INTRODUCTION

Disciplinary Proceeding No. 2017053182001 was filed on January 17, 2019, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent William Mark Heiden submitted an Offer of Settlement (Offer) to Complainant dated July 2, 2019. 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

Heiden entered the securities industry in April 1997 when he became associated with a FINRA member firm. Through that firm, he became registered with FINRA as a General Securities Representative in June 1997. Between September 2000 and July 2013, Heiden associated with three other FINRA member firms. In July 2013, Heiden became registered with Wedbush Securities Inc. (“Wedbush”) as a General Securities Representative. Wedbush terminated Heiden’s registration on June 26, 2018, due to an “[e]xcessive number of customer complaints.”

Although Heiden 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 Heiden’s registration with Wedbush, namely June 26, 2018; and (2) the Complaint charges him with misconduct committed while he was registered 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 addition, between August 2013 and October 2016, Heiden exercised discretion in the accounts of two other elderly customers without written authorization from the customers and

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without acceptance of the accounts as discretionary by his FINRA member firm in violation of
NASD Rule 2510(b) and FINRA Rule 2010.

**RESPONDENT AND JURISDICTION**

Heiden entered the securities industry in April 1997 when he became associated with a
FINRA member firm. Through that firm, he became registered with FINRA as a General
associated with three other FINRA member firms. In July 2013, Heiden became registered with
Wedbush as a General Securities Representative. Wedbush terminated Heiden’s registration on
June 26, 2018, due to an “[e]xcessive number of customer complaints.”

Although Heiden 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 Heiden’s registration with Wedbush, namely June 26, 2018; and (2) the
Complaint charges him with misconduct committed while he was registered with a FINRA
member.

**FACTS**

**Customer SK**

During 2015, 87 year-old customer SK maintained a trust account with Heiden at
Wedbush. She had been a client of Heiden’s for almost twenty years and of his father’s for
many years before that.

SK’s trust account at Wedbush was not discretionary, and SK never authorized Heiden to
exercise discretion in the account.

On May 28, 2015, less than a month after the unexpected death of her husband, SK and
her family members met with Heiden at SK’s home to discuss her financial situation and to plan next steps for her portfolio. Prior to his death and throughout their 65-year marriage, SK’s husband had always handled the couple’s finances.

At the May 28, 2015 meeting, Heiden recommended a number of investments to SK. SK and her family members authorized one investment in a structured note that Heiden recommended. SK and her family members told Heiden that they were not prepared to make any other decisions about his recommendations and wanted some time to think about the other recommendations.

On June 2, 2015, Heiden executed the following transactions in SK’s account without first obtaining SK’s authorization:

a. Heiden bought 3,000 shares of the Clearbridge American Energy MLP Fund for a total of $47,480.45;

b. Heiden sold 1,350 common stock shares of Northwest Natural Gas Company for a total of $58,360.11; and

c. Heiden sold 494 common stock shares of Verizon Communications Inc. for a total of $24,057.75.

On the morning of June 2, 2015, approximately one hour after the last of the three above trade orders were made, Heiden placed a call to SK’s home and had a one minute, twenty-five second call. On the afternoon of June 2, 2015, Heiden visited SK in her home, where she signed a Wedbush account transfer form for the transfer of an inherited IRA account from another firm to Wedbush.

On June 3, 2015, Heiden received an email from SK’s daughter requesting that he explain what he had done with SK’s stock portfolio since their meeting on May 28, 2015. In the same
email, SK’s daughter instructed Heiden not to conduct any further activity in SK’s stock portfolio until he heard back from them.

On June 3, 2015, in a response email to SK’s daughter, Heiden apologized “for jumping the gun on some of this” explaining, “[s]ince I didn’t hear from you, I thought that meant you had no objection and wanted me to begin assembling the portfolio.”

Heiden volunteered to cancel the three trades listed above. On June 9, 2015, following repeated requests by SK’s daughter, Heiden cancelled the three above-described unauthorized trades he made in SK’s account on June 2, 2015 and cancelled another authorized trade. Customer SK suffered no loss.

**Customer NJ**

In January 2015, 79-year old Wedbush customer NJ learned that her registered representative of 30 years, RL, was retiring and that she would be getting a new registered representative.

In February 2015, NJ went to a local Wedbush branch office to meet with someone about the change in her registered representative. While there, she was introduced to Heiden, who would be serving as her new registered representative. The meeting was an introductory one, and NJ did not authorize Heiden to make any changes to her accounts at that time.

Thereafter, Heiden was the broker of record for NJ’s Individual Retirement Account (IRA) and trust accounts at Wedbush.

NJ’s IRA and trust accounts were not discretionary, and NJ never authorized Heiden to exercise discretion in either account.

