

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

James E. Scott (CRD # 2984252),

Respondent.

DISCIPLINARY PROCEEDING
No. 2013035723501

HEARING OFFICER: RSH

**ORDER ACCEPTING OFFER
OF SETTLEMENT**

Date: April 10, 2015

INTRODUCTION

Disciplinary Proceeding No. 2013035723501 was filed on July 14, 2014, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent James Scott submitted an Offer of Settlement (Offer) to Complainant dated April 6, 2015. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint (as amended by the Offer of Settlement), and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of

the Complaint (as amended by the Offer of Settlement), and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Scott first became associated with a FINRA member firm in 1997, and he received his Series 7 registration in January 1998. During his career in the securities industry, Scott has been associated with eleven different FINRA or NASD member firms. Between March 28, 2012 and December 18, 2012, Scott was registered with FINRA through FSC as a General Securities Representative. From August 16, 2012 through December 18, 2012, Scott was also associated with FSC and registered with FINRA as a General Securities Principal. In December 2012, Scott terminated his employment with FSC and moved to another FINRA member firm. During the course of his career in the securities industry, Scott also obtained his Series 63 and 66 licenses.

Scott voluntarily resigned from a FINRA member firm in July 2014. That firm filed a Uniform Termination Notice for Securities Industry Resignation (Form U5) on behalf of Scott on July 24, 2014. Pursuant to Article V of FINRA's By-Laws, FINRA retains jurisdiction over Scott because he was associated with a FINRA member firm at the time the Complaint was filed.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

SUMMARY

1. From April 2012 through December 2012 (the "Relevant Time Period"), James E. Scott ("Scott" or "Respondent") knowingly and substantially aided and abetted RO in engaging in the recommendation and sale of securities transactions in Texas when RO was not registered with the State of Texas or, for the time period of April 5, 2012 to August 9, 2012, with FINRA. Scott, who was RO's long-time sales assistant, engaged in this conduct while he was associated

with FSC Securities Corporation (“FSC” or the “Firm”) and while RO’s association with FSC was pending. Specifically, Scott repeatedly facilitated RO’s efforts to continue acting as a securities broker despite RO’s unregistered status by: (1) facilitating investment seminars for RO to solicit investment business from current and potential clients; (2) making arrangements to allow RO to meet with current and potential clients to solicit investment business; and (3) executing trades brokered by RO for clients. By engaging in this conduct, Scott aided and abetted RO’s violations of Section 15(a)(1) of the Securities Exchange Act of 1934 (the “1934 Act”) and thereby violated FINRA Rule 2010.

2. In addition, between June 14, 2012 and August 9, 2012, Scott shared at least \$45,700 of his transaction-based commission income with RO while RO was unregistered with the State of Texas or with FINRA. Through these actions, Scott violated NASD Conduct Rule 2420 and FINRA Rule 2010.

3. Finally, during his on-the-record testimony (“OTR”) on April 17, 2013, Scott knowingly provided false information to FINRA staff regarding the nature of his relationship with RO and the conduct of Scott and RO during the Relevant Time Period. Specifically, Scott falsely testified that RO played no material role in seminar presentations to customers and potential clients. Scott also provided false testimony in his OTR about RO’s extensive involvement in providing securities advice and making investment recommendations to various customers, and Scott’s execution of transactions that had been recommended, brokered and/or arranged by RO. Scott’s sworn testimony on these topics was material to FINRA’s investigation, and his false answers impeded that investigation. Through these actions, Scott violated FINRA Rules 2010 and 8210.

RELEVANT INDIVIDUALS OTHER THAN RESPONDENT

4. RO entered the securities industry in May 1991 and held the Series 7, 8, 24, 63 and 65 licenses. Throughout his career, RO was associated with ten different FINRA or NASD member firms. In April 2012, RO was involuntarily terminated by a FINRA member firm. RO thereafter was asked to become associated with FSC, but RO's association with FSC remained pending at all relevant times because RO's registration with the State of Texas was never approved.

5. In February 2014, RO was barred from association with any FINRA member firm in any capacity by the terms of an Order Accepting Offer of Settlement to resolve a FINRA disciplinary proceeding involving charges of undisclosed outside business activities, improper loans to customers and false testimony to FINRA.

STATEMENT OF FACTS

6. Scott first became RO's sales assistant when both of them were associated with a member firm in 2006. Scott continued to work as RO's sales assistant at other member firms through April 2012. Although Scott did have certain of his own clients, the vast majority of his time was spent servicing RO's approximately 300 clients.

7. In April 2012, RO was involuntarily terminated by a FINRA member firm. The Form U5 filed on his behalf indicates that RO was terminated because "the firm believes [he] helped facilitate transactions in life settlement contracts through a 3rd party without the firm's knowledge or consent." Because his primary role at this member firm was as RO's sales assistant, Scott's employment was also terminated involuntarily.

