FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT, Complainant, v. JACK BRIAN WEINSTOCK (CRD No. 4125551), Respondent.	Disciplinary Proceeding No. 20100226015-01 Hearing Officer - MC **HEARING PANEL DECISION** August 12, 2014

Respondent violated NASD Rules 3030 and 2110 by accepting compensation from another person as a result of an outside business activity, without providing prompt written notice to his firm. The Hearing Panel suspends him in all capacities for six months, imposes a fine of $5,000, and orders him to disgorge the $15,500 he received as compensation. In addition, Respondent is ordered to pay the costs of the hearing.

Appearances

Andrew T. Beirne, Esq., and Michael Wajda, Esq., New York, NY, for the Department of Enforcement.

Jack Brian Weinstock, Redondo Beach, CA, pro se.

I. Introduction

In 2008, one focus of Respondent Jack Brian Weinstock's business was to sell high-premium insurance products to wealthy persons he referred to as "white elephants."[1] Weinstock planned to reach them through his valued business contacts, whom he described as "centers of influence," who were attorneys, certified public accountants, and real estate agents representing

[1] Hearing Transcript (Weinstock) 56. References to the hearing transcript are referred to as "Tr." followed by the name of the witness testifying and the page cited. Joint exhibits submitted by the parties are referred to as "JX-"; Enforcement's exhibits are referred to as "CX-"; and Respondent's exhibits are referred to as "RX-."

high net worth individuals.[2] Weinstock viewed these valued business contacts as necessary conduits to reach his target clientele.[3]

Early in 2008, Weinstock began working with a friend, Steve Corzan, who was soliciting investments in a private placement that he was promoting as a vehicle for financing premiums for expensive insurance policies.[4] From March to June 2008, Weinstock introduced 22 of his valued business contacts to Corzan hoping that the introductions would lead to investments in the private placement, and that the investors would elect to use the returns on their investments to purchase high-end insurance products from him.[5] In June 2008, Corzan paid Weinstock $15,500 for arranging the introductions.[6]

Weinstock did not inform his employer firm that he made the introductions to Corzan or that Corzan paid him.[7] The firm discharged Weinstock after learning of the introductions.[8]

The Amended Complaint charges Weinstock with engaging in outside business activity and accepting compensation from Corzan without promptly informing his firm, in contravention of the firm's policies and written supervisory procedures, in violation of NASD Rules 3030 and 2110.[9]

---

[2] *Id*. at 58-59.

[3] *Id.* at 59. Weinstock testified that his firm taught him about "centers of influence." *Id.* at 58-59. In a lengthy response to a Rule 8210 information request, Weinstock wrote that his firm "concentrated on, promoted and developed an approach called Centers of Influence" and "encouraged … agents like me to aggressively reach, contact, meet and develop relationships with key Centers of Influence … as potential clients themselves, but, more typically, focused on viewing them as sources of appropriate introductions to … potential clients." JX-54, at 3.

[4] Amended Answer 1; Tr. (Weinstock) 45, 87.

[5] Tr. (Weinstock) 66-72, 75, 168.

[6] *Id.* at 130; JX-45.

[7] Tr. (Beer) 297-98, Tr. (Chrisman) 434, Tr. (Weinstock) 892.

[8] JX-4, at 2.

[9] As of July 30, 2007, NASD consolidated with the member regulation and enforcement functions of NYSE Regulation and began operating under a new corporate name, the Financial Industry Regulatory Authority (FINRA). Following consolidation, FINRA began developing a new Consolidated Rulebook. The first phase of the new consolidated rules became effective on December 15, 2008. *See Regulatory Notice 08-57* (Oct. 2008). This

Weinstock denies the charge. He contends that he was not required to inform his firm of the activity or the compensation he received. Weinstock claims that he merely engaged in standard marketing activity with Corzan, and that his compensation represented an advance on commissions he hoped to earn for selling insurance policies to the people he introduced to Corzan.[10]

For the reasons set forth below, the Hearing Panel rejects Weinstock's contentions, and concludes that he violated NASD Rules 3030 and 2110 as alleged in the Amended Complaint.

II. Findings of Fact and Conclusions of Law

A. Weinstock's Background

From January 2000 until September 30, 2010, Weinstock was an insurance agent with Northwestern Mutual Insurance Company ("NML").[11] He also was registered with FINRA as an Investment Company Products/Variable Contracts Representative through FINRA member firm Northwestern Mutual Investment Services, LLC ("NMIS").[12]

Decision relies on the NASD Rules in effect at the time of the alleged misconduct. NASD Rule 3030 was in effect during the period relevant to this case, March through June 2008, and remained in effect until December 15, 2010, when it was replaced by FINRA Rule 3270. The applicable rules are available at www.finra.org/rules.

[10] Amended Answer 2, 4-5 ¶ 11.

[11] Tr. (Weinstock) 38-39.

