

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

BERNARDO MISSERI
(CRD No. 2713297),

Respondent.

DISCIPLINARY PROCEEDING
No. 2015046005901

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From September 2009 through June 2015 (the "Relevant Period"), Bernardo Misseri ("Respondent") willfully failed to timely disclose four unsatisfied federal tax liens, three unsatisfied state tax warrants and one compromise with a creditor, which totaled over \$335,000, on his Uniform Application for Securities Industry Registration or Transfer ("Form U4"). Respondent's willful failure to disclose material facts on his Form U4 violated Article V, Section 2 of the FINRA By-Laws, FINRA Rules 1122 and 2010.

RESPONDENT AND JURISDICTION

2. Respondent first became registered with FINRA in January 1998 as a General Securities Representative ("GSR"). From September 1997 through April 2006, Respondent was registered as a GSR through six other FINRA member firms. From September 2009 through December 2016, Respondent was registered with FINRA as a GSR through an association with Legend Securities, Inc. ("Legend Securities").

3. Although Respondent is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the effective date of termination of Respondent's registration with Legend Securities, namely, December 2, 2016; and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member.

CAUSE OF ACTION

Willful Failure to Update Form U4 (Article V, Section 2 of FINRA By-Laws, FINRA Rules 1122 and 2010)

Failure to Timely Disclose Tax Liens

4. During the Relevant Period, Respondent failed to disclose four unsatisfied federal tax liens and three unsatisfied state tax warrants (collectively referred to as the "Tax Liens") on his Form U4.
5. At all relevant times, Question 14M of the Form U4 asked, "Do you have any unsatisfied judgments or liens against you?"
6. If a registered representative affirmatively answers Question 14M on his Form U4, then he is required to provide detailed information about each unsatisfied judgment or lien, including the amount and filing date of the judgment or lien. The representative is required to make the disclosure within 30 days of learning of the facts that are required to be disclosed.

2008 NYS State Tax Warrant

7. On or about March 3, 2008, New York State Department of Taxation and Finance ("NYS Taxation Dep't") filed a state tax warrant against Respondent in the amount of \$37,321 (the "2008 State Tax Warrant").

8. Respondent received notice of the 2008 State Tax Warrant at or about the time that it was filed.
9. The 2008 State Tax Warrant was first disclosed on Respondent's Form U4 on March 28, 2014.
10. The 2008 State Tax Warrant was unsatisfied until on or about January 2, 2013.
11. On September 8, 2009, Respondent completed a Form U4 to become associated with Legend Securities. Respondent did not disclose the 2008 State Tax Warrant on his Form U4.
12. Between September 9, 2009 and March 28, 2014, Respondent's Form U4 was amended 25 times. The 2008 State Tax Warrant was not disclosed in any of those amendments.
13. The 2008 State Tax Warrant constitutes a material fact and Respondent's failure to disclose it timely on his Form U4 was willful.

2010 Federal Tax Lien

14. On or about July 23, 2010, the IRS filed a federal tax lien against Respondent in the amount of \$217,156 (the "2010 Federal Tax Lien").
15. The 2010 Federal Tax Lien is unsatisfied.
16. Respondent received notice of the 2010 Federal Tax Lien at or about the time that it was filed.
17. The 2010 Federal Tax Lien was first disclosed on Respondent's Form U4 on March 28, 2014.
18. The 2010 Federal Tax Lien constitutes a material fact and Respondent's failure to timely disclose it on his Form U4 was willful.

2013 Federal Tax Lien

19. On or about December 3, 2013, the IRS filed a federal tax lien against Respondent in the amount of \$14,564 (the "2013 Federal Tax Lien").
20. Respondent received notice of the 2013 Federal Tax Lien at or about the time that it was filed.
21. The 2013 Federal Tax Lien was first disclosed on Respondent's Form U4 on March 28, 2014.
22. The 2013 Federal Tax Lien was released by the IRS on or about March 12, 2014.
23. The 2013 Federal Tax Lien constitutes a material fact and Respondent's failure to timely disclose it on his Form U4 was willful.

2014 NYS State Tax Warrant

24. On or about June 16, 2014, the NYS Taxation Dep't filed a state tax warrant against Respondent in the amount of \$11,884 (the "2014 State Tax Warrant").
25. Respondent received notice of the 2014 State Tax Warrant at or about the time that it was filed.
26. The 2014 State Tax Warrant was first disclosed on Respondent's Form U4 on June 19, 2015.
27. The 2014 State Tax Warrant is unsatisfied.
28. The 2014 State Tax Warrant constitutes a material fact and Respondent's failure to disclose it timely on his Form U4 was willful.

2014 Federal Tax Lien

29. On or about October 30, 2014, the IRS filed a federal tax lien against Respondent in the amount of \$37,847 (the "2014 Federal Tax Lien").