8. FSC agreed to hire RO and Scott immediately after their terminations, subject to their registrations being approved by FINRA and the State of Texas. Scott was immediately

registered with both the State of Texas and with FINRA as a General Securities Representative. He became associated with FSC in April 2012.

9. RO's registration with FINRA was not approved until August 9, 2012, and his registration with the State of Texas was never approved. As a result, RO's association with FSC was "pending" rather than "active" during the Relevant Time Period. For this reason, FSC never issued RO a representative production code or firm-sponsored email account, and never permitted him to submit a ticket, transaction, or trade. Accordingly, RO was not permitted to conduct a securities business in Texas at any time during the Relevant Time Period.

10. Scott was aware at all times during the Relevant Time Period that RO was not registered with the State of Texas and thus was not permitted to engage in the securities business in Texas. Scott also was aware that RO was not registered at FINRA for a period of time after joining FSC.

11. Despite knowing that RO was not registered with the State of Texas during the Relevant Time Period, RO, with the assistance of Scott, conducted dinner seminars in Texas with current and potential customers in order to generate new business. RO and Scott conducted three such dinner seminars in May 2012, and three additional dinner seminars in September 2012.

12. During each of these seminars, RO gave a substantive presentation dealing with his management of client portfolios and the benefits of owning non-correlated assets. RO then introduced GW, a wholesale representative for a variable annuity company, who would also provide a substantive presentation. Scott's role at these dinner seminars was not substantive, and was limited to giving a three to five minute discussion on the evening's agenda and introducing RO.

13. RO's active participation in these seminars was in direct contravention of instructions that Scott and RO received from a supervisor at FSC, who informed Scott and RO that such activity would not be appropriate while RO was not registered in Texas.

14. During the Relevant Time Period, RO also met with FSC customers (as well as prospective customers) in Texas, including at the office space he shared with Scott. On some occasions, Scott would also attend these meetings. During these meetings, RO provided comprehensive investment advice to these customers and made investment recommendations to them.

15. In order to execute the transactions that RO brokered during the Relevant Time Period, RO forwarded customer requests and trades to Scott, and regularly communicated with Scott about customers' investments and financial planning.

16. During the Relevant Time Period, FSC customers KB and MB (a married couple), JW, and WB (all of whom are Texas residents) each purchased a variable annuity that RO had recommended to them. Each of these customers met with RO in Texas at least once prior to making their purchase, and all of their substantive discussions about these investments were with RO. Scott did not attend any of the meetings with customers KB and MB, and WB. Although Scott did attend a meeting with customer JW, Scott did not contribute substantively to the discussions or make investment recommendations, and JW viewed Scott's role as an administrative one. Scott nonetheless executed each of these variable annuity transactions and was paid the commission associated with the transactions.

17. Between June 14, 2012 and August 9, 2012 (the date that RO's registration with FINRA was approved), Scott received \$117,369.78 in transaction-based commissions from FSC.

During this time period, Scott paid \$45,700, or 39%, of the total transaction-based commissions he received from FSC to RO.

AIDING AND ABETTING VIOLATIONS OF THE REGISTRATION
REQUIREMENTS OF SECTION 15(a)(1) OF THE 1934 ACT
(VIOLATION OF FINRA RULE 2010)

18. During the Relevant Time Period, RO engaged in a primary violation of the federal securities laws – specifically, Section 15(a)(1) of the 1934 Act – by making use of the mails or any means or instrumentality of interstate commerce to effect transactions in, or to induce or attempt to induce the purchase or sale of, securities despite the fact that he was not an associated person of a broker or dealer as that term is defined by Section 3(a)(18) of the 1934 Act, or otherwise permitted to engage in the securities business pursuant to Section 15(b) of the 1934 Act.

19. During the Relevant Time Period, and despite not being an associated person of a broker or dealer, RO solicited investments and participated in investment dinner seminars with prospective clients in Texas. Moreover, RO met with clients and potential clients and recommended securities during those meetings in Texas and arranged for the purchase of recommended securities by and through Scott at FSC. RO and Scott made use of the telephone, mail and/or other instrumentalities of interstate commerce in connection with this conduct.

20. Scott was generally aware that his role in facilitating the foregoing seminars and meetings, executing transactions that had been brokered or recommended by RO, and sharing a substantial portion of transaction-based commissions Scott received from FSC with RO was essential to RO's ongoing participation in the securities business while unregistered, and that RO's conduct violated the aforementioned registration requirements.

21. Through FSC, Scott knowingly and substantially assisted RO in his violation of the federal securities laws by facilitating the foregoing seminars and meetings, executing securities transactions that RO had recommended, brokered, or arranged with FSC customers and sharing a substantial portion of transaction-based commissions Scott received from FSC with RO. RO could not have continued to successfully engage in securities transactions, without proper registration, during the Relevant Time Period without Scott's material assistance.