[12] Tr. (Weinstock) 35. Weinstock is not currently associated with a FINRA member firm. On September 30, 2010, NMIS filed a Uniform Termination Notice for Securities Industry Registration ("Form U5"), giving FINRA notice of Weinstock's termination of registration. JX-4. Enforcement filed the original Complaint on September 28, 2012, two days short of two years following the effective date of Weinstock's termination of registration, while Weinstock was still subject to FINRA's jurisdiction. See *Dep't of Market Reg. v. Imbruce*, No. 2008012137601, 2012 FINRA Discip. LEXIS 41, at *31 (N.A.C. Mar. 7, 2012) (the two-year period of jurisdiction starts on the effective date of the termination of registration), citing *Donald M. Bickerstaff*, 52 S.E.C. 232, 234 (1995) (the effective termination date is when NASD receives the Form U5). Therefore the Complaint was timely filed. Enforcement subsequently filed the Amended Complaint on November 29, 2012. Weinstock remains under FINRA's jurisdiction for the purposes of this proceeding pursuant to Article V, Section 4 of FINRA's By-Laws because the conduct described in the Amended Complaint occurred in 2008, while he was registered through NMIS. In his Wells Submission attached to his Amended Answer, Weinstock impliedly challenged FINRA's jurisdiction. Wells Submission 19. ("[A]s of August 2012, the time within which Finra [sic] was required to file any Enforcement Complaint was drawing very near. Respondent … does not here address such jurisdictional issues in any detail, other than to note that it is not necessarily clear that Finra … has jurisdiction; Respondent preserves all such arguments regarding this issue.") At the hearing, in opening remarks, Weinstock suggested, without explanation, that FINRA lacks jurisdiction over this case. Tr. 23 ("Enforcement is going to attempt to fool you into thinking first that they have jurisdiction for this

Weinstock describes himself as an "insurance professional who … held a Series 6 license."[13] Although Weinstock's contract with NMIS permitted him to sell mutual funds and other securities as well as insurance products, his core business was the sale of life, disability, and long-term care insurance.[14] His contract with NML allowed him to sell NML insurance products and, under certain circumstances, insurance products offered by other insurance companies.[15]

B. Corzan's Premium Financing Strategy

Weinstock first met Corzan in 2006.[16] Corzan was not associated with NMIS or NML; he was an insurance agent with Massachusetts Mutual Life Insurance Company.[17] Corzan was involved in "offering a particular approach to premium financing"[18] for high premium insurance policies. Weinstock thought Corzan's approach was an attractive alternative to traditional methods of financing expensive insurance premiums. According to Weinstock, high net worth individuals who wish to purchase insurance policies with large benefits often seek to finance the substantial premiums required to obtain such policies.[19] Traditionally, premium financing is arranged through bank loans.[20]

---

case.") For the reasons set forth above, the Hearing Panel finds Weinstock's challenge to FINRA's jurisdiction is without merit and rejects it.

[13] Amended Answer 1. He also held a Series 63 license.

[14] Tr. (Weinstock) 42, Tr. (Beer) 270.

[15] JX-6, at 1 ¶ 3, JX-12; Tr. (Beer) 270-71.

[16] Tr. (Weinstock) 42.

[17] *Id.* at 43, 220-21.

[18] Amended Answer 1.

[19] JX-54, at 4.

[20] Tr. (Weinstock) 52.

In 2008, Corzan was promoting a private placement issued by an entity called Diversified Lending Group ("DLG").[21] DLG issued notes, some guaranteeing interest of nine percent, others guaranteeing interest of twelve percent annually.[22] Corzan marketed DLG as a non-traditional approach to premium financing. An investor could purchase notes from DLG, and DLG would submit the investor's interest earnings directly to the insurance company instead of sending them to the investor. According to Weinstock, this differed from traditional premium financing arranged through a bank. When someone obtains a loan to pay premiums, insurance companies require the person to file a disclosure that the premiums will be paid with borrowed funds. However, insurance companies would not require a customer paying premiums with proceeds from an investment, such as DLG, to file a loan disclosure when applying to purchase an insurance policy.[23]

In early 2008, Corzan and Weinstock met to discuss Corzan's ideas.[24] Weinstock testified that Corzan approached him because Weinstock had a database with "a ton of people" in it and Corzan wanted Weinstock to "hook him up with people."[25] Weinstock was impressed with what Corzan said. He had not seen anything quite like what Corzan was proposing.[26] In Weinstock's words, Corzan "had a very good package and presentation put together"[27] that "kind of knocked my socks off."[28] He thought this could be "a guaranteed way to fund the premiums needed for

[21] *Id.* at 45.

[22] *Id.* at 47-49.

[23] *Id.* at 51-52.

[24] *Id.* at 43, 47.

[25] *Id.* at 879.

[26] *Id.*

[27] *Id.* at 841.

[28] *Id.* at 844.

large premium policies."[29] He "saw a huge opportunity … to start selling much larger insurance policies."[30]

C. The Collaboration

In the spring of 2008, Weinstock agreed to introduce his valued business contacts to Corzan.[31] Weinstock "concentrated first and foremost" on his "centers of influence." He also attempted to contact other people whom he "thought might benefit by an introduction to Mr. Corzan. All of these people seemed like potential candidates for premium financing, and/or in a position to know others who might be such candidates."[32]

Weinstock initially approached his valued business contacts by telling them that he knew someone with a different strategy for financing expensive premiums. He then gave them a summary of Corzan's strategy. If they were interested in learning more, Weinstock scheduled an introductory meeting with Corzan.[33]

There are e-mails that reflect the extent of their collaboration. On March 4, 2008, Weinstock sent an e-mail to Corzan stating that "our schedule has improved." In another e-mail message that day, Weinstock invited Corzan to a meeting of a networking group, writing, "I'm going to introduce you as someone I'm teaming up with and invite people to call me to set up a time for the two of us to get together with them." In the e-mail, Weinstock informed Corzan "I

[29] *Id.* at 738 (Weinstock reading from JX-54, at 8).

[30] *Id.* at 879.

[31] *Id.* at 59-60.

[32] JX-54, at 6.

