

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MICHAEL VENTURINO
(CRD No. 5872439),

Respondent.

Disciplinary Proceeding
No. 2021070337501

Hearing Officer—MC

**ORDER GRANTING DEPARTMENT OF ENFORCEMENT'S RULE 9285 MOTION
FOR INTERIM CONDITIONS AND RESTRICTIONS**

I. Introduction

The Extended Hearing Panel issued its decision in this disciplinary proceeding on March 21, 2024.¹ The Panel concluded that from July 2014 to June 2017, while associated with FINRA member firm Aegis Capital Corp., Respondent Michael Venturino engaged in the following violations:

- unauthorized trading in six customer accounts, in violation of FINRA Rule 2010;
- unsuitable excessive trading in the same customer accounts, in violation of FINRA Rules 2111 and 2010;
- churning, in willful violation of Section 10(b) of the Securities Exchange Act of 1934, Exchange Act Rule 10b-5, and FINRA Rules 2020 and 2010.

The Panel concluded numerous aggravating factors were present. They included:

- Venturino's lengthy history of settled customer arbitrations that included repeated allegations of unauthorized trading, unsuitable excessive trading, and churning;²

¹ *Dep't of Enforcement v. Venturino*, No. 2021070337501, 2024 FINRA Discip. LEXIS 4 (OHO Mar. 21, 2024), appeal docketed (NAC Apr. 11, 2024).

² *Id.* at *133–34.

- his failure to accept responsibility;³
- his efforts to mislead customers and conceal his misconduct;⁴
- his intentional, or at least reckless, disregard of his customer's interests in pursuit of his own monetary gain;⁵
- the resultant harm to his customers;⁶ and
- a years-long pattern of misconduct.⁷

Consequently, the Panel concluded that Venturino posed a risk to the investing public and barred him from associating with any FINRA member firm in any capacity, ordered him to disgorge to FINRA \$171,419 in ill-gotten gains, plus interest, and required him to pay hearing costs of \$14,578.⁸

Venturino is not currently registered with FINRA or associated with any FINRA member firm.⁹ On April 11, 2024, he filed a notice of appeal of the decision's findings, conclusions, and sanctions. His appeal automatically stays the imposition of sanctions imposed by the Panel.¹⁰

On April 25, 2024, FINRA's Department of Enforcement moved under FINRA Rule 9285 for an order imposing interim conditions and restrictions on Venturino's activities until FINRA's final decision takes effect and all appeals are exhausted.¹¹ On May 7, 2024, Venturino's counsel notified Enforcement and the Office of Hearing Officers by email that Venturino does not oppose the motion.¹²

As explained below, I grant the motion.

³ *Id.* at *134–35.

⁴ *Id.* at *137–38.

⁵ *Id.* at *139–40.

⁶ *Id.* at *138–39.

⁷ *Id.* at *136–37.

⁸ *Id.* at *142–46.

⁹ *Id.* at *4.

¹⁰ FINRA Rule 9311(b).

¹¹ Department of Enforcement's Motion for Interim Conditions and Restrictions dated April 25, 2024.

¹² The email states that although Venturino "disagrees with the findings" of the Hearing Panel and is pursuing his appeal, "he acknowledges the importance of protecting the investing public during the pendency of his appeal" and therefore "has decided not to oppose" the motion.

II. Legal Standard

FINRA Rule 9285(a) provides that if a respondent appeals a disciplinary decision finding that the respondent “violated a statute or rule provision,” Enforcement may move for an order imposing “conditions or restrictions on the activities” of the respondent “that are reasonably necessary for the purpose of preventing customer harm.”

FINRA Rule 9285(a)(3) permits respondents to file an opposition or other response to the motion. As noted above, after considering the matter, Venturino does not oppose the motion.

In Regulatory Notice 21-09, FINRA explained that Rule 9285 is intended to enhance investor protection “by potentially preventing associated persons and firms found to have violated a statute or rule from engaging in additional misconduct during the appeal process.” FINRA described the rule as adding “an interim layer of investor protection” during that period.¹³

FINRA Rule 9285(a)(5) authorizes a Hearing Officer “to impose any conditions or restrictions that the Hearing Officer considers reasonably necessary for the purpose of preventing customer harm.” Under Rule 9285(d), the conditions or restrictions imposed by a Hearing Officer remain in place until FINRA’s final decision in the underlying disciplinary proceeding takes effect and all appeals are exhausted.

The SEC stated in its order approving the adoption of Rule 9285 that the Hearing Officer should “target the misconduct demonstrated in the disciplinary proceeding” and tailor the conditions or restrictions “to the specific risks posed by the Respondents during the appeal period.”¹⁴ Furthermore, any conditions or restrictions “are not intended to be as restrictive as the underlying sanctions and would likely not be economically equivalent to imposing the sanctions during the appeal.”¹⁵ The SEC determined that post-decision conditions or restrictions “will lead to greater oversight of disciplined Respondents’ activities during the appeal period, thereby reducing the potential risk of customer harm that may occur during this period.”¹⁶

III. Discussion

Enforcement seeks to impose only two interim conditions upon Venturino if he should reassociate with a FINRA member firm during the pendency of his appeal. They are: (1) that he may not effect a securities transaction in a customer’s account unless, within three business days,

¹³ FINRA Regulatory Notice 21-09, at 3 (Mar. 2021), <https://www.finra.org/sites/default/files/2021-03/Regulatory-Notice-21-09.pdf>.

