elgart completed a Form U4 to become associated with Sequoia. At that time, and during all other times relevant to this Complaint, the Form U4 included the question, "Do you have any unsatisfied judgments or liens against you?" Respondent Elgart reported that he was not subject to any liens or unsatisfied judgments.
8. After Elgart submitted his July 17, 1998 Form U4, he became the subject of at least six tax liens recorded between June 2003 and June 2010 as follows:

- On June 10, 2003, the IRS recorded a federal tax lien against Elgart in the amount of \$150,843.50 (June 2003 lien). The June 2003 lien remains unsatisfied and has not been released.
  - On December 12, 2005, the State of Georgia filed a tax lien against Elgart in the amount of \$6,962.92 (December 2005 lien). The December 2005 lien remains unsatisfied and has not been released.
  - On January 11, 2007, the IRS recorded a federal tax lien against Elgart in the amount of \$19,175.80 (January 2007 lien). The January 2007 lien was released on February 7, 2007.
  - On November 3, 2008, the IRS recorded a federal tax lien against Elgart in the amount of \$130,137.74 (November 2008 lien). The November 2008 lien remains unsatisfied and has not been released.
  - On April 6, 2009, the State of Georgia filed a tax lien against Respondent Elgart in the amount of \$27,236.57 (April 2009 lien). The April 2009 lien remains unsatisfied and has not been released.
  - On June 2, 2010, the IRS recorded a federal tax lien against Respondent Elgart in the amount of \$73,575.25 (June 2010 lien). The June 2010 lien remains unsatisfied and has not been released.
9. Respondent Elgart was put on notice of the June 2003, December 2005, January 2007, November 2008, April 2009, and June 2010 liens at or about the time that each was recorded or at least by January 2013.
10. Elgart's Form U4 was amended 13 times from July 2003 through December 22, 2013. None of the amendments disclosed any of the liens listed above.

11. From January 2, 2013 through December 22, 2013, after Elgart was advised of the liens by his attorney as he initially indicated, Elgart filed four amendments to his Form U4. All of these amendments were done to add State registrations and did not disclose any of the liens listed above.
12. On December 23, 2013, Respondent Elgart filed a supplementary amendment to his Form U4 disclosing the June 2003, December 2005, January 2007, November 2008, April 2009, and June 2010 liens.

### **FIRST CAUSE OF ACTION**

#### **Willful Failure to Timely Amend Form U4 to Disclose Tax Liens (Article V, Section 2(c) of the NASD and FINRA By-Laws, NASD IM-1000-1, NASD Conduct Rule 2110, and FINRA Rules 1122 and 2010)**

13. The Department realleges and incorporates by reference paragraphs 1 through 12 above.
14. A person registering with FINRA must comply with FINRA's By-Laws by filing a Form U4 and provide the information to FINRA that it requires. Article V, Section 2(c) of the FINRA By-Laws generally provides that every application for registration filed with FINRA shall be kept current at all times by supplementary amendments that must be filed within 30 days after learning of the facts or circumstances giving rise to the amendment.
15. NASD IM-1000-1 and its successor, FINRA Rule 1122 (effective August 17, 2009), prohibit associated persons from filing or failing to correct registration information, after notice, that is incomplete or inaccurate so as to be misleading.
16. Question 14M of the Form U4 asks, "Do you have any unsatisfied judgments or liens against you?" If an affirmative answer is given to Question 14M, the associated person is required to provide details about the lien or judgment.

17. Elgart willfully failed to file or cause to be filed a supplementary amendment to his Form U4 within 30 days to correct material information that had become inaccurate, after learning of the June 2003, December 2005, November 2008, April 2009, and June 2010 tax liens, regarding delinquent taxes owed by Elgart.
18. Specifically, Elgart willfully failed to amend his Form U4 until December 23, 2013, to disclose the June 2003, December 2005, November 2008, April 2009, and June 2010 tax liens, despite having notice of the liens at or about the time that each was recorded.
19. Elgart's failure to amend his Form U4 in accordance with the timeframe set forth in Article V, Section 2(c) of the NASD and FINRA By-Laws was willful.
20. By reason of the foregoing, Elgart acted in contravention of Article V, Section 2(c) of the NASD and FINRA By-Laws and violated NASD IM-1000-1 (with respect to conduct occurring before August 17, 2009), NASD Conduct Rule 2110 (with respect to conduct occurring before December 15, 2008), and FINRA Rules 1122 (with respect to conduct occurring on or after August 17, 2009) and 2010 (with respect to conduct occurring on or after December 15, 2008).

## **SECOND CAUSE OF ACTION**

### **False Statement to FINRA (FINRA Rule 2010)**

21. Enforcement realleges and incorporates by reference Paragraphs 1 through 20 above.
22. Prior to the commencement of its 2013 examination of Sequoia, FINRA requested that Elgart complete a PAQ.
23. The PAQ asked, among other questions, the following: "Do you have any unsatisfied judgments or liens against you? If so, provide details as to each."

24. At the time Elgart completed the PAQ he was on notice of and the subject of at least five unsatisfied liens namely, the June 2003, December 2005, November 2008, April 2009, and June 2010 liens.
25. However, Elgart falsely answered “No” to the question on the PAQ regarding whether he had any unsatisfied liens.
26. Elgart completed the PAQ, signed it on November 25, 2013 and forwarded the PAQ including the false answer to FINRA.
27. Elgart misled FINRA by falsely completing and submitting the PAQ, thus acting in bad faith and failing to observe high standards of commercial honor and just and equitable principles of trade.
28. By reason of the foregoing, Elgart violated FINRA Rule 2010.

#### **RELIEF REQUESTED**

WHEREFORE, Enforcement respectfully requests that the Panel:

- A. Make findings of fact and conclusions of law that Elgart committed the violations charged and alleged herein;
- B. Order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed.
- C. Order that Elgart bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and
- D. Make specific findings that Elgart’s conduct, as alleged herein, was willful; the omitted information was material; and the omission to state material facts was on a Form U4 application.

**FINRA DEPARTMENT OF ENFORCEMENT**

Date:

11/10/15



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William Brice La Hue, Senior Regional Counsel  
FINRA Department of Enforcement  
Atlanta District Office  
One Securities Centre, Suite 500  
3490 Piedmont Road, N.E.  
Atlanta, Georgia 30305  
Phone: (404) 239-6111; Fax: (404) 264-1586  
E-Mail: [brice.lahue@finra.org](mailto:brice.lahue@finra.org)  
and [teresa.reich@finra.org](mailto:teresa.reich@finra.org) (senior paralegal)

David B. Klafter, Regional Chief Counsel  
FINRA - Enforcement Department  
5200 Town Center Circle, Suite 200  
Boca Center Tower 1  
Boca Raton, Florida 33486  
Phone: (561) 443-8110; Fax: (561) 443-7998  
E-Mail: [david.klafter@finra.org](mailto:david.klafter@finra.org)

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