[33] Tr. (Weinstock) 65-66.

just added another appt for Thursday. That's 7 in one day. I've told each person we only need 30 minutes. I hope you can do your pitch that quick." [34]

When Weinstock received an inquiry about premium financing, he asked for Corzan's input before responding. He drafted a response, incorporating information Corzan had given him, but sent it first to Corzan, asking, "How do you feel about the following response to that … inquiry?"[35]

In another instance, Corzan and Weinstock collaborated to stimulate the interest of a money manager Weinstock knew. The money manager, BK, fit Weinstock's definition of a center of influence: he was a person with "a lot of very influential clients," and Weinstock was looking for an opportunity to renew contact with him.[36] The opportunity presented itself in early May 2008 when BK sent an e-mail concerning an unrelated topic.[37] Weinstock used this as an opening to broach premium financing with BK. Weinstock wrote, "I've found that a lot of high net worth clients like the thought of giving their long-term care risks to the insurance company and I also have found a method to set up a guaranteed arbitrage method to pay for insurance … This technique shouldn't be confused with traditional premium financing techniques."[38]

BK responded the following day, asking Weinstock to provide a concise explanation of the "strategy."[39] Before responding to BK, Weinstock forwarded BK's request to Corzan and asked "How would you like me to move forward. I suggest an appointment."[40]

---

[34] JX-35, at 1. At the hearing, Weinstock denied that he introduced Corzan to the networking group as someone he was "teaming up with." Tr. (Weinstock) 77.

[35] Tr. (Weinstock) 93-97, 101-02; JX-42.

[36] Tr. (Weinstock) 200.

[37] JX-40, at 8. Weinstock represented in a response to a Rule 8210 request that BK "was pressing" him for a written explanation of the premium financing strategy. In fact, the e-mail chain shows that Weinstock persistently attempted to interest BK in the strategy, and hoped that BK would agree to meet with Corzan. JX-40.

[38] *Id.* at 7.

[39] *Id.* at 6.

Two days later, on May 14, 2008, Corzan sent Weinstock a detailed description of the premium financing strategy.[41] Less than an hour after receiving it, Weinstock responded to BK.[42]

Weinstock began by apologizing for the two-day delay. He stated that he had "needed to set aside some time" to prepare the concise explanation that BK had asked for.[43] Weinstock then explained that he had been "introduced to this Premium Finance strategy through an insurance broker that is working closely with a company that owns and manages a privately held investment that guarantees a return of 12% on your money." Weinstock gave the details directly from Corzan's description. He included Corzan's representation that the company had a 24-year history of providing investors with a 23% rate of return. He provided two examples – one showing how to finance a long-term care insurance policy, and the other showing how to finance a life insurance policy. He also listed numerous "benefits" of the strategy.[44]

Weinstock's description of the premium financing plan, its benefits, and the two financing examples were taken verbatim from the description Corzan sent him on May 14.[45] Weinstock then added that the "funding mechanism for this technique isn't something I'm able to solicit and/or sell, so I'd like to make the introduction, provided I'm used for the purchasing of

---

[40] JX-41.

[41] JX-34.

[42] JX-40, at 4-6.

[43] *Id.* at 4.

[44] *Id.* at 4-5.

[45] At the hearing, Weinstock testified that he used Corzan's e-mail description of the strategy as a "basis" for his message to BK, but conceded that it was close to being copied "word for word." He insisted that he made some changes because there was "certain verbiage that Corzan would use that I disagreed with." Tr. (Weinstock) 111. However, when Weinstock's NMIS supervisors investigated his activity, and asked about the e-mail to BK, Weinstock told them that he "made no changes" in the information Corzan gave him but just "forwarded" the material on "behalf" of Corzan. JX-48, at 5-6 ¶¶ Q25c-d; JX-49, at 7 ¶¶ Q25c-d.

the insurance products."[46] Weinstock closed by asking BK if he would "like to set up a time to meet with me and my contact."[47] BK declined Weinstock's invitation to meet Corzan.[48]

D. The Introductions

Weinstock attempted to reach 128 of his valued business contacts; 49 did not respond. An additional 49 responded but declined the invitation to meet Corzan. However, 30 expressed interest. Of these, from March through May 2008, Weinstock introduced 22 to Corzan: 20 in person, one by telephone, and another by e-mail.[49] None invested in DLG.[50] And none of the "white elephants" whom the "centers of influence" supposedly represented invested in DLG.[51] It was just as well, Weinstock observed in retrospect, because DLG "unfortunately … later was alleged by the SEC to constitute a Ponzi Scheme" and ceased doing business.[52]

In addition to his 22 valued business contacts, Weinstock introduced three other people to Corzan, two of whom invested in DLG, and lost money.[53]

E. Weinstock's Compensation

Weinstock testified that these efforts consumed "a lot of time"[54] and interfered with his

[46] JX-40, at 6.

[47] *Id*.

[48] *Id*. at 1.

[49] Tr. 15-18, Tr. (Weinstock) 61-72.

[50] Weinstock testified that he did not expect the "centers of influence" to invest in DLG; presumably, the goal was for them to interest their wealthy clients. Tr. (Weinstock) 75.

[51] *Id*. at 75-76, 136-37.

[52] Amended Answer 1. In March 2009, the Securities and Exchange Commission froze DLG's assets to prevent what it characterized as a fraudulent investment scheme. *SEC v. Diversified Lending Group, Inc., et al.*, No. CV09-01533 (C.D. Cal. Mar. 4, 2009), *available at* http://www.diversifiedreceivership.com/images/Bruce_Friedman_Complaint_Part_1_of_3.pdf.

[53] Tr. (Weinstock) 136, 239, 847, 852-53.

