

BEFORE THE NATIONAL ADJUDICATORY COUNCIL

FINANCIAL INDUSTRY REGULATORY AUTHORITY

In the Matter of

Department of Enforcement,

Complainant,

vs.

Harry W. Hunt
Medina, MN,

Respondent.

DECISION

Complaint No. 2009018068701

Dated: December 18, 2012

Respondent used the name, address, and social security number of a customer to make the customer a guarantor of a student loan without the customer's knowledge or authorization. Respondent also submitted false expense reports to his firm. For these violations, the Hearing Panel barred the respondent in all capacities. Held, findings affirmed and sanctions modified.

Appearances

For the Complainant: Dale A. Glanzman, Esq., and Leo F. Orenstein, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: Matthew T. Boos, Esq.

Decision

Pursuant to FINRA Rule 9311, Harry W. Hunt ("Hunt") appeals an October 17, 2011 Hearing Panel decision. In that decision, the Hearing Panel found that Hunt violated FINRA Rule 2010 by using the name, address and social security number of a customer to make the customer a guarantor of a loan without the customer's knowledge or authorization. The Hearing Panel also found that Hunt violated FINRA Rule 2010 and NASD Rule 2110 by submitting false

expense reports between February 2008 and March 2009.¹ For these violations, the Hearing Panel barred Hunt from associating in any capacity with any FINRA member.

The facts of this case are undisputed and based on stipulations made by the parties. The parties also do not dispute Hunt's liability for the alleged misconduct. Consequently, this decision focuses on the appropriate sanction for Hunt's violations. The Hearing Panel barred Hunt in all capacities for his misconduct, and after reviewing the record, we find that a bar is appropriate.

I. Background

Hunt entered the securities industry in March 1983. Hunt joined Wachovia Securities, LLC ("Wachovia Securities" or "the Firm") in April 2002 as a general securities representative. On April 20, 2009, Wachovia Securities terminated Hunt. The Uniform Termination Notice for Securities Industry Registration ("Form U5") disclosed that Hunt had used a customer's name and confidential information in an attempt to obtain a student loan. Hunt is currently registered with another FINRA member firm as a general securities representative.

II. Procedural History

On August 3, 2010, FINRA's Department of Enforcement ("Enforcement") filed a three-cause complaint alleging that Hunt: (1) used the name, address, and social security number of a customer to make the customer a guarantor of a student loan for Hunt's daughter, without the customer's knowledge or authorization, in violation of FINRA Rule 2010; (2) falsified a photocopy of Hunt's daughter's driver's license in connection with the loan application, in violation of FINRA Rule 2010; and (3) submitted false expense reports to his firm, in violation of FINRA Rule 2010 and NASD Rule 2110. In a decision issued on October 17, 2011, the Hearing Panel found Hunt liable for the first and third causes alleged in the complaint.² The Hearing Panel barred Hunt in all capacities for these violations. Hunt appealed the Hearing Panel's decision.

¹ The conduct rules that apply are those that existed at the time of the conduct at issue. FINRA Rule 2010 and NASD Rule 2110, however, contain identical language.

² The Hearing Panel dismissed the second cause of the complaint, finding that Hunt's alteration of the photocopy of his daughter's license was not "business related." This finding was not appealed by Enforcement. We therefore do not consider this cause of action on appeal.

III. Facts

A. Unauthorized Loan Application

In 2009, Hunt's daughter was applying to college. At the same time, Hunt was experiencing significant financial difficulties, and he did not have the resources available to fully fund his daughter's education. Consequently, it became necessary for her to apply for a \$10,000 short-term student loan through Sallie Mae.³

In the initial Sallie Mae loan application, Hunt offered himself as a guarantor of the loan. Sallie Mae rejected the application due to Hunt's poor financial situation. In two subsequent applications, Hunt listed his wife and his father as the guarantor of the loan. Sallie Mae rejected each of these applications as well.