On the morning of February 25, 2015, Heiden had a 25-minute telephone conversation with NJ.
On February 25, 2015, Heiden executed the following transactions in NJ’s IRA account without first obtaining NJ’s authorization:

a. Heiden bought 100 common stock shares of BP Prudhoe Bay Royalty Trust for a total of 7,761.94;

b. Heiden sold 600 Comcast Corp. Senior Notes due 12/15/2061 for a total of $15,118.78;

c. Heiden bought 2,000 shares of the Eaton Vance Tax Managed Global Diversified Equity Income Fund for a total of $19,758.89; and

d. Heiden sold 600 shares of the Western Asset Premier Bond for a total of $8,662.94.

On February 25, 2015, Heiden executed the following transactions in NJ’s trust account without first obtaining NJ’s authorization:

a. Heiden bought 2,000 common stock shares of AllianzGI NFJ Dividend, Interest & Premium Strategy Fund for a total of $33,759.75;

b. Heiden sold Beverly Hills CA Unified School District Notes due 08/01/2028 (total par value at maturity: $25,000) for a total of $20,205.38;

c. Heiden sold 735 shares of Blackrock Resources and & Commodities Strategy Trust for a total of $7,200.87;

d. Heiden sold Bombardier Capital Mortgage Securitization Corp. Notes due 06/15/2030 (total par value at maturity: $25,000) for a total of $6,834.37;

e. Heiden sold 20,000 CA State University Systemwide Notes due 11/01/2027 (total par value at maturity: $20,000) for a total of $20,147.42;

f. Heiden sold Commerce CA Joint Powers Financing Authority Notes due
g. Heiden bought 908.265 common stock shares of Gabelli Gold for a total of $10,000;

h. Heiden sold 103.714 shares of Nuveen International Growth Fund for a total of $4,047.96;

i. Heiden sold 7,232.169 shares of Oppenheimer Rochester California Municipal Fund for a total of $61,835.04;

j. Heiden sold Pasadena CA Pension Obligation Notes due 05/15/2041 (total par value at maturity: $10,000) for a total of $9,853.87;

k. Heiden sold 1,333 shares of PIMCO Corporate & Income Strategy Fund for a total of $20,015.31;

l. Heiden bought 2,100 shares of PIMCO Dynamic Credit Income Fund for a total of $43,703.80;

m. Heiden bought 3,342.246 shares of Putnam Diversified Income Fund for a total of $25,000; and

n. Heiden sold 10,000 St. Helena CA Unified School District Notes due 08/01/2033 (total par value at maturity: $10,000) for a total of $10,409.19.

On February 26, 2015, Heiden executed the following transactions in NJ’s trust account without first obtaining NJ’s authorization:

a. Heiden bought 1,500 shares of the Clearbridge American Energy MLP Fund for a total of $24,893.85;

b. Heiden sold 400 Comcast Corp. Senior Notes due 12/15/2061 for a total of $10,037.46;
c. Heiden bought 1,000 shares of the Eaton Vance Tax Managed Global
Diversified Equity Income Fund for a total of $9,914.93;

d. Heiden bought 2,000 shares of the Prudential Global Short Duration High
Yield Fund for a total of $33,327.55; and

e. Heiden bought 2,000 common stock shares of Resource Capital Corp. for a
total of $9,988.89.

On March 2, 2015, Heiden executed the following transactions in NJ’s trust account
without first obtaining NJ’s authorization:

a. Heiden sold 1,893.74 shares of the Templeton World Fund for a total of
$32,345.15; and

b. Heiden sold 2,000 shares of Western Asset Claymore Inflation-Linked
Securities & Income Fund for a total of $22,990.82.

On March 3, 2015, Heiden executed the following transactions in NJ’s trust account
without first obtaining NJ’s authorization:

a. Heiden sold 2,051.01 shares of the AB Municipal Income California Fund for
a total of $23,422.48;

b. Heiden bought 200 common stock shares of BP Prudhoe Bay Royalty Trust
for a total of $13,749.33;

c. Heiden sold 1,666 shares of the Eaton Vance California Municipal Bond Fund
for a total of $19,880.35; and

d. Heiden sold 1,770.63 shares of the Nuveen Short Term Bond Fund for a total
of $17,617.81.

On March 4, 2015, Heiden executed the following transactions in NJ’s trust account
without first obtaining NJ’s authorization:

a. Heiden bought Morgan Stanley Medium Term Senior Notes due 02/27/2035 (total par value at maturity: $62,000) for a total of $61,555.81; and

b. Heiden sold 1,000 units of Tennessee Valley Authority Power Bonds Series D due 6/1/2028 for a total of $24,206.69.

On March 26, 2015, Heiden also bought JPMorgan Chase & Co Notes due 03/29/2030 (total par value at maturity: $25,000) for a total of $25,005.95 in NJ’s trust account without first obtaining NJ’s authorization.

Unauthorized trades made by Heiden in NJ’s accounts resulted in losses (including commissions and fees) in excess of $10,000.