[54] *Id*. at 119-20.

core insurance business and the commissions it generated.[55] He had bills to pay,[56] and wanted to be compensated.[57]

According to Weinstock, he and Corzan had several discussions concerning compensation. In Weinstock's view, Corzan was "promising" that his pitch for DLG would produce insurance sales. Weinstock testified that he told Corzan, "Advance me … [commissions] that you're promising me to get, and I'm going to make introductions and see if I can sell insurance and you're going to get a piece of the insurance action."[58] Weinstock planned to return part of Corzan's "advance" if he succeeded in selling insurance.[59] But if he sold no insurance, he had no intention of returning money to Corzan.[60]

Corzan instructed Weinstock to work out a "formula" for his compensation.[61] Weinstock anticipated that the process of selling an insurance policy to a target client would take as long as six months from the introduction to Corzan to the sale of the policy, and he wanted to receive income in the interim.[62]

Weinstock proposed a figure to Corzan based on commissions he earned over a six-month period in 2008. Corzan rejected it as too high, and Weinstock submitted a lower figure. He asked Corzan to make an initial payment of $15,264 at the end of three months, and to make

[55] *Id.* at 122.

[56] *Id.* at 168-69.

[57] *Id.* at 123.

[58] *Id.* at 224.

[59] *Id.* at 900.

[60] *Id.* at 224. Weinstock testified: "I said, 'Hey, if your word isn't good and we don't sell this insurance, I don't want to pay you back because you wasted my time.' That's not acceptable to me."

[61] *Id.* at 123, 193.

[62] *Id.* at 192.

a second payment at the end of six months. Corzan agreed.[63] At the end of the three-month period, spanning March through May, Corzan paid Weinstock $15,500.[64]

Weinstock did not receive a second check as planned. In June 2008, DLG suspended business for a time, resumed briefly, and then ceased again.[65] According to Weinstock, he stopped scheduling introductions for Corzan because they realized that DLG was a Ponzi scheme.[66]

Weinstock did not inform his supervisors at NMIS of the payment from Corzan.[67]

F. Weinstock's Characterization of the Compensation

Weinstock's position is that he was not required to disclose the payment to NMIS because it was "an agreed-upon advance against potential future insurance commissions" that he "might earn" for future sales of life and other insurance products by Corzan and himself.[68] He has also described the payment as a "draw against future commissions"[69] and as a "draw that's nonrecourse."[70] At one point, he compared it to a "bad business loan."[71] In his 2008 IRS Tax Form 1099, Weinstock reported the payment as "non-employee compensation."[72]

Weinstock insists that the payment did not violate NASD Rule 3030 because the meetings with Corzan did not constitute an outside business activity. He claims that the meetings

[63] *Id.* at 192-94, 246. There is no written contact or other documentation reflecting the process by which they reached their agreement. *Id.* at 194-95, 243-44.

[64] JX-45. Corzan paid Weinstock by a check drawn on the account of Corzan Capital Management LLC, dated June 2, 2008. Weinstock deposited the check into his account on June 3, 2008. JX-46; Tr. (Weinstock) 129.

[65] Tr. (Weinstock) 244.

[66] *Id.* at 224.

[67] Tr. (Beer) 298, Tr. (Chrisman) 425, 436, Tr. (Weinstock) 895.

[68] Amended Answer 4-5 ¶ 11.

[69] Tr. (Weinstock) 132.

[70] *Id.* at 223.

[71] *Id.* at 132-34.

[72] *Id.* at 134-35; JX-47.

were merely "standard-issue insurance marketing efforts,"[73] and therefore he was not required to notify NMIS and obtain approval.[74] According to Weinstock, NMIS routinely allowed insurance agents to split commissions with non-NMS insurance agents, and this was precisely what he expected to do with Corzan when people took advantage of Corzan's premium financing strategy to purchase insurance.[75]

G. NMIS's Discovery and Investigation of the Introductions

It was not until April 2010, almost two years after Corzan's payment, that NMIS learned of Weinstock's and Corzan's joint undertaking.

As noted above, in addition to his 22 valued business contacts, Weinstock had referred three other people to Corzan.[76] Two invested in DLG and suffered losses when it became apparent that DLG was a Ponzi scheme.[77] One of them, CN, even though he was not an NMIS customer, filed an arbitration claim against NMIS complaining about Weinstock in connection with his investment in DLG.[78]

Upon receiving the claim, NMIS conducted an internal investigation. In June 2010, the firm's Compliance/Best Practices Department sent Weinstock's immediate supervisor, Collette Chrisman, and her supervisor, NMIS managing partner Mitchell Beer, a set of questions to use to interview Weinstock.[79] Beer and Chrisman took contemporaneous notes of Weinstock's

---

[73] Amended Answer 1-2. Corzan, in a separate disciplinary proceeding brought against him, testified that the payment was a referral fee that he paid Weinstock for introducing a person who invested in DLG. Tr. (Weinstock) 135-36.

[74] Tr. 23-25.

[75] Tr. (Weinstock) 163, 219, 813-14, 901.

[76] *Id*. at 239.

[77] *Id.* at 136, 847, 852-53.

[78] *Id.* at 183-84, Tr. (Beer) 293; JX-21. Weinstock described CN as "not a customer or client. He was a prospect." Tr. (Weinstock) 239.