In yet another application, Hunt listed DL, a customer and close personal friend, as the guarantor of the loan.⁴ In order to do so, Hunt provided Sallie Mae with DL's name, address, gross monthly income, monthly mortgage payment, and social security number. Hunt testified that he already knew all of this information, except for DL's social security number, which Hunt obtained from Wachovia Securities' customer files. Hunt failed to inform DL or seek DL's consent to use DL's information on the application.⁵ In fact, DL was unaware of the application, and did not know Hunt had offered DL as a guarantor for the loan.

In furtherance of his effort to secure a loan for his daughter's education, Hunt utilized a post office box as a mailing address. In the Sallie Mae application that identified DL as the

³ Sallie Mae is a public corporation whose operations include originating, servicing, and collecting on student loans.

⁴ The Sallie Mae application was a one-page application accompanied by a promissory note. The application required the electronic "signatures" of both the borrower and the cosigner. Hunt submitted the application online, and to complete the application, Hunt typed the borrower's (Hunt) and cosigner's (DL) names on signature lines in the application before submitting it to Sallie Mae.

The promissory note had notices with express language warning that: (1) the cosigner would have to pay up to the full amount of the debt if the borrower did not pay; (2) the lender could collect the debt from the cosigner without trying to collect from the borrower, using collection methods such as lawsuits and wage garnishment; and (3) if the borrower ever defaulted, the default could become part of the cosigner's credit record.

⁵ Hunt testified that he did not ask DL to be a guarantor for the loan because he was afraid that DL would not agree to do so.

guarantor, Hunt also identified the post office box as the residential address for his daughter.⁶ Hunt used this post office box to ensure that any correspondence relating to the loan application would only be available to him.

In early April 2009, while Hunt was on a family vacation, Sallie Mae contacted DL regarding his guarantee of the student loan.⁷ DL disavowed his role as a guarantor and notified Wachovia Securities of Hunt's improper conduct. Sallie Mae denied the application and Wachovia Securities terminated Hunt after he returned from his vacation. As a consequence of his termination, Hunt lost the opportunity to collect upcoming deferred compensation and a retention bonus from the Firm.⁸

B. Falsified Expense Reports

Wachovia Securities reimbursed its brokers for certain business-related expenses, such as meals with customers, printing bills and telephone expenses incurred in the course of the broker's employment. Wachovia Securities' reimbursement policy required each employee to incur and pay the expense prior to submission of a claim for reimbursement. The parties have stipulated that between February 2008 and March 2009, Hunt submitted six false claims for reimbursement totaling \$1,869.47 to Wachovia Securities. For these six claims, Hunt sought reimbursement from the Firm before he actually paid for the expenses. In these six instances, Hunt submitted as evidence of payment, checks that he photocopied and altered to give the false appearance of having been paid to the vendor and cleared by the vendor's bank. Hunt did not fabricate any of the expenses listed in the reports, thus Hunt only sought reimbursement for real costs that he had incurred, but had not yet paid.

⁶ In connection with the loan application where Hunt listed himself as the guarantor of the loan, Sallie Mae requested documentation verifying his daughter's residential address. In order to ensure that the requested documentation was consistent with the loan application, Hunt altered a photocopy of his daughter's license, changing her residential address to the post office box address. This conduct formed the basis of cause two of the complaint, which was dismissed. *See supra* Note 2.

⁷ Hunt testified that he planned to confess his scheme to DL once he returned from his vacation.

⁸ Hunt contends that the bonus and deferred compensation totaled more than \$300,000.

