

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

Department of Enforcement,

Complainant,

v.

Joseph C. Farah (CRD No. 2978633),

Respondent.

DISCIPLINARY PROCEEDING  
No. 2014041432401

**COMPLAINT**

The Department of Enforcement alleges:

**SUMMARY**

1. While associated with Gold Coast Securities, Respondent Joseph C. Farah persuaded Gold Coast customer LN to open an account at TD Ameritrade and to provide him with discretionary authority over that account. Farah promised that he would reimburse LN for any losses in her TD Ameritrade account and, in exchange, take a portion of the profits.
2. There were, however, no profits. From November 2012 through October 2013, Farah churned and excessively traded LN's TD Ameritrade account—executing more than 600 trades that caused LN's account value to diminish by more than 25 percent.
3. Farah never informed Gold Coast that he had discretionary authority over LN's TD Ameritrade account. Nor did he inform Gold Coast that he had discretionary authority over four other TD Ameritrade accounts (belonging to three other individuals and one entity). To the contrary, on annual compliance questionnaires, he falsely denied having discretionary authority over any accounts.

4. On these annual compliance questionnaires, Farah also falsely denied involvement in any business enterprise. He never disclosed to Gold Coast that he had established and co-owned a corporation, Farah & Neal, Executive Benefits/Wealth Management Inc. (“Farah & Neal Benefits”) that was intended to provide financial advice to business owners.

5. Through this conduct, Farah violated: (i) Section 10(b) of the Securities Exchange Act of 1934, Rule 10b-5 thereunder, and FINRA Rules 2111, 2020 and 2010, by churning and excessively trading LN’s account (First and Second Causes of Action); (ii) NASD Rule 3050 and FINRA Rule 2010 by failing to notify Gold Coast that he had discretionary authority over five accounts and by failing to notify TD Ameritrade that he was a registered representative associated with Gold Coast (Third Cause of Action); (iii) FINRA Rules 3270 and 2010 by failing to disclose Farah & Neal Benefits as an outside business activity (Fourth Cause of Action); and (iv) FINRA Rule 2010 by providing materially false information to Gold Coast on its annual compliance questionnaires (Fifth Cause of Action).

#### **RESPONDENT AND JURISDICTION**

6. Farah entered the securities industry when he associated with a member firm in November 1997 and became registered as an Investment Company/Variable Contracts representative in March 1998. From September 2002 through his termination on September 15, 2015, Farah was associated with Gold Coast and registered as a General Securities Representative and as an Investment Company/Variable Contracts Representative. Although he is no longer registered or associated with a FINRA member, Farah remains subject to FINRA’s jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA’s By-Laws of the Corporation because (1) the Complaint was filed within two years after the effective date of termination of his registration with Gold Coast, namely, September 15, 2015, and (2) the

Complaint charges him with misconduct committed while he was registered or associated with a FINRA member.

## FACTS

### Churning LN's TD Ameritrade Account

7. Gold Coast customer, LN, is a self-employed artist who resides with her two adult children in Los Angeles. LN met Farah in the summer of 2011 in a step aerobics class that he taught at a local fitness club.

8. In October 2012, LN, at Farah's suggestion, opened a brokerage account at Gold Coast. Her Gold Coast Account Application reported "Long-term growth" as her investment objective and a "Moderate" risk tolerance. That month, Farah recommended, and LN purchased, a variable annuity. There were no other securities transactions in LN's Gold Coast account.

9. At the same time that Farah suggested that LN open a Gold Coast account, Farah also suggested that she open a TD Ameritrade account. Farah promised to reimburse LN for any losses in her TD Ameritrade account that exceeded five percent and, in exchange, would take 30 percent of the trading profits as compensation. LN agreed to open an account at TD Ameritrade as Farah recommended.

10. In early October 2012, Farah downloaded and completed a TD Ameritrade Account Application that LN signed. He also downloaded and completed a Trading Authorization Agreement, which gave him discretionary authority over her account authorizing him to buy and sell securities in LN's account without notice to LN, which he and LN signed. Farah promptly submitted the Account Application and Trading Authorization Agreement to TD Ameritrade to open LN's account and to enable him to trade securities in LN's account.