[79] Tr. (Chrisman) 432; JX-48.

responses. Chrisman prepared a summary of the notes and sent it to Weinstock to review. He made some changes, initialed each page, signed and returned it to Chrisman.[80]

In the interview, even when asked to describe his relationship with Corzan, Weinstock did not disclose the payment he received.[81] Weinstock said only that his role was to make introductions to Corzan and that he attended the meetings solely because he hoped to sell high-end insurance policies.[82] He told Beer and Chrisman that he "did not receive any compensation in any investments that may have been sold" and "would only have earned commission off of the life insurance if a sale was made," but that there were no sales.[83]

At the conclusion of the internal investigation, NMIS and NML terminated their contracts with Weinstock effective September 30, 2010.[84] In its Form U5 filing, NMIS explained, in part, that Weinstock "was discharged while under internal review investigating … his involvement with OBAs, and his work with outside representatives."[85] Weinstock subsequently filed a lawsuit against Beer, his manager and NMIS's managing partner in charge of the Woodland Hills office.[86] In filings related to the lawsuit, NMIS learned for the first time that Corzan had compensated Weinstock.[87]

---

[80] JX-49; Tr. (Chrisman) 433.

[81] At the hearing, Weinstock claimed that he did not disclose receipt of the check because he was not asked about it, and because it was a "commission" and he had never been required to disclose commissions. Tr. (Weinstock) 190. Beer testified that it did not occur to him to ask. Tr. (Beer) 369-70.

[82] Tr. (Beer) 297; JX-49, at 5 ¶¶ Q18a-b.

[83] JX-49, at 7 ¶ Q25b.

[84] Tr. (Weinstock) 37-38, Tr. (Beer) 269-70.

[85] JX-4, at 2.

[86] Tr. (Beer) 299. Beer has been employed by NMIS for 25 years and has been managing partner in charge of the Woodland Hills, California office of NMIS since 2006. *Id.* at 266-68.

[87] *Id.* at 298-99.

H. NMIS's Outside Business Activity Policy

NMIS's written supervisory procedures specifically addressed outside business activities.[88] As explained by Beer, the firm's procedures permitted representatives to sell only NMIS and NML products; doing anything else was considered an outside business activity.[89] NMIS required its representatives to provide prior written notice of their intention to participate in any outside business activity, whether or not they expected to be compensated in connection with the activity, and to obtain written approval before doing so.[90]

NMIS's outside business activity policy did not permit a representative to accept a referral, finder's, consulting, or advisory fee without obtaining prior written approval.[91] An NMIS representative could, with prior approval, engage in insurance sales of non-NML products, if doing so was in the interest of a client; ordinarily, if approved, the representative would become licensed with another insurance company, and receive compensation through that company.[92] Under those circumstances, NMIS allowed a representative to split commissions with representatives of other insurance companies, so long as such payments were made through the commission structure of the other company. If not, the representative had to disclose and obtain permission, so that NMIS could be certain that the payment was not a referral or other prohibited fee.[93] Accepting fees from anyone other than an insurance carrier was

[88] JX-10.

[89] Tr. (Beer) 266-67, 275.

[90] JX-10, at 1 § 510.16.2.

[91] JX-10.

[92] Tr. (Beer) 277.

[93] *Id.* at 415.

impermissible.[94] Chrisman testified that NMIS's outside business activity policy had remained unchanged for many years.[95]

The purpose of these policies was to enable NMIS to effectively supervise its representatives and monitor their compliance with their contractual obligations, which included complying with FINRA rules.[96] According to Beer, Weinstock's presence at a single meeting with Corzan would not have been problematic. A meeting to prospect for business was not considered an outside business activity, but marketing products with an unregistered person was. Beer testified that by meeting regularly with a person not registered with NMIS who was selling promissory notes, Weinstock implied that he, as an NMIS representative, was in partnership with the person, and that NMIS approved of a non-NMIS sales promotion.[97] Beer was unequivocal: Weinstock should have informed a supervisor to obtain approval as soon as he attended more than a couple of meetings, and should have done so before accepting compensation.[98]

I. Weinstock's Understanding of NMIS's Outside Business Policy

Weinstock was well aware of his firm's requirements for reporting outside business activity; he had a history of complying with them. On two occasions, he sought and obtained approval to engage in outside business activity as the policy required. In 2006, not long before his involvement with Corzan, Weinstock requested and received approval to engage in the sales

[94] *Id.* at 278.

[95] Tr. (Chrisman) 440.

[96] Tr. (Beer) 272; JX-8.

[97] Tr. (Beer) 367-68.

[98] *Id.* at 383-85.

of non-NML insurance products.[99] In January 2009, Weinstock requested and received approval to organize a networking group he founded and of which he was part owner.[100]

Furthermore, on two separate occasions, Weinstock had been previously denied approval to receive outside compensation. In 2003, he asked Chrisman if he could receive referral fees for placing loans with other loan brokers. Chrisman conferred with NMIS's compliance department, and denied the request.[101] In May 2008, just weeks before Corzan paid him, Weinstock made another request for approval for outside compensation.[102] In it, Weinstock described a scenario that, similar to his collaboration with Corzan, involved being paid for insurance-related activity that did not result in sales of policies. Weinstock asked Chrisman if he could "charge a non-NML agent a fee for helping them with insurance cases … that he can't close. I'd still like to be compensated."[103] As before, Chrisman, after checking with NMIS's compliance department, denied Weinstock's request, because it would constitute a prohibited "consulting fee or referral fee."[104]

J. NASD Rule 3030

The relevant language of NASD Rule 3030 states that "No person associated with a member in any registered capacity shall … accept compensation from, any other person as a result of any business activity … *outside the scope* of his relationship with his employer firm, unless he has provided prompt written notice to the member. Such notice shall be in the form required by the member." (emphasis supplied)

---

[99] Tr. (Beer) 289-90; JX-13.

[100] Tr. (Beer) 290-91; JX-14.

[101] Tr. (Chrisman) 425-26; JX-25.

[102] JX-71.

[103] *Id.*

[104] Tr. (Chrisman) 428-30.