IV. Discussion

A. Unauthorized Loan Application

FINRA Rule 2010 (formerly NASD Rule 2110) requires a registered person to: (1) observe high standards of commercial honor and just and equitable principles of trade; (2) in the conduct of that person's business.⁹ "Rule 2110 applies to [associated persons] through [NASD Rule 115] (now FINRA Rule 0140), which provides that persons associated with a member have the same duties and obligations as a member." *Dante J. DiFrancesco*, Exchange Act Rel. No. 66113, 2012 SEC LEXIS 54, at *2 n.2 (Jan. 6, 2012). "It is well-established that [FINRA's] disciplinary authority under [FINRA Rule 2010] 'is broad enough to encompass business-related conduct that is inconsistent with just and equitable principles of trade, even if that activity does not involve a security.'" *Daniel D. Manoff*, 55 S.E.C. 1155, 1162 (2002) (citation omitted). Moreover, FINRA Rule 2010 "serve[s] as an industry backstop for the representation, inherent in the relationship between a securities professional and a customer, that the customer will be dealt with fairly and in accordance with the standards of the profession." *DiFrancesco*, 2012 SEC LEXIS 54, at *17 (citation omitted).

Here, Hunt misused DL's social security number and income information and attempted to bind DL to guarantee a \$10,000 student loan for Hunt's daughter without DL's knowledge or consent. Under these undisputed facts, there is no doubt that Hunt acted unethically and did not deal with DL fairly or in accordance with the standards of the industry. There is also no doubt that Hunt's activities arose "in the conduct of his business," as required by FINRA Rule 2010. Hunt used confidential information from Wachovia Securities' customer file to complete the student loan application. Hunt was only able to engage in such misconduct through his business relationship with Wachovia Securities and his commercial relationship with DL. *Cf. DiFrancesco*, 2012 SEC LEXIS 54, at *17 n.18 (finding that respondent's action in taking and downloading confidential nonpublic information relating to approximately 36,000 customers was business-related as it involved both his business relationship with his firm and his commercial relationship with his customers). Consequently, we find that Hunt violated FINRA Rule 2010, as alleged in cause one of the complaint.

B. Falsified Expense Reports

Hunt admits that from February 2008 to March 2009, he intentionally falsified checks, submitted false expense reports and accepted hundreds of dollars in reimbursements before they were due to him. In doing so, Hunt violated NASD Rule 2110 and FINRA Rule 2010 as alleged in cause three. *See Dep't of Enforcement v. Taylor*, Complaint No. C8A050027, 2007 NASD

⁹ We discuss the rules in effect when the conduct occurred. FINRA Rule 2010 applies to Hunt's misuse of DL's personal information. The violation occurred after December 14, 2008, the effective date of FINRA's first group of consolidated rules, which included FINRA Rule 2010. *See FINRA Regulatory Notice 08-57*, 2008 FINRA LEXIS 50, at *32-33 (October 2008).

Discip. LEXIS 11, at *22-23 (NASD NAC Feb. 27, 2007) (finding that falsifying documents is a violation of Rule 2110).

V. Sanctions

The Hearing Panel found that Hunt's misconduct was egregious, and barred Hunt from association with any member firm in any capacity for: (1) using a customer's social security number and other personal information to secure a student loan for his daughter without the customer's authorization, in violation of FINRA Rule 2010; and (2) falsifying expense reports, in violation of NASD Rule 2110 and FINRA Rule 2010.¹⁰ We agree, with respect to cause one, that Hunt's conduct was egregious, and that a bar is an appropriate sanction to protect the investing public.¹¹ We find with respect to cause three, that Hunt's conduct was serious but not egregious, and that an appropriate sanction for this violation is a six-month suspension and \$10,000 fine.

