

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

KRIS LYNN LEWIS
(CRD No. 4505097),

Respondent.

Disciplinary Proceeding
No. 2015047154001

Hearing Officer—DRS

HEARING PANEL DECISION

July 16, 2018

Respondent is barred from associating with any FINRA member firm for (1) willfully failing to timely amend her Form U4 to disclose that [REDACTED]; (2) providing false information to FINRA; and (3) providing false information on a firm compliance questionnaire. Respondent is ordered to pay costs and is subject to a statutory disqualification.

Appearances

For the Complainant: Jennifer Crawford, Esq., and R. Michael Vagnucci, Esq., Department of Enforcement, Financial Industry Regulatory Authority.

For the Respondent: John J. Miller, Esq., Swanson Midgley, LLC.

DECISION

I. Introduction

Individuals seeking to become registered with a FINRA member firm must complete and file with FINRA a Uniform Application for Securities Industry Registration or Transfer (“Form U4”). Thereafter, the registered person must keep the information on the Form U4 current and accurate. The Form U4 asks, among other things, [REDACTED]. The Department of Enforcement brought a disciplinary action against Kris Lynn Lewis, a registered representative, charging her with willfully failing to timely amend her Form U4 to disclose [REDACTED], and with failing to disclose this information on firm and FINRA questionnaires.

Lewis admitted that she failed to amend her Form U4 to reflect [REDACTED] and that she answered the questionnaires falsely. Lewis claimed, however, that she engaged in this misconduct under duress. According to Lewis, she timely disclosed [REDACTED] to her supervisors, but they failed to notify the firm’s Compliance Department. Moreover, Lewis asserted that her direct supervisor instructed her not to report the [REDACTED] matter and repeatedly threatened to terminate her employment and physically harm her if she did so or revealed that he knew about it. Purportedly, she succumbed to his threats. Lewis argued that, under these circumstances, her alleged wrongful acts and omissions were involuntary and not willful and, therefore, the charges should be dismissed. Further, Lewis requested that in the event she is found liable, the alleged coercion should be treated as a mitigating factor when imposing sanctions.

A hearing was held before a FINRA disciplinary Hearing Panel on January 30–February 1, 2018. Lewis did not contest most of the central allegations against her, and the hearing focused on her duress defense. After considering the evidence, the Hearing Panel rejects Lewis’s defense, finds that she committed the violations alleged and, because of numerous aggravating factors, bars her in all capacities from associating with any FINRA member firm. We also find that her Form U4-related violations were willful. As a result of the willfulness finding, she is subject to statutory disqualification from associating with a FINRA member firm.

II. Findings of Fact

Lewis first became registered with a FINRA member firm in 2002 as a General Securities Representative¹ and, that year, also became an insurance agent.² Over the next seven years, she was registered successively at two member firms.³ Afterward, in April 2009, she became registered as a General Securities Representative with ING Financial Partners, which, in or around October 2014, was renamed Voya Financial Advisors, Inc. (“Firm” or “Voya”).⁴ On September 29, 2015, Voya terminated Lewis’s registration “due to the occurrence of a statutory disqualification event.”⁵ Lewis is currently registered as a General Securities Representative at another FINRA member firm.⁶ The alleged misconduct that is the subject of this disciplinary proceeding occurred while Lewis was registered at Voya and worked in its North Emporia Street office in Wichita, Kansas.

¹ Amended Joint Factual Stipulations (“Am. Stip.”) ¶ 1.

² Hearing Transcript (“Tr.”) 106.

³ Am. Stip. ¶ 2.

⁴ Am. Stip. ¶ 3.

⁵ Am. Stip. ¶ 4.

⁶ Am. Stip. ¶ 5.

While registered at Voya, Lewis’s Office of Supervisory Jurisdiction (“OSJ”) supervisor was RJR,⁷ who worked in the same office as Lewis.⁸ Beginning in 2010 or early 2011, RJR’s son/business partner, RR,⁹ became the OSJ delegate supervisor¹⁰ and assisted RJR in his supervisory responsibilities,¹¹ including supervising Lewis.¹²

A. [REDACTED]

[REDACTED]

[REDACTED]

⁷ Tr. 58–59.

⁸ Tr. 144, 231–33.

⁹ Tr. 142, 146.

¹⁰ Tr. 59, 234.

¹¹ Tr. 143.

¹² Tr. 143–45.