Enforcement established, and Weinstock does not dispute, that he was associated and registered with NMIS; accepted compensation from Corzan as a result of a business activity; and did not provide prompt written notice to NMIS in the form the firm required. As noted above, Weinstock's defense is that his activity with Corzan was not outside the scope of his relationship with NMIS. He claims that he was merely "prospecting," or looking for potential insurance sales, an accepted marketing activity, known and permitted by NMIS and his two managers, Beer and Chrisman, and that the compensation was a permissible advance on potential commissions for sales of insurance policies he anticipated would occur as a result of the introductions to Corzan.

The evidence, however, does not support Weinstock.

K. Weinstock's Violations

The Hearing Panel finds that Weinstock's introductions of his valued business contacts to Corzan were outside the scope of the insurance business authorized by his employer. The compensation Weinstock received was for arranging the introductions, and therefore constituted a referral fee, in violation of NMIS's policy and NASD Rules 3030 and 2110.[105]

Weinstock disputes these findings.[106] In a lengthy response to a Rule 8210 request for information, Weinstock wrote, "I merely provided introductions" to Corzan, and insisted "I do not consider this activity to be referrals to Mr. Corzan." He argued that a referral "involves something more than merely putting one person in touch with another … referral means and implies that the person referring is vouching in some fashion for the person;" he claims that

[105] The Hearing Panel notes that in an on-the-record interview, Corzan testified that the payment was a referral fee for Weinstock's introduction to Corzan of CN, who made an investment in DLG. Tr. (Weinstock) 135-36. Weinstock denied that the payment was related to his introduction of CN. Based on the available evidence, including Weinstock's testimony, the Hearing Panel is persuaded that the payment represented compensation to Weinstock for the time and effort he expended arranging for Corzan to meet his "centers of influence." This is consistent with Beer's testimony that Weinstock, during his internal investigative interview, said that "his job was to find and solicit people for meetings with [Corzan] … to bring people together." Tr. (Beer) 297.

[106] JX-54, at 7-9.

"putting various persons in touch with Mr. Corzan amounted to nothing more than providing introductions. "[107]

But Weinstock did more than merely introduce people to Corzan. He stimulated interest in premium financing among his valued business contacts, encouraged them to meet with Corzan, and attended all of the resultant meetings.[108] His e-mails to BK show that he described DLG and Corzan's strategy, listing its benefits, almost as if he were recommending it, despite a disclaimer that he could not sell DLG notes. When he described Corzan as a "broker who has an exclusive opportunity … working closely with a company that owns and manages a privately held investment that guarantees a return of 12% on your money … [with] a 24 year history with an average return of 23%," Weinstock was essentially vouching for Corzan.[109] This was not a mere introduction; it was a referral.

The Hearing Panel is not persuaded by Weinstock's claim that he was pursuing routine marketing or prospecting activities with Corzan that were transparent and condoned by Beer and Chrisman. The Hearing Panel finds that when he attempted to reach 128 of his valued business contacts, and arranged 22 personal introductions to Corzan, Weinstock was engaging in an outside business activity for which he sought, and obtained, compensation.

And Weinstock was not transparent. To the contrary, it was deceptive for him not to disclose the fact that he had been compensated when Beer and Chrisman questioned him extensively about his relationship and activities with Corzan. And it was deceptive to conceal

[107] *Id.* at 8.

[108] *Id*. at 6.

[109] JX-40 at 2, 4.

that he had been compensated by Corzan when he filled out the annual compliance form in 2008, after receiving Corzan's check.[110]

Weinstock understood that NMIS would not allow him to receive an "advance on commissions" from Corzan. Beer and Chrisman testified unequivocally that they would not have approved the compensation from Corzan. Weinstock, with his decade of experience at NMIS, knew both Beer and Chrisman well, understood the rules on outside business activity and the prohibition on referral fees, and had personally gone through the process of seeking and obtaining outside business approval for his activities on prior occasions. Nonetheless, shortly after Chrisman denied his May 7, 2008 request, Weinstock decided to accept payment from Corzan without approval.

For these reasons, the Hearing Panel concludes that Weinstock violated NASD Rules 3030 and 2110.[111]

III. Sanctions

A. Recommendations of the Parties

Enforcement recommends suspending Weinstock in all capacities for six months, imposing a fine of $5,000, and requiring him to disgorge the compensation he received for his outside business activities. Enforcement cites several factors as aggravating: (i) Weinstock acted intentionally, fully cognizant of the obligations he disregarded; (ii) he hid his activity from his firm; and (iii) he refuses to accept responsibility for his misconduct.[112]

---

[110] On the forms, Weinstock checked boxes stating that he had previously reported all outside business activities, and denying receipt of any referral or finder's fees from a source outside NMIS. Tr. (Weinstock) 178-79; JX-27, at 8-9 ¶¶ 8, 10b, 15. Weinstock answered similar questions on annual compliance forms in 2006, 2007, and 2009. JX-26, at 10-11 ¶¶ 10, 11, 15, JX-28, at 7 ¶¶ 8, 10, 11, JX-29, at 6 ¶¶ 47, 49, 50.

[111] *Wanda P. Sears*, Exchange Act Rel. No. 58075, 2008 SEC LEXIS 1521, at *19 n.28 (July 1, 2008) (noting that a violation of an NASD rule constitutes a violation of just and equitable principles of trade required by NASD Rule 2110 and its successor, FINRA Rule 2010).

[112] Department of Enforcement's Pre-Hearing Br. 7-19.

