

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

Department of Enforcement,

Complainant,

v.

JOHN JOSEPH ARNOLD
(CRD No. 2854371),

Respondent.

Disciplinary Proceeding
No. 2013038333001

Hearing Officer - MJD

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: June 28, 2016

INTRODUCTION

Disciplinary Proceeding No. 2013038333001 was filed on October 8, 2015, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent John Joseph Arnold (Respondent or Arnold) submitted an Offer of Settlement (Offer) to Complainant dated June 13, 2016. 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, 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, 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

Arnold entered the securities industry in 1996 and has been associated with five present and former FINRA-member broker-dealers, including the Firm between June 2008 and September 2013. Arnold obtained the following securities licenses between 1997 and 2003: Series 7 (General Securities Representative), Series 63 (Uniform Securities State Law Examination), Series 66 (NASAA Uniform Combined State Law Examination), and Series 31 (Futures Managed Funds Examination).

Between November 2013 and June 2016, Arnold was associated with ABC, a FINRA-member broker-dealer, as a general securities representative. A Form U5 was filed on June 27, 2016 reporting that Arnold was terminated by ABC on June 17, 2016.

Although Arnold is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction for the purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed while Respondent was registered with ABC, and (2) the Complaint charges Arnold with misconduct committed while he was registered or associated with a FINRA member.

FINDINGS AND CONCLUSIONS

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

Summary

In August 2013, an imposter posing as KDL, a customer of Merrill Lynch, sent two emails to Arnold, a general securities representative associated with the Firm, requesting that two wire transfers totaling \$127,200 be sent to third-party bank accounts. Despite Merrill Lynch's requirement that Firm personnel verbally confirm all emailed wire instructions, Arnold instructed AL, a Firm sales assistant, to process these two wire requests, falsely representing to her that he had verbally confirmed each of the wire requests with customer KDL. Based on Arnold's representations, AL recorded in the Firm's books and records that both wire requests were verbally confirmed with the customer, when in fact Arnold did not speak with KDL about the wire transfer requests.

Arnold also caused the entry of additional fictitious information in the Firm's books and records concerning the purpose of a wire transfer request. In connection with the second wire request, Arnold falsely represented to AL that KDL needed the wire transfer to pay for medical costs. Relying on Arnold's representations, AL recorded in the Firm's books and records that the purpose of the wire transfer was to cover medical expenses.

In addition to requiring verbal authentication of emailed wire requests, Merrill Lynch required Firm personnel to obtain a LOA from a customer for wire requests exceeding \$50,000. The Firm also expressly prohibited its employees from structuring wire transfer requests over consecutive business days to avoid obtaining an LOA.

Notwithstanding the Firm's LOA requirements, Arnold structured the imposter's first wire request for \$77,200 by splitting it into two separate transfers executed over two consecutive business days. By structuring the imposter's wire request to send \$50,000 on one day and the remaining \$27,200 the next day, Arnold disguised from the Firm the true amount of the wire

request in order to evade Merrill Lynch's requirement that he obtain an LOA from KDL to process the \$77,200 wire request.

On August 8, 2013, a Merrill Lynch supervisor explicitly asked Arnold whether he had spoken with customer KDL to verbally confirm the first wire request. Arnold falsely represented to the supervisor that he had spoken with customer KDL.

As a result of the foregoing misconduct, Arnold violated FINRA Rule 2010 by making false statements to a Firm sales assistant in order to facilitate wire transfer requests and by making a false statement to a Merrill Lynch supervisor in order to conceal his own misconduct. Arnold also violated FINRA Rule 2010 by structuring a wire transfer request to circumvent Merrill Lynch's LOA requirements, thereby impeding the Firm's ability to supervise such transactions. Additionally, Arnold violated FINRA Rules 4511 and 2010 by causing the Firm to maintain inaccurate books and records, in contravention of Section 17(a) of the Securities Exchange Act of 1934 (the Exchange Act) and Rule 17a-3 thereunder.

Firm WSPs Required Verbal Verification & Prohibited Structuring

Merrill Lynch's written supervisory procedures (WSPs) in effect during August 2013 (the Relevant Period) required its employees to process wire transfer requests in a Firm web-based system (the ASAP system).

The Firm's WSPs prohibited its employees from accepting instructions for account transactions sent by email. In the event emailed instructions were received, Merrill Lynch's WSPs required its employees to verbally confirm all instructions with the customer or authorized person before effecting the transaction at issue.

Additionally, in connection with the receipt of verbal instructions from customers, the Firm's WSPs required its employees to obtain a written LOA for any wire request that exceeded

\$50,000. The WSPs also prohibited the structuring of verbal asset transfer requests over consecutive business days in order to avoid obtaining an LOA.

Arnold reviewed the Firm's WSPs pertaining to wire transfer instructions and LOAs. In or about May 2013, Arnold completed a Merrill Lynch online annual compliance certification form in which he certified that he was familiar with, understood, and would adhere to such Firm policies.

First Fraudulent Wire Request and Structuring of the Wire Transfers

During the Relevant Period, Arnold serviced the KDL "household" of accounts, which held around \$218 million in assets under management.

In or about early August 2013, a third-party improperly gained access into the personal email address of Firm customer KDL.

On or about August 7, 2013 (August 7th), an imposter posing as KDL sent Arnold an email (the August 7th Email) requesting a wire transfer of \$77,200 to the account of JCAT Inc., held at the Hialeah, Florida branch of DEF bank (the August 7th wire request).

According to the August 7th Email sent by the imposter, KDL was starting a board meeting and would be unable to verbally confirm the wire request for the rest of the day.