A. Unauthorized Loan Application

We have considered the FINRA Sanction Guidelines ("Guidelines") in determining the appropriate sanction for Hunt's submission of the falsified loan application.¹² The Guidelines governing sanctions for forgery and/or falsification of documents recommend a fine of \$5,000 to \$100,000 and a suspension for up to two years where mitigating factors exist, or a bar in egregious cases.¹³ The Guidelines further set forth two specific considerations for such violations: (1) the nature of the document(s) forged or falsified; and (2) whether the respondent

¹⁰ The Hearing Panel aggregated the sanctions for Hunt's violations of FINRA Rule 2010 and NASD Rule 2110 under causes one and three. *See Dep't of Enforcement v. Fox & Co. Invs., Inc.*, Complaint No. C3A030017, 2005 NASD Discip. LEXIS 5, at *37 (NASD NAC Feb. 24, 2005) (stating that "where multiple, related violations arise as a result of a single underlying problem, a single set of sanctions may be more appropriate to achieve NASD's remedial goals.") (citation omitted), *aff'd*, Exchange Act Rel. No. 52697, 2005 SEC LEXIS 2822 (Oct. 28, 2005). We find that aggregation of sanctions is inappropriate here because although each of Hunt's violations relate to his financial problems, his misconduct stems from two sets of distinct, deliberate acts.

¹¹ *See Geoffrey Ortiz*, Exchange Act Rel. No. 58416, 2008 SEC LEXIS 2401, at *29-30 (Aug. 22, 2008) (stating that a "bar also serves the goal of general deterrence by alerting others who may be in a position to forge or cause the forgery of account documents, or submit forged documents to their employers, that forgery is treated as serious misconduct and receives severe sanctions.").

¹² *FINRA Sanction Guidelines* (2011), <http://www.finra.org/web/groups/industry/@ip/@enf/@sg/documents/industry/p011038.pdf> [hereinafter "*Guidelines*"].

¹³ *Id.* at 37.

had a good faith, but mistaken, belief of express or implied authority.¹⁴ We find that both considerations serve to aggravate Hunt's misconduct.

First, the Sallie Mae loan application was an important document. Indeed, the application was critically important because it contained highly confidential information, including DL's social security number, and also reflected that DL was obligated to guarantee a \$10,000 loan. Second, Hunt admitted that he did not have a good-faith belief that he had authority to falsify the Sallie Mae application because he believed all along that DL would not agree to cosign for the loan.

We next consider the Principal Considerations in Determining Sanctions.¹⁵ Upon consideration, we find that there are several additional aggravating factors associated with Hunt's improper use of DL's confidential information. First, Hunt's misconduct was intentional—his misdeeds were premeditated acts designed to address his "cash flow" problems.¹⁶ Hunt's misconduct also provided him with the potential for monetary gain in the form of a \$10,000 loan to pay for his daughter's education.¹⁷

Taking all these factors into account, we find that Hunt's improper use of DL's confidential information was egregious, and that a bar is an appropriate sanction for this misconduct.

B. Falsified Expense Reports

We have considered the Guidelines in determining the appropriate sanction for Hunt's submission of false expense reports. The Guidelines governing sanctions for forgery and/or falsification of documents recommend a fine of \$5,000 to \$100,000 and a suspension for up to two years where mitigating factors exist, or a bar in egregious cases.¹⁸ The Guidelines further set forth two specific considerations for such violations: (1) the nature of the document(s) forged or falsified; and (2) whether the respondent had a good faith, but mistaken, belief of express or implied authority.¹⁹ We find that both considerations serve to aggravate Hunt's misconduct.

¹⁴ *Id.*

¹⁵ *Id.* at 6-7.

¹⁶ *Id.* at 7 (Principal Consideration No. 13) (adjudicators should consider whether the respondent's misconduct was intentional).

¹⁷ *Id.* (Principal Consideration No. 17) (adjudicators should consider whether the respondent's misconduct resulted in the potential for monetary or other gain).

¹⁸ *Id.* at 37.