11. The TD Ameritrade Account Application correctly described LN's annual income as "\$25,000-\$49,999" and her "Approximate Net Worth" as "\$100,000-\$249,000," but incorrectly described her "Years of Investment Experience" as "1-2." In fact, LN had no investing experience. Prior to meeting Farah, she had never opened a brokerage account and had no experience buying and selling stocks.

12. Farah concealed from TD Ameritrade that he was a registered representative associated with Gold Coast. On the Trading Authorization Agreement, he identified his employer as "Eco Auto Bright Wash Corp." and wrote "N/A" in response to the question that asked whether he was licensed or employed by a registered broker-dealer.

13. Farah similarly concealed from Gold Coast his discretionary authority over LN's TD Ameritrade account (Account No. xxxx-5825). He falsely answered "no" on the firm's December 2012 and December 2013 annual compliance questionnaires that asked whether he had any arrangement with customers that gave him discretion to enter orders for any accounts.

14. On October 24, 2012, LN deposited \$35,000 to fund her TD Ameritrade account. She did not make any other deposits.

15. In November 2012, there were only four settled trades in LN's account. However, on November 26, 2012, Farah contacted TD Ameritrade and linked LN's account to his personal account, which enabled him to log on to his own account online and then access LN's account. Also that day, Farah telephoned TD Ameritrade and inquired why LN's account had not been updated to a "day-trading" account.<sup>1</sup> Two days later, on November 28, 2012, Farah began day-trading LN's account, *i.e.*, buying and selling the same security on the same day.

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<sup>1</sup> "Day-Trading" refers to the purchasing and selling or the selling and purchasing of the same security on the same day in a margin account.

16. In December 2012 and January 2013, Farah used his online access to place 43 settled trades in Apple Inc. (APPL) in LN's TD Ameritrade account (purchases totaling approximately \$782,000 and sales totaling approximately \$839,000). All of the transactions were day trades.

17. In February 2013, Farah dramatically increased his pace of trading in LN's TD Ameritrade account. That month, Farah used his online access to day-trade eleven securities in LN's TD Ameritrade account, executing a total of 147 settled trades (purchases and sales totaling more than \$8.2 million).

18. This pace of trading continued throughout spring and early fall of 2013, peaking in May 2013, when Farah continued to day-trade LN's account and executed a total of 125 settled trades in 11 securities (purchases and sales totaling more than \$8 million) in LN's account.

19. In total, from November 2012 through October 2013, Farah traded 33 securities in LN's TD Ameritrade account—frequently day-trading—and executed more than 600 trades (including 343 AAPL trades), involving purchases and sales totaling more than \$32 million.

20. By the end of September 2013, LN's account value had declined by about 25 percent.

21. Farah controlled LN's TD Ameritrade account during this entire period. He chose the stocks, the quantities, determined when the stocks would be purchased and sold, and executed the trades through his online access to her account. Although Farah traded frequently, often causing multiple transactions to be executed in any given day, he did not speak with LN about any of the trades or the status of her account.

22. LN was unaware of the activity in her TD Ameritrade account, but she was able to log on to her account and see that its value was diminishing.

23. On October 14, 2013, LN went to a TD Ameritrade office and explained that she had an agreement with Farah, who traded her account, but complained that she did not understand that she could suffer the losses that she had sustained. Four days later, on October 18, 2013, LN returned to the TD Ameritrade office and stated that she had tried to contact Farah, but he had not returned her call.

24. The trading in LN's TD Ameritrade account ceased on November 6, 2013, when LN changed the password and requested the removal of Farah's trading authority.

25. By November 2013, the damage had been done. The annualized turnover rate for LN's TD Ameritrade account, from November 2012 through October 2013, was approximately 532, and the annualized cost-to-equity ratio was more than 18 percent. LN sustained a realized loss of approximately \$8,900 as of October 31, 2013.

*Discretionary Authority Over Other TD Ameritrade Accounts*

26. While Farah was executing hundreds of trades in LN's account, he was also concealing his discretionary authority over four other TD Ameritrade Accounts.

27. In July 2012, Farah executed Trading Authorization Agreements and obtained discretionary authority over TD Ameritrade accounts belonging to SV (Account No. xxxx-0280), his wife, SHV (Account No. xxxx-8857), and his partnership, SLLP (Account No. xxxx-1447).

