

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JORDON S. TRICE  
(CRD No. 5500091),

Respondent.

Disciplinary Proceeding  
No. 2012030670603

Hearing Officer — KBW

**DEFAULT DECISION**

August 19, 2015

**Respondent violated FINRA Rules 2360(b)(16) and 2010 by accepting orders from a customer to purchase or write option contracts in a customer account that had not been approved for options trading. Respondent is suspended from association with any FINRA member firm in any capacity for 20 business days, fined \$10,000, and ordered to pay disgorgement in the amount of \$3,364.80 plus interest.**

**Appearances**

John S. Han, Esq., and Aimee Williams-Ramey, Esq., for the Department of Enforcement, Complainant.

No appearance by or on behalf of Jordan S. Trice, Respondent.

**DECISION**

**I. Introduction**

The Department of Enforcement filed the attached Complaint with the Office of Hearing Officers on March 11, 2015. The Complaint alleges that Respondent Jordan S. Trice effected options transactions in a customer account that was not approved for options trading, in violation FINRA Rules 2360 and 2010.

Enforcement served Trice with the Complaint in accordance with FINRA's Code of Procedure, and Trice failed to file an Answer. Accordingly, on June 18, 2015, Enforcement filed a Motion for Entry of Default Decision ("Default Motion"), together with a Declaration

Supporting Motion for Entry of Default Decision (“Han Decl.”) and exhibits CX-1 to CX-17. On July 20, 2015, Enforcement supplemented these filings with a Declaration Supplementing The Record In Support Of Motion For Entry Of Default Decision (“Supp. Han Decl.”) and exhibit CX-19.

The Hearing Officer finds Trice in default, deems the allegations of the Complaint admitted pursuant to FINRA Rules 9215(f) and 9269(a), and orders that Trice be suspended from association with any FINRA member firm in any capacity for 20 business days, fined \$10,000, and ordered to disgorge commissions of \$3,364.80 plus interest.

## **II. Findings Of Fact And Conclusions Of Law**

### **A. Trice’s Background**

Trice entered the securities industry in 2008. In 2010, Trice became registered with FINRA member firm Great Circle Financial (the “Firm”). In November 2012, the Firm filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”), reporting that Trice had not supplied the Firm with a current residential address. In July 2013, the Firm filed an amendment to Trice’s Form U5 to disclose a customer-initiated civil suit alleging unsuitable recommendations by Trice. Trice is not currently associated with any FINRA member firm.<sup>1</sup>

### **B. Origin Of Investigation**

This disciplinary proceeding arose from FINRA’s 2012 routine cycle examination of the Firm.<sup>2</sup>

### **C. Jurisdiction**

FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4(a) of FINRA’s By-Laws, because (1) Enforcement filed the Complaint on March 11, 2015, which was within two years after the July 2013 amendment to Trice’s Form U5, and (2) the Complaint charges Trice with misconduct that occurred while he was associated with a FINRA member firm.<sup>3</sup>

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<sup>1</sup> Complaint (“Compl.”) ¶¶ 2-6; CX-1; CX-2; CX-3; CX-4.

<sup>2</sup> Han Decl. ¶ 6.

<sup>3</sup> See Article V, Sec. 4(a)(i), FINRA By-Laws, [www.finra.org/Rules](http://www.finra.org/Rules) (then follow the “FINRA Manual” hyperlink to “Corporate Organization: By-Laws.”).

#### **D. Trice's Default By Failing To Answer Complaint**

Enforcement served the Complaint and Notice of Complaint and the Complaint and Second Notice of Complaint in accordance with FINRA Rules 9131 and 9134. Enforcement served the Complaint and Notice of Complaint on or about March 11, 2015, and the Complaint and Second Notice of Complaint on or about April 10, 2015. In each instance, Enforcement served Trice by both first-class mail and certified mail to Trice's last known residential address as reflected in the Central Registration Depository and to a more recent address obtained from Trice during the course of the investigation.<sup>4</sup> Thus, Trice received valid constructive notice of this proceeding.<sup>5</sup>

Pursuant to FINRA Rules 9215 and 9138(c), Trice's Answer was due within fourteen days of service of the Second Notice of Complaint, plus an additional three days because service was made by first class mail and by certified mail. Trice did not file an Answer.<sup>6</sup>

The Hearing Officer finds that Trice defaulted by failing to file an Answer to the Complaint. Therefore, the Hearing Officer deems the allegations in the attached Complaint admitted pursuant to FINRA Rules 9215(f) and 9269(a).

