Quarterly Disciplinary Review

January 2008

FINRA publishes this quarterly review to provide firms with a summary sampling of recent disciplinary actions involving misconduct by registered representatives. The sample includes settled matters and decisions in litigated cases (National Adjudicatory Council decisions and decisions of the SEC in FINRA cases). These summaries call attention to, and remind registered representatives and firms of, specific conduct that violates FINRA rules and may result in disciplinary action.

FINRA also provides detailed disciplinary information and decisions and a summary of monthly disciplinary actions on its Web site.

Improper Borrowing from Customers

- One settled matter involved a registered representative who, during a two-year period, borrowed nearly $500,000 from six customers without member firm approval. These loans violated his member firm's procedures, which prohibited representatives from borrowing money from customers. FINRA sent several requests for a signed statement regarding the loans, but the representative failed to respond.

  FINRA concluded that this conduct violated Rules 2110 (ethical standards), 2370 (borrowing from or lending to customers) and 8210 (providing FINRA with information and testimony). As a result, FINRA barred the representative in all capacities.

Unauthorized Exercise of Discretion

- FINRA settled a matter involving a registered representative who effected more than 50 discretionary trades in public customers' accounts without his member firm's written acceptance or the customers' prior written authorization.

  FINRA concluded that the representative violated Rules 2110 (ethical standards) and 2510(b) (discretionary accounts). As a result, FINRA fined the representative $2,500 and suspended him in all capacities for 10 business days.

Forgery

- FINRA settled a matter involving a registered representative who signed a customer's name to an account transfer form for a joint account held in two customers' names, both of whom sought to transfer the account to the representative's member firm. The representative obtained one customer's signature on the account transfer form, but neglected to obtain the second customer's signature. The representative affixed the second customer's signature to the transfer form without the customer's knowledge or consent.

  FINRA concluded that the representative's conduct violated Rule 2110 (ethical standards). As a result, FINRA suspended the representative in all capacities for two months and fined him $5,000.

Outside Business Activities

- FINRA settled a matter that involved a registered representative who, for a fee, provided financial planning services outside of the scope of his relationship with his member firm without providing the firm with prompt written notice of his receipt of compensation.

  FINRA determined that the representative violated Rules 2110 (ethical standards) and 3030 (outside business activities). As a result, FINRA fined the representative $5,000 and suspended him for 30 business days in all capacities.

Selling Away

- One settled matter involved a registered representative who sold securities for more than $2 million to his member firm's clients and other individuals without providing prior written notice to, or obtaining prior written approval from, his member firm. Additionally, the securities that the representative sold were limited partnership interests in a hedge fund that the representative co-owned and controlled.

  FINRA concluded that the representative's actions violated Rules 2110 (ethical standards) and 3040 (private securities transactions), and barred the representative in all capacities.

- Another settled matter involved a registered representative who sold a promissory note to a public customer. The representative did not receive compensation for his participation in the transaction, but he effected the transaction without providing prior written notice to, or receiving prior approval from, his member firm. He later learned that the public customer had filed an investment-related lawsuit against him, but failed, for approximately one month, to amend his Form U4 to disclose the lawsuit.

  FINRA concluded that the representative violated Rules 2110 (ethical standards), 3040 (private securities transactions) and IM-1000-1 (filing of misleading information as to registration). FINRA suspended the representative in all capacities for four months and fined him $10,000.

Unethical Conduct

- FINRA settled a matter that involved a registered representative who falsely represented to a customer that he had listened to a recording of an earlier conversation between the customer and another representative at the member firm. The registered representative involved in the settlement misrepresented to the customer that the recording to which he had listened portrayed the customer being advised that he would be charged a contingent deferred sales charge if he liquidated his mutual fund before a certain date. In fact, no such recording existed.

  FINRA concluded that the registered representative violated Rule 2110 (ethical standards), and suspended him for six months in all capacities and fined him $5,000.

- Another settled matter involved a registered representative who was a research associate at a member firm. The representative copied the content of a research report that another member firm had issued, internally circulated the report, and represented that he was the author. The member firm thereafter published the report as its own.

  FINRA concluded that the representative's conduct violated Rule 2110 (ethical standards). As a result, FINRA required him to requalify as a research analyst, fined him $7,500 and suspended him in all capacities for 60 days.

- Another settled matter involved a registered representative who knowingly submitted a false claim to an insurance company. In the claim, he requested payment for the theft of his automobile even though he was aware that the vehicle had not been stolen.

  FINRA concluded that the representative's conduct violated Rule 2110 (ethical standards) and barred him in all capacities.