¹⁹ *Id.*

First, the expense reports were important because they are business records that employers and regulators (like the IRS) rely on to judge the legitimacy of business expenses. Moreover, Hunt's willingness to falsify the reports is an important reflection of his lack of trustworthiness. *Cf. Dep't of Enforcement v. Leopold*, Complaint No. 2007011489301, 2012 FINRA Discip. LEXIS 2, at *17 (FINRA NAC Feb. 24, 2012) (finding that the respondent's willingness to falsify hotel invoices and verification letters were "an important reflection on [the respondent's] veracity and integrity."). Second, Hunt knew that he did not have authority to falsify the expense reports to obtain payments for expenses from Wachovia Securities before he actually paid these expenses. This was evidenced by the fact that Hunt provided altered checks to his firm to conceal the fact that he had not paid the expenses prior to seeking reimbursement.

We next consider the Principal Considerations in Determining Sanctions.²⁰ Upon consideration, we find that there are several additional aggravating factors associated with Hunt's falsification of his expense reports. First, we find that Hunt's misconduct was intentional.²¹ We also find that Hunt attempted to deceive his firm.²² For example, Hunt's efforts to create the appearance that his altered checks had been paid and cleared required: (1) altering checks that had previously cleared; (2) changing the dates of the checks; (3) changing the check numbers; and (4) changing the amounts of the checks. These efforts all show how far Hunt was willing to go to deceive Wachovia Securities. Hunt's pattern of using altered documents to receive reimbursement from the Firm prior to paying his expenses on six occasions over the course of roughly a year also is aggravating.²³ In addition, we find it aggravating that Hunt's misconduct provided him with the potential for monetary gain in the form of actual reimbursements from the Firm before he was entitled to such reimbursement.²⁴ However, we note that unlike other disciplinary actions involving the falsification of expense reports, Hunt did not seek reimbursement for fake expenses. He only sought to speed up the period that he had to wait for reimbursement.

²⁰ *Guidelines*, at 6-7.

²¹ *Id.* at 7 (Principal Consideration No. 13) (adjudicators should consider whether the respondent's misconduct was intentional).

²² *Id.* at 6 (Principal Consideration No. 10) (adjudicators should consider whether the respondent concealed his or her misconduct from the member firm which he or she was associated).

²³ *Id.* (Principal Consideration Nos. 8 and 9) (adjudicators should consider whether the respondent: (1) engaged in numerous acts or a pattern of misconduct; and (2) engaged in the misconduct over an extended period of time).

²⁴ *Id.* at 7 (Principal Consideration No. 17) (adjudicators should consider whether the respondent's misconduct resulted in the potential for monetary or other gain).

Based on the forgoing, we find that Hunt's falsification of the six expense reports was serious, but not egregious. As such, a bar for this misconduct is inappropriate. Instead, we find that an appropriate sanction for this violation is a six-month suspension and a \$10,000 fine.

C. There Are No Mitigating Factors that Militate Against a Bar for Hunt's Improper Use of His Customer's Personal Information

In determining sanctions, we have also considered the potentially mitigating factors in the record, and we find that there are no mitigating factors that militate against imposing a bar for Hunt's misuse of DL's confidential information.²⁵ Hunt makes several unpersuasive arguments in favor of mitigation, which we address below.

First, Hunt argues that his lack of disciplinary history should be mitigating. This notion is misguided. The Commission has "repeatedly stated that a 'lack of disciplinary history is not a mitigating factor for purposes of sanctions because an associated person should not be rewarded for acting in accordance with his duties as a securities professional.'" *Howard Braff*, Exchange Act Rel. No. 66467, 2012 SEC LEXIS 620, at *25 (Feb. 24, 2012) (citations omitted); *see also Mark F. Mizenko*, Exchange Act Rel. No. 52600, 2005 SEC LEXIS 2655, at *17 (Oct. 13, 2005) (rejecting argument that a lack of a disciplinary history was mitigating when the respondent's misconduct involved multiple deceptive acts).²⁶

Second, Hunt argues that it is mitigating that he "did not provide inaccurate or misleading testimony . . . and stipulated to the facts" surrounding his misconduct. This argument also fails because Hunt only acknowledged his misconduct after the Firm discovered it and intervened. *See Mizenko*, 2005 SEC LEXIS 2655, at *17 (stating that the respondent's acknowledgement of his misconduct "carries little weight because it came only after he was confronted by his employer with his wrongdoing").²⁷