Customers DP and KP

DP and KP became Heiden’s customers in or around 2008. DP’s father had been a long-time brokerage customer of Heiden’s father and had referred DP and KP to Heiden. At that time, Heiden was registered with another FINRA member firm.

After Heiden registered with Wedbush in July 2013, DP and KP moved their accounts to Wedbush where Heiden remained their registered representative.

In August 2013, when DP and KP moved their accounts to Wedbush, DP was 63 years old and KP was 67 years old. At that time, DP and KP maintained two trust accounts with Heiden at Wedbush, as well as an IRA account for DP and an inherited IRA account for DP.

During the period August 2013 through October 2016, Wedbush maintained written supervisory policies and procedures (WSPs) requiring all registered representatives to contact the owner of an account and obtain authorization prior to entering a transaction in the account.

The WSPs indicated that if a registered representative wanted to exercise discretion to
trade in a customer’s account, specific written authorization of discretion from the customer on a designated form was required.

The WSPs also required a designated supervisor to approve an account as discretionary prior to a registered representative effecting discretionary transactions in the account.

In addition, the WSPs required that each trade order specify whether discretion was exercised or not.

Heiden never sought or obtained written authorization from DP or KP to exercise discretion in any of their Wedbush accounts. He also failed to complete the designated Wedbush form seeking firm authorization from Wedbush prior to exercising discretion in DP and KPs’ accounts.

Similarly, no one at Wedbush ever approved any of DP or KP’s accounts at Wedbush as discretionary.

Notwithstanding this lack of written customer authorization and firm approval, between August 2013 and October 2016, Heiden exercised discretion and executed more than 100 trades in DP and KPs’ accounts without first obtaining DP and/or KP’s authorization in writing or firm approval.

Heiden testified that he believed that DP and KP had approved discretionary trading in their accounts at Wedbush. Heiden, however, failed to obtain written customer authorization for trading on discretion in DP and KP’s accounts. DP and KP were aware that Heiden made trades in their accounts without Heiden having spoken to them.

**FIRST CAUSE OF ACTION**

**UNAUTHORIZED TRADING**

*(Violation of FINRA Rule 2010)*

FINRA Rule 2010 requires an associated person to “observe high standards of

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commercial honor and just and equitable principles of trade.”

Executing trades in a customer’s account without the customer’s authorization constitutes a breach of the duty to observe high standards of commercial honor and just and equitable principles of trade and, thus, is a violation of FINRA Rule 2010.

Heiden executed the above-described trades in the accounts of SK and NJ without first obtaining authorization, as required.

By reason of the foregoing, Heiden violated FINRA Rule 2010.

**SECOND CAUSE OF ACTION**

**EXERCISE OF DISCRETION WITHOUT WRITTEN AUTHORIZATION**

(Violation of NASD Rule 2510(b) and FINRA Rule 2010)

NASD Rule 2510(b) provides that “[n]o member or registered representative shall exercise any discretionary power in a customer’s account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the member, as evidenced in writing by the member or the partner, officer or manager, duly designated by the member in accordance with Rule 3010.” A violation of NASD Rule 2510(b) also is a violation of FINRA Rule 2010.

Heiden exercised discretion in executing over 100 trades in DP and KPs’ Wedbush accounts between August 2013 and October 2016 without first receiving DP or KP’s authorization and without obtaining written approval from Wedbush prior to exercising discretion in DP and KPs’ accounts.

By reason of the foregoing, Heiden violated NASD Rule 2510(b) and FINRA Rule 2010.

Based on the foregoing, Respondent violated FINRA Rule 2010 by making unauthorized trades in the accounts of two customers and violated NASD Rule 2510(b) and FINRA Rule 2010 by exercising discretion in the accounts of two other customers without written authorization.
from the customers and without acceptance of the accounts as discretionary by his FINRA member firm.

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 from association with any FINRA member firm in any capacity for a period of six months;

• fined in the amount of $5,000; and

• ordered to pay restitution to the customer listed on Attachment A hereto in the total amount of $12,084, plus interest at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2), from February 25, 2015 until the date of payment.

Restitution amounts ordered, pursuant to this disciplinary action, are due and payable immediately upon re-association with a member firm, 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. The imposition of a restitution order or any other monetary sanction herein, and the timing of such ordered payments, does not preclude customers from pursuing their own actions to obtain restitution or other remedies. If for any reason Respondent cannot locate the customer identified in Attachment A after reasonable and documented efforts within such period,
or such additional period agreed to by the staff, Respondent shall forward any undistributed
restitution and interest to the appropriate escheat, unclaimed property, or abandoned property
fund for the state in which the customer is last known to have resided.

The fine shall be due and payable either immediately upon re-association with a member
firm, 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.

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

SO ORDERED.

FINRA

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

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ATTACHMENT A

Customer to whom restitution and interest is owed (on the terms set forth in the preceding Order): customer NJ.