#### **E. Violations of FINRA Rules 2360(b)(16) and 2010**

FINRA Rule 2360(b)(16)(A) prohibits a person associated with a member from accepting an order from a customer to purchase or write an option contract relating to an options class that is the subject of an options disclosure document if the customer's account has not been approved for options trading in accordance with the provisions of subparagraphs (B) through (D) of FINRA Rule 2360(b)(16). FINRA Rule 2360(b)(16)(B) provides that in approving a customer's account for options trading, a member firm must exercise due diligence to ascertain the essential facts relative to the customer and that the account be approved in writing for options trading by a Registered Options Principal or a Limited Principal – General Securities Sales Supervisor. FINRA Rule 2360(b)(16)(C) requires that within fifteen days after approving a customer's account for options trading, the firm must send to the customer for verification the background and financial information based upon which the firm approved the account. FINRA Rule 2360(b)(16)(D) requires that within 15 days after approving a customer account for options trading, a member shall obtain from the customer a written agreement containing certain provisions.

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<sup>4</sup> Han Decl. ¶¶ 12-21; CX-5; CX-6; CX-7; CX-8; CX-9.

<sup>5</sup> See, e.g., *Dep't of Enforcement v. Evansen*, No. 2010023724601, 2014 FINRA Discip. LEXIS 10, at \*20 n.21 (NAC June 3, 2014), *appeal docketed*, SEC Admin. Proc. No. 3-15964 (July 3, 2014).

<sup>6</sup> Han Decl. ¶ 26.

In January 2011, customer MC opened a new account at the Firm. MC's new account form indicated that she was a homemaker with no experience with options. MC's account was never approved by anyone at the Firm for any type of options transactions.<sup>7</sup> From approximately January 27, 2011 through approximately May 4, 2012, Trice accepted approximately 42 orders to purchase or write options contracts. Each of these options contracts related to an option class that was the subject of an options disclosure document.<sup>8</sup> These orders resulted in approximately 42 options transactions and a net loss to the customer of approximately \$29,050.84. Trice received commissions totaling approximately \$3,364.80 as a result of these options transactions.<sup>9</sup>

Accordingly, the Hearing Officer concludes that Trice violated FINRA Rule 2360(b)(16)(A). His violation of FINRA Rule 2360(b)(16)(A) is also a violation of FINRA Rule 2010.<sup>10</sup>

### **III. Sanctions**

#### **A. Suspension And Fine**

FINRA's Sanction Guidelines do not specifically address the misconduct for which Trice is liable here.<sup>11</sup> Enforcement submits that Trice's conduct is analogous to a books and records violation and that it is appropriate to apply the guidelines for a books and records violation to this case. This guideline recommends that an adjudicator impose a fine of \$1,000 to \$15,000 and consider suspending the responsible party for up to 30 business days. For egregious cases, this guideline recommends the imposition of a fine of \$10,000 to \$146,000 and a suspension of up to two years or a bar.<sup>12</sup>

The Hearing Officer finds the violations to be serious but does not find this to be an egregious case. Although the misconduct involved approximately 42 transactions, the transactions involved only one customer account. Although the options trading resulted in a monetary loss to MC, there is no allegation in the Complaint or evidence in the record that the options transactions were not suitable for MC or that the option transactions increased the risk

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<sup>7</sup> Compl. ¶¶ 8-10.

<sup>8</sup> Supp. Han Decl. ¶ 5; CX-19.

<sup>9</sup> Compl. ¶¶ 11-12.