Weinstock does not address sanctions. Instead, he urges the Hearing Panel to dismiss the Complaint for lack of jurisdiction, assess costs against FINRA, and require FINRA to pay fines "for their disruptive and purposeful misconduct in their investigation and overstepping their jurisdiction."[113]

The Hearing Panel finds that Enforcement's recommendations are appropriately remedial under the circumstances of this case.

B. Purpose of the Rule

The SEC approved NASD Rule 3030 in 1988 "to address the securities industry's growing concern about preventing harm to the investing public and a firm's entanglement in legal difficulties based on an associated person's unmonitored outside business activities."[114] The purpose of the rule was to "improve the supervision of registered personnel" by informing supervisors of outside business activities and to ensure that firms receive "prompt notification of all outside business activities" to enable them to raise any concerns about outside activity "at a meaningful time."[115] The sweep of the rule is intentionally broad, requiring registered persons "to report *any* kind of business activity engaged in away from their firms,"[116] not only business activities related to securities.[117]

NASD Rule 3030 has been described as a "prophylactic rule designed to assure that an employee engages in conduct consistent with his duties to his employer and its clients."[118] When registered persons engage in business outside the scope of their relationships with their firm,

---

[113] Respondent Jack Brian Weinstock's Pre-Hearing Br. 24.

[114] *Joseph Abbondante*, 58 S.E.C. 1082, 1108 (2006).

[115] *NASD Notice to Members 88-86* (Nov. 1988), cited in *Dep't of Enforcement v. Schneider*, No. C10030088, 2005 NASD Discip. LEXIS 6, at *12-13 (N.A.C. Dec. 7, 2005).

[116] *NASD Notice to Members 01-79* (Dec. 2001) (emphasis in original).

[117] *Dist. Bus. Conduct Comm. v. Cruz*, No. C8A930048, 1997 NASD LEXIS 123, at *96 (N.B.C.C. Oct. 31, 1997).

[118] *Sears*, 2008 SEC LEXIS 1521, at *26 n.38 (*quoting Herbert J. Burns*, 52 S.E.C. 823, 829 (1996)).

without notice to the firm, they deprive the public of the protection ostensibly afforded by the oversight and supervision provided by their firm.[119]

C. Sanction Guidelines

FINRA's Sanction Guidelines suggest considering a fine in the range of $2,500 to $50,000 for engaging in outside business activities when there are no aggravating factors. If there are aggravating factors, the Guidelines recommend considering a suspension of up to a year and, in egregious cases, a bar.[120] The Principal Considerations in Determining Sanctions for outside business activity relevant to the facts of this case are (i) the duration of Weinstock's activity and number of customers involved; (ii) whether Weinstock could have created the impression that the firm had approved the product or service; and (iii) whether Weinstock misled his member firm about the activity or concealed it from the firm.[121]

In addition, the relevant generally applicable Principal Considerations in Determining Sanctions include: (i) whether Weinstock accepted responsibility for and acknowledged the misconduct prior to intervention by a firm or regulator; (ii) whether Weinstock engaged in numerous acts and a pattern of misconduct; (iii) whether Weinstock acted intentionally or negligently; and (iv) whether Weinstock was motivated by the potential for monetary gain.[122]

---

[119] *Id.* at *26 (*citing Micah C. Douglas*, 52 S.E.C. 1055, 1060 (1996)).

[120] *FINRA Sanction Guidelines* 13 (2013). The current *Guideline* for outside business activity applies to FINRA Rule 3270, which replaced NASD Rule 3030, in effect in 2008. However, FINRA Rule 3270 and NASD Rule 3030 both, in similar language, prohibit the conduct at issue here. Both forbid registered persons from receiving compensation from "any other person as a result of any business activity" that is "outside the scope" of the person's relationship with his firm.

[121] The Principal Considerations in Determining Sanctions list other factors not applicable here. They include: (i) whether the activity involved the firm's customers (here, the record does not disclose which, if any, of the contacts Weinstock introduced to Corzan were his, and NMIS's, customers); (ii) whether the activity resulted in injury to the firm's customers (here, the only economic injury appears to have been sustained by CN, who was not an NMIS client); and (iii) the dollar volume of sales (there was only one sale, to CN, which was not charged in the Complaint).

[122] *Guidelines* at 6-7 (Principal Considerations in Determining Sanctions Nos. 2, 8, 13, and 17).

In appropriate cases, the Sanction Guidelines also provide for disgorgement to be paid to FINRA when a respondent benefits from the misconduct.[123]

D. Discussion

Weinstock's improper outside activity occurred over a period of more than three months. During that period, he contacted more than 100 people and persuaded 22 of them to meet with Corzan. Thus, his misconduct involved numerous acts over a significant period.

As a registered representative, when he organized and attended the meetings with Corzan, Weinstock appeared to be acting in his capacity as a representative of NMIS. This could have led a person reasonably to infer that NMIS approved of Corzan's premium financing strategy. The Sanction Guidelines expressly address whether participation in an outside business activity gives an erroneous impression that a representative's firm "approved the product or service."[124] And this was precisely the concern expressed by NMIS's managing partner, Beer. He testified that Weinstock's meetings with Corzan, who was not associated with NMIS, presented a "huge problem" for supervision, creating potential "client confusion"[125] because Weinstock, as an NMIS representative, "legitimized the meeting" by presenting himself and Corzan "in a unified manner,"[126] and thereby implied that NMIS approved of Corzan's presentation.[127] As Beer

[123] *Guidelines* at 5 (General Principles Applicable to All Sanction Determinations No. 6). It is well established that a person should not be permitted to profit from wrongdoing by retaining gain derived from the conduct. *E.g., SEC v. Chetan Kapur, Lilaboc, LLC*, 2012 U.S. Dist. LEXIS 169784, at *6 (S.D.N.Y. Nov. 29, 2012) (the primary purpose of disgorgement is "to deprive violators of their ill-gotten gains"); *SEC v. Credit Bancorp, Ltd.*, 2011 U.S. Dist. LEXIS 14797, at *2-5 (S.D.N.Y. Feb. 14, 2011) (unlike restitution, which focuses on compensating investors for their losses, disgorgement is intended to force a wrongdoer to give up the amount by which he was unjustly enriched).