²⁵ Hunt argues that a bar is excessive because there are several examples of persons who have not been barred for similar or worse misconduct. The Commission, however, has stated that "[i]t is well-established . . . that the appropriateness of a sanction 'depends on the facts and circumstances of each particular case and cannot be precisely determined by comparison with action taken in other proceedings.'" *John M.E. Saad*, Exchange Act Rel. No. 62178, 2010 SEC LEXIS 1761, at *21-22 (May 26, 2010) (citations omitted), *appeal docketed*, No. 10-1195 (D.C. Cir. July 22, 2010).

²⁶ Similarly, we reject Hunt's argument that we should consider it mitigating that he is not a recidivist. *See Guidelines*, at 2 (General Principles Applicable to All Sanction Determinations). It is not mitigating that Hunt is not a repeat offender when he is required to comply with FINRA's rules.

²⁷ We also reject Hunt's argument that we should consider it mitigating that he has already been harmed by losing the retention bonus and deferred compensation he was expecting to receive from Wachovia Securities. This is because the harm was the result of Hunt's misconduct. *See Jason A. Craig*, Exchange Act Rel. No. 59137, 2008 SEC LEXIS 2844, at *27

Third, Hunt asserts that it is mitigating that despite his acts of deception involving the loan application, “there was no realistic possibility” that DL would have actually been obliged to guarantee the loan. Hunt’s argument is misplaced. Hunt created the appearance that DL was subject to a \$10,000 obligation without DL’s knowledge or authorization, which was harmful on its own. Moreover, the fact that Sallie Mae uncovered Hunt’s unauthorized use of DL as a guarantor and therefore DL was never actually subject to this obligation does not mitigate any sanction we might impose for Hunt’s misconduct. *Cf. Dep’t of Enforcement v. Bullock*, Complaint No. 2005003437102, 2011 FINRA Discip. LEXIS 14, at *63 (FINRA NAC May 6, 2011) (stating that “[e]ven though the record before us does not demonstrate that [the respondent’s] misconduct harmed the investing public, the fact that [the respondent’s misconduct] potentially could have resulted in harm or in any way threatened the firm or its customers suggests that lack of customer harm should not be considered mitigating.”). Similarly, we also do not find it mitigating that Hunt thought he would be more than able to repay the loan after receiving his anticipated \$300,000 in bonus money and deferred compensation. Hunt would have still created the appearance that DL was subject to a significant obligation in the interim.

Next, Hunt argues that it is mitigating that he: (1) was forthcoming and cooperative throughout this proceeding and FINRA’s investigation; (2) expressed remorse, and (3) did not harm any customers as a result of his misconduct. None of these arguments for mitigation persuade us not to impose a bar in light of the egregiousness of Hunt’s misconduct. *See Mizenko*, 2005 SEC LEXIS 2655, at *18 (affirming a bar in a forgery case and stating that “[t]he record indicates that [the respondent] cooperated with the . . . investigation, expressed contrition, and harmed no customers . . . [but] [t]hese factors, although relevant to the determination of what sanctions are appropriate, do not counterbalance the egregiousness of [the respondent’s] conduct.”); *see also Braff*, 2012 SEC LEXIS 620, at *26 (stating that “[t]he absence of . . . customer harm is not mitigating, ‘as our public interest analysis ‘focus[es] . . . on the welfare of investors generally.’”) (citations omitted); *Phillippe N. Keyes*, Exchange Act Rel. No. 54723, 2006 SEC LEXIS 2631, at *23 (Nov. 8, 2006) (rejecting respondent’s argument for a lesser sanction because he cooperated with NASD in its investigation of his conduct and he testified

[cont’d]

(Dec. 22, 2008) (holding that in determining sanctions, the Commission does not “consider mitigating the economic disadvantages [the respondent] alleges he suffered because they are a result of his misconduct.”).