28. In May 2013, Farah executed a Trading Authorization Agreement and obtained discretionary authority over a TD Ameritrade account belonging to JC (Account No. xxxx-8842). On or about June 20, 2013, Farah executed a second Trading Authorization Agreement that

provided him and a business associate of his, MN, with discretionary authority over JC's account.

29. Farah concealed from TD Ameritrade that he was a registered representative, associated with Gold Coast. Farah identified his employer as "Joseph Farah Agency" on the Trading Authorizations for SV's, SHV's, and SLLP's accounts; "GCS/ECO AUTO" on the May 20, 2013 Trading Authorization for JC's account; and "Farah/Neal /Eco Auto Bright Wash Inc." on the June 20, 2013 Trading Authorization for JC's account. Farah left blank the response to the question that asked whether he was licensed or employed by a registered broker-dealer.

30. Farah similarly concealed from Gold Coast his discretionary authority over the TD Ameritrade Accounts belonging to SV, SHV, SLLP, and JC. As alleged above, he falsely answered "no" on the December 2012 and December 2013 annual compliance questionnaires that asked whether he had any arrangement with customers that gave him discretion to enter orders for any accounts.

*The Undisclosed Business — Farah & Neal Benefits*

31. At about the same time that Farah initially obtained discretionary authority over TD Ameritrade accounts, he also established a financial services company that he never disclosed to Gold Coast.

32. On or about July 20, 2012, Farah and MN incorporated Farah & Neal Benefits, a company that was intended to provide financial advice to business owners. Farah and MN each owned 50 percent of Farah & Neal Benefits. Farah was also the company's designated Agent for Service of Process and his home was the company's designated address.

33. Farah never told Gold Coast about Farah & Neal Benefits. Although Gold Coast annually inquired, on compliance questionnaires, whether a representative was "involved in any

business enterprise other than the sales of securities through [Gold Coast],” Farah never disclosed the existence of Farah & Neal Benefits.

**FIRST CAUSE OF ACTION**

**Churning**

**(Exchange Act Section 10(b), Rule 10b-5, and FINRA Rules 2020 and 2010)**

34. The Department realleges and incorporates by reference paragraphs 1–33.

35. Section 10(b) of the Exchange Act, Exchange Act Rule 10b-5, and FINRA Rule 2020 are anti-fraud rules. They prohibit associated persons from using manipulative, deceptive or other fraudulent devices or contrivances in connection with the purchase or sale of any security (Rule 10b-5) or to induce the purchase or sale of any security (FINRA Rule 2020).

36. Churning is a manipulative and deceptive device that violates Section 10(b), Rule 10b-5 thereunder, and FINRA Rule 2020. It is fraudulent conduct that occurs in a broker-customer relationship when (i) a broker controls his customer’s account; (ii) the trading in the account is excessive in light of the customer’s investment objectives; and (iii) the broker acts with intent to defraud or with reckless disregard of the customer’s interests.

37. Farah knew that LN had a limited income and net worth, no investment experience, was supporting her children, and unable to tolerate any significant loss. But he nonetheless day-traded her account, with all of the attendant risks and costs, and without discussing any of the transactions with LN. Moreover, Farah concealed what he was doing by failing to disclose that he was associated with a broker-dealer on the Trading Authorization Agreements, and by lying on Gold Coast’s annual compliance questionnaires.

38. Farah controlled LN’s account. His trading in LN’s TD Ameritrade account created risks that were incompatible with her investment needs and welfare. The trading was, as

evidenced by the number of trades, the extraordinary turnover rate, and the cost-to-equity ratio, excessive and inconsistent with LN's investment objective and financial situation.

39. Farah, with scienter, engaged in a manipulative, deceptive and fraudulent scheme. He acted with intent to defraud or, at the very least, with reckless disregard of LN's interests.

40. The acts and transactions at issue were accomplished by the use or means of the instrumentalities of interstate commerce and through the mail and involved securities transactions on a national securities exchange.

41. As a result of the foregoing conduct, Farah willfully violated Section 10(b) of the Exchange Act, Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010 by churning LN's account.

**SECOND CAUSE OF ACTION**  
**Suitability — Excessive Trading**  
**(FINRA Rules 2111 and 2010)**

42. The Department realleges and incorporates by reference paragraphs 1–41 above.

43. The suitability rule, FINRA Rule 2111, imposes a “quantitative suitability,” obligation which focuses on whether the number of transactions within a given timeframe is suitable in light of the customer's financial circumstances and investment objectives. Excessive trading occurs, and is unsuitable, when a registered representative, while exercising control over a customer's account, recommends a level of trading activity that is inconsistent with the customer's investment needs and objectives.