Unaware that he was not in fact communicating with KDL, Arnold sent the following email to the imposter in response:

Our limit for verbal instructions is \$50,000 per transfer per day. If you're okay with it, we can send \$50,000 today and the balance tomorrow. Let me know if that works and we'll send it expeditiously. Our cutoff time is 2:30 PST. If not, we'll require a signed letter of authorization. Sorry for the inconvenience.

Thanks.

Arnold did not contact KDL to verbally confirm the August 7th wire request. Instead, in subsequent emails with the imposter, Arnold asked for the last four digits of KDL's social security number, writing "[w]e've had a lot of fraudulent attempts at wire transfers via email lately." The imposter provided Arnold with the last four digits of KDL's social security number and agreed to have the funds wired over a two-day period as Arnold had suggested.

Arnold thereafter instructed AL, a Firm sales assistant, to process the August 7th wire request for \$77,200 by splitting the wire transfers over two consecutive days and transferring \$50,000 on August 7th and \$27,200 on August 8th. In order to complete the online wire request form in Merrill Lynch's ASAP system, AL asked Arnold for the date and time that he verbally confirmed the August 7th wire request with KDL. Arnold falsely replied that he had spoken with KDL on August 7th at 12:15 p.m.

Based on the false information she received from Arnold, AL recorded in the Firm's ASAP system that in connection with the August 7th wire request, Arnold had positively identified the customer "by voice or in person" on August 7th at 12:15 p.m.

The Firm thereafter wired \$50,000 out of customer KDL's account to the third-party account, as instructed by the imposter.

On or about August 8, 2013 ("August 8th"), Arnold sent an email to AL, asking if she was prepared to wire the remaining \$27,200 that day. Relying on the false information provided by Arnold on August 7th, AL completed another online ASAP request form to process a wire for the remaining \$27,200. AL again recorded in the ASAP system that Arnold had positively identified the customer "by voice or in person" on August 7th at 12:15 p.m.

On or about August 8th, the Firm wired \$27,200 out of customer KDL's account to the third-party account, as instructed by the imposter.

Arnold's Misrepresentation to a Firm Supervisor

On or about August 8th, AS, a centralized Firm email reviewer, emailed BH, a Client Relationship Manager for Arnold's complex. Questioning the nature of the August 7th Email and subsequent email correspondence between Arnold and the imposter, AS asked BH to review the correspondence and to take appropriate action to ensure that the August 7th wire request was properly authenticated.

BH called Arnold and asked him whether he had spoken with customer KDL over the telephone concerning the wire request referenced in the August 7th Email. Arnold falsely answered "yes."

Second Fraudulent Wire Request and Subsequent Transfer

On or about August 8th, Arnold received another email from the imposter (the August 8th Email), requesting a wire transfer of \$50,000 from KDL's account to the account of XYZ Service, held at the Bowie, Maryland branch of MNO bank (the August 8th wire request).

Arnold sent an email in response to the imposter, asking him to call so Arnold could speak with him. The imposter replied by email, stating that he was entering another board meeting and would call when he could.

After waiting approximately one-half hour for KDL to call, Arnold directed AL to process the August 8th wire request for \$50,000, even though he had not spoken with KDL to verify the wire instructions.

In processing the wire request, AL asked Arnold if he had verbally verified the August 8th wire request with KDL. Arnold falsely replied that he had spoken with KDL on August 8th at 10:50 a.m.

Additionally, AL asked Arnold for the purpose of the wire transfer. Arnold told AL that the funds to be wired were needed to cover medical expenses.

Relying on the false information she received from Arnold, AL recorded in the ASAP system that in connection with the August 8th wire request, Arnold positively identified the customer "by voice or in person" on August 8th at 10:50 a.m. and that the purpose for the wire was to cover medical payments.

The Firm thereafter wired \$50,000 out of customer KDL's account to the third-party bank account, as instructed by the imposter.

Discovery of the Fraud

On or about August 9, 2013, the imposter sent Arnold another email requesting an additional wire transfer of \$170,000 to JCAT Inc.

For the first time, Arnold called KDL to verbally verify the wire request. During Arnold's ensuing telephone conversation with KDL, Arnold learned that KDL's email account had been hacked and that KDL had not requested either the August 7th or the August 8th wire requests.

Arnold subsequently called BH and informed him that the wire requests from KDL's account were fraudulent. During the call with BH, Arnold admitted that he had lied to BH when he told BH that he had verbally verified the August 7th wire request with KDL.

The Firm reimbursed KDL \$127,200 for the fraudulent wire transfers that it had processed from his account.

Based on the foregoing, Respondent violated FINRA Rules 4511 and 2010.

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 suspended in all capacities for 60 days and fined \$15,000.

The sanctions herein shall be effective on a date set by FINRA staff.

The fine shall be due and payable either immediately upon reassociation with a member firm following the 60-day suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

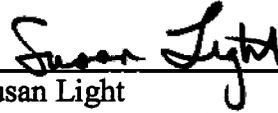
Respondent specifically and voluntarily waives any right to claim that he is unable to pay, now or at any time hereafter, the monetary sanction imposed in this matter.

Respondent understands that if he is suspended from associating with any FINRA member, he becomes subject to a statutory disqualification as that term is defined in Article III, Section 4 of FINRA's By-Laws, incorporating Section 3(a)(39) of the Securities Exchange Act of 1934. Accordingly, Respondent may not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of the bar or suspension. (See FINRA Rules 8310 and 8311.)

SO ORDERED.

FINRA

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

A handwritten signature in black ink, appearing to read "Susan Light", written over a horizontal line.

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