30. Respondent received notice of the 2014 Federal Tax Lien at or about the time that it was filed.
31. The 2014 Federal Tax Lien was first disclosed on Respondent's Form U4 on June 19, 2015.
32. The 2014 Federal Tax Lien is unsatisfied.
33. The 2014 Federal Tax Lien constitutes a material fact and Respondent's failure to timely disclose it on his Form U4 was willful.

2015 Federal Tax Lien

34. On or about January 23, 2015, the IRS filed a federal tax lien against Respondent in the amount of \$7,662 (the "2015 Federal Tax Lien").
35. Respondent received notice of the 2015 Federal Tax Lien at or about the time that it was filed.
36. The 2015 Federal Tax Lien was first disclosed on Respondent's Form U4 on June 19, 2015.
37. The 2015 Federal Tax Lien is unsatisfied.
38. The 2015 Federal Tax Lien constitutes a material fact and Respondent's failure to timely disclose it on his Form U4 was willful.

2015 NYS State Tax Warrant

39. On or about March 30, 2015, the NYS Taxation Dep't filed a state tax warrant against Respondent in the amount of \$6,746 (the "2015 State Tax Warrant").
40. Respondent received notice of the 2015 State Tax Warrant at or about the time that it was filed.
41. The 2015 State Tax Warrant was first disclosed on Respondent's Form U4 on June 19, 2015.
42. The 2015 State Tax Warrant is unsatisfied.

43. The 2015 State Tax Warrant constitutes a material fact and Respondent's failure to timely disclose it on his Form U4 was willful.

Failure to Timely Disclose Compromise with a Creditor

44. During the Relevant Period, Respondent failed to timely disclose one compromise with a creditor on his Form U4.

45. At all relevant times, Question 14K(1) of the Form U4 asked, "Within the past 10 years have you made a compromise with creditors, filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition?"

46. If a registered representative affirmatively answers Question 14K on his Form U4, then he is required to provide detailed information about each compromise, including the creditor's name, original amount owed and terms reached with the creditor. The representative is required to make the disclosure within 30 days of learning of the facts that are required to be disclosed.

47. On or about May 26, 2010, Respondent settled a debt of \$3,314 that he owed to LVNV Funding for \$2,200.00 ("LVNV Compromise").

48. The LVNV Compromise was first disclosed as a lien on Respondent's Form U4 on March 28, 2014.

49. The LVNV Compromise constitutes a material fact and Respondent's failure to disclose it on his Form U4 was willful.

50. Article V, Section 2(c) of the FINRA By-Laws requires that associated persons keep their Forms U4 "current at all times by supplementary amendments . . . not later than 30 days after learning of the facts or circumstances giving rise to the amendment." FINRA Rule 1122 provides that "no member or person associated with a member shall file with FINRA

information with respect to membership or registration which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof.” FINRA Rule 2010 provides that “[a] member, in the conduct of [his] business, shall observe high standards of commercial honor and just and equitable principles of trade.” Failing to file prompt, accurate amendments to a Form U4 thus violates Article V, Section 2(c) of the FINRA By-Laws, FINRA Rule 1122 and FINRA Rule 2010.

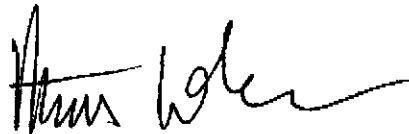
51. Respondent failed to timely update his Form U4 to disclose the 2008 State Tax Warrant, the 2010 Federal Tax Lien, and the 2013 Federal Tax Lien, and the LVNV Compromise, despite having learned of all three liens at or about the time that each lien was filed and the compromise with a creditor no later than the date on which he entered it, all more than 30 days before disclosing those four events on his March 28, 2014, Form U4.
52. Respondent failed to timely update his Form U4 to disclose the 2014 State Tax Warrant, the 2014 Federal Tax Lien, the 2015 Federal Tax Lien, and the 2015 State Tax Warrant, despite having learned of all four liens at or about the time that each was filed, all more than 30 days before disclosing those four events on his June 19, 2015, Form U4.
53. The Tax Liens and the LVNV Compromise all constituted material facts for purposes of Form U4 disclosures and Respondent’s failures to timely disclose them on his Form U4 are willful.
54. As a result of the foregoing conduct, Respondent willfully violated Article V, Section 2(c) of the FINRA By-Laws and FINRA Rules 1122 and 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), including monetary sanctions, be imposed;
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330;
- D. make specific findings that Respondent's conduct, as alleged in the Cause of Action, 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: January 31, 2017

Artur M. Wlazlo, Senior Regional Counsel
Andrew T. Beirne, Deputy Regional Chief Counsel
Lara C. Thyagarajan, Regional Chief Counsel
FINRA Department of Enforcement
Two Jericho Plaza, 2nd Floor
Jericho, New York 11753
Tel: (516) 827-6154
Fax: (516) 827-6101
artur.wlazlo@finra.org