[124] *Guidelines* at 13 (Principal Considerations in Determining Sanctions No. 4).

[125] Tr. (Beer) 298.

[126] *Id*. at 367-68.

[127] *Id.* at 298.

testified, Weinstock, by scheduling meetings and "showing up together" with Corzan, appeared to be "in partnership with him."[128]

Another aggravating factor identified by the Guidelines is concealment of the outside business activity. As noted in the discussion above, Weinstock denies concealing his activity, arguing that it was "in full view" because he:

> routinely entered data in the Firm's contact management system … regarding scheduled meetings with Mr. Corzan, and notes regarding the various contacts and attempted contacts I made with view toward appropriate introductions. I sent and received various e mails regarding Mr. Corzan via my Firm e mail account. I also contacted Ms. Chrisman, my supervisor, and explained the basics of how I was spending a certain amount of time attempting to contact, and contacting, and/or meeting with various persons and Mr. Corzan.[129]

The Hearing Panel notes that none of these acts – use of NMIS's e-mail and contact management systems and his discussions with Chrisman – satisfied Weinstock's obligation to provide NMIS with prompt written notification of his activity.[130] And the evidence persuasively contradicts Weinstock's assertion that he explained what he was doing to Chrisman. In addition, as noted above, Weinstock actively concealed his outside business activity from supervisors by repeatedly failing to disclose it on annual firm compliance forms.[131]

The Principal Considerations in Determining Sanctions contain other factors that are applicable and support imposition of Enforcement's recommended sanctions. They are: acceptance of responsibility; intentionality; and the potential for gain.[132]

---

[128] *Id.* at 368.

[129] JX-54, at 8.

[130] *Sears*, 2008 SEC LEXIS 1521, at *15 (rejecting respondent's claim that she disclosed her outside business activity to her firm because she maintained copies of her work in office files reviewed by her supervisors and prepared the work on firm computers; doing so did not satisfy NASD Rule 3030's requirement of written notice).

[131] *Id.* at *27 (repeated failure to disclose the activities on a firm's outside business activity form constitutes the aggravating factor of concealment).

[132] *Guidelines* at 6-7.

First, Weinstock has consistently refused to accept responsibility for his misconduct, claiming that he had no obligation to inform NMIS of his referrals to Corzan or receipt of compensation.[133] At the close of the hearing, Weinstock insisted that "I don't think I did anything wrong … and not only did I not break rules, but the rules that are in here aren't enforced properly," thereby demonstrating his continued refusal to accept even the possibility that his conduct could appear to have violated NASD Rule 3030.[134]

Second, Weinstock's outside business activity was intentional. It extended over a period of months. He devoted significant time to contacting a large number of people to interest them in meeting Corzan, arranging the appointments, and attending meetings. This was a sustained course of conduct, not a product of impulse. Weinstock understood the process for seeking approval for such activity, but consciously ignored it. Thus, the evidence demonstrates that Weinstock intentionally violated NMIS's policies and procedures, and thereby NASD Rule 3030.

Third, Weinstock admits that he organized the introductory meetings expecting to profit from what he saw as a "huge opportunity … to start selling much larger insurance policies."[135] And, as he testified, Weinstock believed he deserved to be compensated for his efforts whether or not they resulted in sales of insurance.[136]

Taking into consideration all of these factors, the Hearing Panel concludes that Weinstock's misconduct was serious. To deter Weinstock and others from similar misconduct, it

[133] Tr. (Weinstock) 891-92, 894-95.

[134] Tr. 942.

[135] Tr. 879.

[136] *Id.* Weinstein testified that he thought at the time that "if [Corzan] wants to pay me to do phone calls, I'll send him people, and if he does any insurance, he can pay me for that or I can just be paid by the phone call." *Id.*

is necessary to impose a suspension in all capacities for six months, a fine of $5,000, and disgorgement of the monetary gain Weinstock obtained through his violative conduct.

IV. Conclusion

For violating NASD Rules 3030 and 2110 by accepting compensation from another person as a result of an outside business activity, without providing prompt written notice to his firm, the Hearing Panel suspends Respondent Jack Brian Weinstock in all capacities for six months, imposes a fine of $5,000, and orders him to disgorge the $15,500 he received as compensation. In addition, Respondent is ordered to pay the costs of the hearing in the amount of $8,300.44, consisting of an administrative fee of $750 and the cost of the transcript.[137]

If this Decision becomes FINRA's final disciplinary action, the suspension shall become effective on October 6, 2014, and shall end on April 5, 2015.

Respondent's fine and disgorgement shall be paid due and payable to FINRA upon his return to the securities industry.

HEARING PANEL.

_____

By: Matthew Campbell
Hearing Officer

Copies to:

Jack Brian Weinstock *(via overnight courier and first-class mail)*
Andrew T. Beirne, Esq. *(via electronic and first-class mail)*
Michael Wajda, Esq. *(via electronic mail)*
Jeffrey D. Pariser, Esq. *(via electronic mail)*

[137] The Hearing Panel has considered and rejects without discussion any other arguments made by the Parties that are inconsistent with this decision.