22. As a result of the foregoing conduct, Scott aided and abetted RO's primary violation of Section 15(a)(1) of the 1934 Act, and thereby Scott failed to observe high standards of commercial honor and just and equitable principals of trade, in violation of FINRA Rule 2010.

SHARING COMMISSIONS WITH AN UNREGISTERED INDIVIDUAL
(NASD CONDUCT RULE 2420 AND FINRA RULE 2010)

23. Between June 14, 2012 and August 9, 2012 (the date that RO's registration with FINRA was approved), Scott, while registered with FINRA and associated with FSC, received \$117,369.78 in transaction-based commissions related to the sale of securities to FSC customers. Most of the business on which these commissions were based was derived from customers associated with RO, either at a prior firm or as a result of his activities during the Relevant Time Period when he was not registered.

24. During this time period, Scott directed a total of \$45,700, or 39% of the total transaction-based compensation he received from FSC, to RO, who was not registered with FINRA or the State of Texas at that time, and thus not permitted to participate in the securities business. Scott's payments to RO were made within days of Scott's receipt of the commissions from FSC and represented compensation to RO for RO's investment recommendations to and

solicitation of securities business from his customers, and/or for the referral of these customers by RO to Scott.

25. Neither Scott nor RO disclosed their commission-sharing payment arrangement to anyone at FSC.

26. As a result of the foregoing conduct, Scott violated NASD Conduct Rule 2420 and thereby Scott failed to observe high standards of commercial honor and just and equitable principals of trade in violation of FINRA Rule 2010.

PROVIDING FALSE TESTIMONY TO FINRA STAFF
(FINRA RULES 2010 AND 8210)

27. FINRA Rule 8210 requires a person associated with a member or subject to FINRA's jurisdiction to appear for testimony, if requested, and to answer all questions truthfully under oath or affirmation and on-the-record.

28. On April 17, 2013, Scott appeared in Dallas, Texas for an OTR interview in response to a request to appear and give testimony pursuant to FINRA Rule 8210.

29. During his OTR interview, which was conducted under oath or affirmation, Scott was expressly reminded that he was testifying under oath, that he had an obligation to testify truthfully, and that the potential consequences for providing false testimony included FINRA disciplinary proceedings with sanctions up to and including a bar from the securities industry. After providing a false answer in response to a question, Scott was again reminded of his obligation to tell the truth and of the potential consequences for failing to do so.

30. Notwithstanding the foregoing instructions, Scott continued to knowingly provide false testimony during the OTR. Specifically, Scott falsely testified that:

- RO did not participate substantively at any of the dinner seminars during the Relevant Time Period;
- Scott never witnessed RO meeting with FSC customers and that Scott and RO did not jointly meet with FSC customers during the Relevant Time Period;
- Scott had not executed securities transactions based on recommendations that were made by RO during the Relevant Time Period; and
- Scott, not RO, had made investment recommendations to customers during the Relevant Time Period.

31. Each of the foregoing answers was false. During the Relevant Time Period, RO participated in multiple dinner seminars with potential and current clients by giving substantive, approximately 20 minute presentations about asset allocation and the benefits of non-correlated assets. Also, during the Relevant Time Period, RO routinely met with and advised FSC customers (including in meetings at which Scott was present) about their investments. Finally, RO, not Scott, made investment recommendations that FSC customers accepted, and which Scott then executed through FSC. Scott also shared a substantial portion of the transaction-based commissions he received from FSC with RO, even though RO was not registered with FINRA or the State of Texas at that time.

32. For the reasons discussed above, Scott knew that each of the foregoing answers was false at the time he gave them.

33. This sworn testimony was material to FINRA's investigation because it related directly to the subject matter of that investigation, including RO's continued participation in the securities industry while unregistered and Scott's efforts to facilitate that participation. Scott's

false testimony constituted a clear attempt to conceal both his own and RO's misconduct, and thereby impeded FINRA's investigation.

34. As a result of the foregoing conduct, Scott violated FINRA Rule 8210 and thereby Scott failed to observe high standards of commercial honor and just and equitable principals of trade in violation of FINRA Rule 2010.

Based on the foregoing, Respondent aided and abetted RO's primary violation of Section 15(a)(1) of the 1934 Act and thereby violated FINRA Rule 2010, violated NASD Conduct Rule 2420 and FINRA Rule 2010 by improperly sharing commissions with RO, and violated FINRA Rules 2010 and 8210 by providing false testimony at his OTR.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

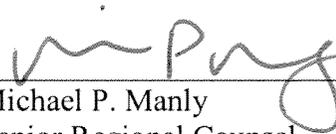
It is ordered that Respondent be barred from associating with any FINRA member in any and all capacities.

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA

Signed on behalf of the
Director of ODA, by delegated authority

A handwritten signature in black ink, appearing to read "M. Manly", is written over a horizontal line.

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