44. As described above, Farah controlled LN's account. His trading in LN's TD Ameritrade account created risks that were incompatible with her investment needs and welfare. The trading was, as evidenced by the number of trades, the exorbitant turnover rate, and the cost-

to-equity ratio, excessive and inconsistent with LN's investment objective and financial situation.

45. As a result of the foregoing conduct, Farah violated FINRA Rules 2111 and 2010 by engaging in excessive and unsuitable trading in LN's account.

### **THIRD CAUSE OF ACTION**

#### **Failure to Notify Member and Executing Firm of Discretionary Authority (NASD Rule 3050 and FINRA Rule 2010)**

46. The Department realleges and incorporates by reference paragraphs 1–45 above.

47. NASD Rule 3050(c) requires that an associated person “prior to opening an account or placing an initial order for the purchase or sale of securities with another member, shall notify both the employer member and the executing member, in writing, of his or her association with the other member.” NASD Rule 3050(e) extends this notice requirement to accounts over which the associated person has discretionary authority.

48. Farah failed to provide Gold Coast with written notice of his discretionary authority over TD Ameritrade accounts held by LN, SV, SHV, SLLP, and JC, and he failed to provide written notice to TD Ameritrade that he was associated with Gold Coast.

49. As a result of the foregoing conduct, Farah violated NASD Rule 3050 and FINRA Rule 2010.

### **FOURTH CAUSE OF ACTION**

#### **Undisclosed Outside Business Activities (FINRA Rules 3270 and 2010)**

50. The Department realleges and incorporates by reference paragraphs 1– 49 above.

51. FINRA Rule 3270 prohibits associated persons from engaging in any business activity outside the scope of their relationship with their employer firm, unless they have provided prior written notice to their firm. To comply with this requirement, an associated

person must disclose an outside business activity when steps are initially taken to commence any business activity unrelated to his relationship with his firm.

52. Farah failed to provide Gold Coast with prior written notice—and, indeed, any notice at all—of his creation of, and involvement with, Farah & Neal Benefits.

53. As a result of the foregoing conduct, Farah violated FINRA Rules 3270 and 2010.

**FIFTH CAUSE OF ACTION**  
**Material Misrepresentations to the Firm**  
**(FINRA Rule 2010)**

54. The Department realleges and incorporates by reference paragraphs 1–53 above.

55. FINRA Rule 2010 is an ethical standards rule that requires an associated person to observe high standards of commercial honor and just and equitable principles of trade. It is a violation of FINRA Rule 2010 for a registered representative to make false statements to his member firm, including making false statements on a firm’s compliance questionnaires.

56. In December 2012 and December 2013, Farah completed the firm’s annual compliance questionnaires, certified that they were accurate, and submitted them to Gold Coast.

57. On the 2012 and the 2013 compliance questionnaires, Farah failed to identify Farah & Neal Benefits in response to Question No. 16 that asked, “Are you involved in any business enterprise other than the sales of securities through GCS and the sales of life, health and/or disability insurance (*i.e.* outside business activities)?” Although Farah identified his auto detailing company, Eco Auto Brite Wash, and his employment as a fitness instructor, he made no reference to Farah & Neal Benefits.

58. On the 2012 and the 2013 compliance questionnaires, Farah also falsely answered “no” in response to Question No. 19 that asked, “Do you have any arrangement with customers giving you discretion to enter orders for any accounts?” This answer was false because Farah

had discretion, *i.e.*, authority to trade securities in TD Ameritrade accounts belonging to LN, SV, SHV, SLLP, and JC.

59. Farah made material misrepresentations to Gold Coast by falsely responding to questions on the firm's 2012 and 2013 compliance questionnaires.

60. As a result of the foregoing conduct, Farah violated FINRA Rule 2010.

**RELIEF REQUESTED**

**WHEREFORE**, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, that Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330;

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- D. make specific findings that Respondent willfully violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5 thereunder.

**FINRA DEPARTMENT OF ENFORCEMENT**

Date: May 8, 2017

  
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