<sup>10</sup> See *John Joseph Plunkett*, Exchange Act Release No. 73124, 2014 SEC LEXIS 3396, at \*3 n.3 (Sept. 16, 2014) (“[a] violation of FINRA rules constitutes conduct inconsistent with just and equitable principles of trade and therefore also establishes a violation of FINRA Rule 2010.”).

<sup>11</sup> The Sanction Guidelines discuss violations for two other aspects of FINRA Rule 2360: Rule 2360(b)(3) (position limits) and Rule 2360(b)(4) (exercise limits). FINRA Sanction Guidelines at 57-8 (2015), [www.finra.org/Industry/Sanction-Guidelines](http://www.finra.org/Industry/Sanction-Guidelines).

<sup>12</sup> Guidelines at 29.

profile of MC's investments.<sup>13</sup> Accordingly, the Hearing Officer finds it appropriate to impose a fine of \$10,000 and a suspension of 20 business days.

## **B. Disgorgement And Interest**

The Guidelines provide that "Adjudicators should consider a respondent's ill-gotten gain when determining an appropriate remedy." The Hearing Officer finds it appropriate to order Trice to disgorge the \$3,364.80 that he received in commission in connection with the options transactions.<sup>14</sup>

The Hearing Officer also finds it appropriate to order Trice to pay pre-judgment interest on the disgorgement amount from May 4, 2012, until paid.<sup>15</sup> Absent an order to pay pre-judgment interest, the sanctions would "fall[] short of achieving the proper deterrence for the misconduct because disgorgement alone does not reflect the time value of ill-gotten gains, and in effect, provides the respondent with an interest free loan until the disgorgement order is final."<sup>16</sup> The rate of prejudgment interest is the rate established for the underpayment of income taxes in the Internal Revenue Code.<sup>17</sup>

## **IV. Conclusion**

On approximately 42 occasions, Respondent Jordan S. Trice violated FINRA Rules 2360(b)(16) and 2010 by accepting an order from a customer to purchase or write option contracts relating to an options class that is the subject of an options disclosure document in a customer account that had not been approved for options trading. Trice is suspended from associating with any member firm in any capacity for 20 business days, fined \$10,000, and

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<sup>13</sup> In its Default Motion, Enforcement took the position that Trice does not accept responsibility for his actions. Enforcement bases its position on two emails that Trice sent to Enforcement after he received the Complaint. Default Motion, at 5. However, the two emails did not address, much less deny, Trice's acceptance of orders to purchase or write option contracts in an account that had not been approved for options trading. The emails therefore do not demonstrate that Trice failed to accept responsibility for the misconduct charged in the Complaint.

<sup>14</sup> Guidelines at 4-5 (General Principle No. 6 ("To remediate misconduct, Adjudicators should consider a respondent's ill-gotten gain when determining an appropriate remedy.")). See also *Dep't of Mkt. Reg. v. Lane*, No. 20070082049, 2013 FINRA Discip. LEXIS 34, at \*88 (NAC Dec. 26, 2013) (citations omitted) ("To remediate misconduct, the Guidelines instruct us to consider a respondent's ill-gotten gains when fashioning an appropriate sanction. '[D]isgorgement is intended to force wrongdoers to give up the amount by which they were unjustly enriched.' 'We may order disgorgement after a reasonable approximation of a respondent's unlawful profits.'")

<sup>15</sup> According to the Complaint, the period during which Trice caused the option transactions to be executed in MC's account ended on approximately May 4, 2012. Compl. ¶ 11.

<sup>16</sup> *Dep't of Enforcement v. The Dratel Group*, No. 2008012925001, 2014 FINRA Discip. LEXIS 6, at \*119-120 (NAC May 2, 2014) (quoting *Dep't of Enforcement v. Davidofsky*, No. 2008015934B01, 2013 FINRA Discip. LEXIS 7, at \*42 (NAC Apr. 26, 2013)).