¹⁴ SR-FINRA-2020-011, Order Approving a Proposed Rule Change, as Modified by Amendment No. 1, to Address Brokers with a Significant History of Misconduct, Exchange Act Release No. 90635, 2020 SEC LEXIS 5168, at *5 (Dec. 10, 2020); *accord* FINRA Regulatory Notice 21-09 (Mar. 2021).

¹⁵ SR-FINRA-2020-011, 2020 SEC LEXIS 5168, at *5.

¹⁶ *Id.* at *13.

he submits the transaction for review and approval to a designated principal of the firm, and (2) that he must complete a specified continuing education program within two months.¹⁷

A. Proposed Requirement for Principal Review and Approval of Securities Transactions

Enforcement's first proposed requirement is that, within three business days of executing a securities transaction in a customer account, Venturino must submit it to a designated principal of his employer firm, who will maintain a record of review and approval of the transaction to document that the principal determined the customer authorized the transaction and that—when Venturino recommended the transaction—it was suitable for the customer.

Enforcement argues that this requirement is tailored to guard against the violations that the Panel found Venturino committed—unauthorized trading, unsuitable excessive trading, and churning. Enforcement also suggests that the requirement satisfies Rule 9285 because it would allow Venturino to engage in securities transactions while the decision is appealed, so it is less restrictive than the Panel's bar.

I agree that this proposed requirement is appropriate and serves a reasonably necessary purpose to prevent customer harm. It properly focuses on the specific types of misconduct the Panel found that Venturino had engaged in repeatedly for several years. Thus, it responds to the possibility that Venturino, if he reassociates with a member firm during the pendency of his appeal, could pose a significant risk of harm to investors by again acting “intentionally or in reckless disregard of the interests of the customers,” in pursuit of personal profit.¹⁸

B. Proposed Continuing Education Requirement

The second requirement is that Venturino must, within two months of associating with a member firm, complete ten hours of continuing education focused on suitability, Regulation Best Interest, and the requirement of obtaining customer authorization in advance of each trade. The education program must be presented by a provider acceptable to Enforcement and Venturino must certify within 30 days that he has completed it.

The Panel concluded that Venturino willfully or recklessly violated tenets basic to just and ethical principles of trade.¹⁹ Venturino's misconduct reflected an unwillingness or inability to comply with the fundamental duties a broker owes to a customer, or lack of an appreciation of the importance of compliance. I agree that this proposed requirement is appropriate, serves a reasonably necessary purpose to prevent customer harm, and is narrowly targeted to the types of misconduct the Panel found Venturino committed.

¹⁷ Motion, at 6–8.

¹⁸ *Venturino*, 2024 FINRA Discip. LEXIS 4, at *89.

¹⁹ *Id.* at *55–57.

In conclusion, I find that Enforcement's proposed restrictions address Venturino's lack of appreciation of the duties registered representatives owe to the investing public under the applicable securities laws and FINRA's rules, are less restrictive than the sanctions imposed in the decision, and are designed to protect the investing public if he should re-enter the securities industry while his appeal is pending.

IV. Order

For these reasons, I **GRANT** Enforcement's motion to impose the following conditions and restrictions on Venturino. These conditions and restrictions will remain in place until FINRA's final decision takes effect, and all appeals are exhausted.

1. In the event that Venturino reassociates with a FINRA member firm during the pendency of his appeal, Venturino shall not effect any securities transaction in a customer's account unless a designated principal of the firm with which he is associated reviews and approves the securities transaction within three business days of entry and creates, signs, and maintains a written record of such review and approval, evidencing the principal's conclusions regarding (1) the authorization of the securities transaction by the customer, and (2) its suitability.
2. In the event that Venturino reassociates with a FINRA member firm during the pendency of his appeal, within two months he shall complete ten hours of continuing education on the subjects of suitability, Regulation Best Interest, and trading authorization provided by a continuing education provider acceptable to Enforcement and shall certify in writing to Enforcement his completion of the continuing education requirements within 30 days.
3. The conditions and restrictions imposed in this Order shall become effective immediately as of issuance of this Order.

The conditions or restrictions imposed by this Order that are not subject to any stay, or imposed by the NAC Review Subcommittee, shall remain effective until FINRA's final decision in the underlying disciplinary proceeding takes effect.²⁰

²⁰ See FINRA Rule 9285(d) ("Conditions or restrictions imposed by a Hearing Officer that are not subject to any stay, or imposed by the Review Subcommittee, shall remain effective until FINRA's final decision in the underlying disciplinary proceeding takes effect.").

If the parties have any questions about this Order, they should contact the assigned Case Administrator, Jennifer Rodkey, at 202-728-8898 or Jennifer.Rodkey@finra.org.

SO ORDERED.



Matthew Campbell
Hearing Officer

Dated: May 20, 2024

Copies to:

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