Likewise, we reject Hunt’s argument that it is mitigating that Wachovia Securities terminated him prior to FINRA detecting his misconduct. The Firm’s termination of Hunt was contemporaneous with its submission of a Form U5 alerting FINRA about Hunt’s misconduct. *See Saad*, 2010 SEC LEXIS 1761, at *27-34 (affirming bar imposed by FINRA despite respondent’s claims, among others, that FINRA failed to consider it mitigating that his firm terminated him prior to FINRA’s detection of his misconduct).

truthfully). Moreover, Hunt's actions created potential customer harm, because he filed an application that created the appearance that DL had a \$10,000 obligation. We do not find it mitigating that his scheme to cause such harm was not successful.

Finally, Hunt claims that it is mitigating that he accepted responsibility for his actions at all times as evidenced in part by his assertion that he planned to inform DL of his misconduct after he returned from his family vacation. The record shows, however, that the Firm and DL discovered Hunt's misconduct before he returned from vacation and could own up to his wrongdoing. Thus, Hunt did not acknowledge his wrongdoing to Wachovia Securities prior to the Firm detecting his misconduct.²⁸ In fact, it was only after DL contacted the Firm to disclose the improper loan application, and the Firm confronted Hunt, that he acknowledged his misconduct. After reviewing the record, we find that there are significant aggravating factors and a lack of mitigating factors that justify a bar for Hunt's egregious and improper use of DL's confidential information.²⁹

²⁸ *Guidelines*, at 6 (Principal Consideration No. 2) (adjudicators should consider whether an individual accepted responsibility for and acknowledged the misconduct to his or her employer prior to detection and intervention by the firm).

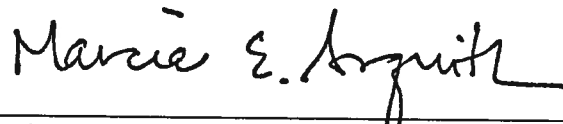
²⁹ Although we affirm the Hearing Panel's sanction of a bar, we do not agree with each aspect of the Hearing Panel's sanctions analysis. Specifically, the Hearing Panel cited Principal Consideration No. 14, and without further elaboration, found it aggravating that "at no time did Hunt attempt to remedy his misconduct." Principal Consideration No. 14 asks adjudicators to consider "[w]hether the member firm with which an individual respondent is/was associated disciplined [the respondent] for the misconduct at issue prior to regulatory detection." We fail to comprehend the connection between the Hearing Panel's finding that Hunt did not "remedy" his misconduct and its finding of aggravation in connection with Principal Consideration No. 14. Consequently, we give no weight to this finding by the Hearing Panel in our sanctions determination.

Similarly, the Hearing Panel, without explanation, concluded that it was aggravating that Hunt "left for vacation without informing DL or Sallie Mae about the unauthorized application." In this vacuum, we find that the fact that Hunt went on vacation without disclosing his misconduct is of no consequence, and we do not consider this an aggravating factor.

VI. Conclusion

For violating FINRA Rule 2010 by using a customer's confidential information to apply for a student loan without the customer's knowledge or consent, we bar Hunt in all capacities.³⁰ For violating NASD Rule 2110 and FINRA Rule 2010 by falsifying expense reports we suspend Hunt for six months and fine him \$10,000. However, in light of the bar for Hunt's Rule 2010 violation, we do not impose this suspension and fine. Finally, we also order Hunt to pay hearing costs of \$2,027.15 and appeal costs of \$1,512.08.³¹

On Behalf of the National Adjudicatory Council,



Marcia E. Asquith, Senior Vice President and
Corporate Secretary

³⁰ The bar is effective as of the issuance of this decision.

³¹ We have considered and reject without discussion all other arguments advanced by the parties.