<sup>17</sup> *Id.* at 120.

ordered to pay disgorgement in the amount of \$3,364.80 together with interest from May 4, 2012 until paid. The disgorgement and fine shall be payable on a date set by FINRA, but not less than 30 days after this decision becomes FINRA's final disciplinary action in this matter. If this decision becomes FINRA's final disciplinary action, the suspension shall become effective on the opening of business on September 21, 2015, and shall end at the close of business on October 16, 2015.



Kenneth Winer  
Hearing Officer

Copies to: Jordon S. Trice (*via email and first-class mail*)  
John S. Han, Esq. (*via email and first-class mail*)  
Aimee Williams-Ramey, Esq. (*via email*)  
Jeffrey D. Pariser, Esq. (*via email*)

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

Department of Enforcement,

Complainant,

v.

Jordon S. Trice (CRD No. 5500091),

Respondent.

DISCIPLINARY PROCEEDING  
No. 2012030670603

RECEIVED  
FINRA Office of Hearing Officers

MAR 16 2015

**COMPLAINT**

The Department of Enforcement alleges:

**SUMMARY**

1. Respondent Jordon S. Trice effected options transactions in an account that was not approved for options trading.

**RESPONDENT AND JURISDICTION**

2. Trice entered the securities industry in February 2008, when he became an associated person of a FINRA member firm.
3. On or about October 25, 2010, Trice applied for registration as a General Securities Representative at FINRA member Great Circle Financial (the Firm). His registration was approved on or about November 12, 2010. He subsequently became registered there as an Operations Professional on or about December 14, 2011.
4. On or about November 14, 2012, the Firm filed a Uniform Termination Notice for Securities Industry Registration (Form U5) for Trice, effectively terminating his

registrations at the Firm. He has not since become associated with or registered at any other FINRA members.

5. On or about July 17, 2013, the Firm filed an amendment to Trice's Form U5 in order to disclose a customer-initiated civil suit alleging unsuitable recommendations by Trice.
6. Although he is no longer registered or associated with a FINRA member, Trice remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because:
  - a. the Complaint was filed within two years after the filing of an amendment to Trice's original Form U5, namely, July 17, 2013;
  - b. the amendment was filed within two years after the filing of Trice's original Form U5, namely, November 14, 2012;
  - c. the amendment disclosed that Trice may have engaged in conduct actionable under FINRA rules; and
  - d. the Complaint charges Trice with misconduct committed while he was registered or associated with a FINRA member.

CAUSE OF ACTION  
Options Transactions (FINRA Rules 2360 and 2010)

7. The Department re-alleges and incorporates by reference paragraphs 1 through 6 above.
8. On or about January 7, 2011, customer MC opened an account at the Firm.
9. MC's new account form indicated that she was a homemaker and had no experience with options.



10. MC's account was never approved by anyone at the Firm for any type of options transactions whatsoever.
11. From on or about January 27, 2011, through on or about May 4, 2012, Trice caused to be executed approximately 42 options transactions for customer MC. The transactions resulted in a net loss to the customer of approximately \$29,050.84.
12. Trice received commissions totaling approximately \$3,364.80 as a result of these options transactions.
13. By recommending options transactions in a customer account that was not approved by an appropriate firm principal for options activity, Trice violated FINRA Rules 2360 and 2010.

#### RELIEF REQUESTED

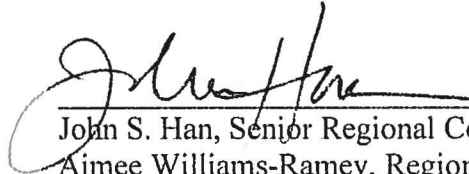
WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Trice committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that Trice be required to disgorge fully any and all ill-gotten gains; and

- C. order that Trice bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

**FINRA DEPARTMENT OF ENFORCEMENT**

Date: March 11, 2015



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John S. Han, Senior Regional Counsel  
Aimee Williams-Ramey, Regional Chief  
Counsel  
FINRA Department of Enforcement  
One Montgomery Street, Suite 2100  
San Francisco, California 94104  
(415) 217-1124; Fax: (415) 217-1201  
john.han@finra.org  
aimee.williams-ramey@finra.org