¹³ [REDACTED]

¹⁴ [REDACTED]

¹⁵ [REDACTED]

¹⁶ [REDACTED]

¹⁷ [REDACTED]

¹⁸ [REDACTED]

¹⁹ [REDACTED]

²⁰ [REDACTED]

²¹ [REDACTED]

[REDACTED]²²
[REDACTED]²³

B. Lewis Fails to Update Her Form U4 [REDACTED]

Between 2011 and 2015, Lewis understood that registered representatives are required to keep their Form U4 accurate.²⁴ Under Lewis’s January 2009 agreement with the Firm, which was in effect through her termination, Lewis agreed “to timely file an amendment to [her] Form U4 whenever changes occur in answers previously reported and to promptly provide [the Firm] with a copy of [her] U4 and any amendment thereof.”²⁵ Lewis also agreed to become familiar with and abide by the Firm’s policies and procedures.²⁶ One of those policies in effect from August 4, 2008, through at least September 2015, reminded Lewis that she had primary responsibility to keep her Form U4 “current and accurate at all times.” The policy also required her to submit “to the Firm’s Licensing and Registration Department” any changes “no later than 30 days after discovery of the facts and circumstances giving rise to a reporting event.”²⁷

At all relevant times, the Form U4 asked the following two questions regarding [REDACTED]
[REDACTED]²⁸
[REDACTED]²⁹

From February 29, 2012, to September 28, 2015, Lewis knowingly failed to timely amend her Form U4 to disclose [REDACTED]³⁰ And from May 21, 2012, to September 28, 2015, Lewis knowingly failed to timely amend her Form U4 to disclose [REDACTED]³¹ She also never reported [REDACTED]
[REDACTED] the Firm’s Compliance or Licensing Departments.³²

²² [REDACTED]

²³ [REDACTED]

²⁴ Tr. 75–76.

²⁵ CX-25, at 1, ¶ 1; Tr. 76–78.

²⁶ CX-25, at 2, ¶ 6; Tr. 78.

²⁷ CX-26, at 1.

²⁸ [REDACTED]; Am. Stip. ¶ 10; CX-8, at 8; CX-9, at 7; CX-10, at 7; CX-11, at 7; CX-12, at 7; CX-13, at 9; CX-14, at 9; CX-15, at 9; CX-16, at 9; CX-17, at 9; CX-18, at 9.

²⁹ [REDACTED]

³⁰ [REDACTED]

³¹ [REDACTED]

³² [REDACTED]

C. Lewis Gives a False Response on a FINRA Questionnaire

In connection with an examination of Voya, FINRA staff issued a Personal Activity Questionnaire (“FINRA Questionnaire”) to Lewis for her to complete and sign.³³ She completed the FINRA Questionnaire by hand and signed it on October 30, 2014,³⁴ above an attestation reciting that the information she provided was “accurate and truthful.”³⁵ The FINRA Questionnaire included the following question: [REDACTED]

[REDACTED]³⁶ She answered “No” to this question, even though she was aware that her answer was false [REDACTED]

[REDACTED]³⁷ At the time she completed and signed the FINRA Questionnaire, Lewis knew it was going to be submitted to FINRA.³⁸

D. Lewis Gives a False Response on Her Firm’s Annual Business Questionnaire

From 2012 through 2015, Lewis electronically completed four Annual Business Questionnaires (“Firm Questionnaires”) on April 19, 2012, July 28, 2013, June 2, 2014, and June 4, 2015.³⁹ The 2012 and 2013 Firm Questionnaires asked: “Do you know that according to FINRA Rules, you have an ongoing obligation to immediately notify your supervisor and the Compliance Department and amend your Form U4 within 30 days for changes that include . . .

[REDACTED]⁴⁰ Each year, Lewis answered “Yes” to this question.⁴¹

The 2014 and 2015 Firm Questionnaires asked: “Do you know that according to FINRA Rules, you have an ongoing obligation to immediately notify your supervisor and the Compliance Department to amend your Form U4 for changes or occurrences that include . . .

[REDACTED]⁴² Each year, Lewis answered “Yes” to this question.⁴³

³³ Am. Stip. ¶ 22.

³⁴ Am. Stip. ¶¶ 23–24.

³⁵ Am. Stip. ¶ 24; CX-32, at 4.

³⁶ [REDACTED]

³⁷ [REDACTED]

³⁸ Tr. 91.

³⁹ Am. Stip. ¶¶ 14–15.

⁴⁰ Am. Stip. ¶ 16.

⁴¹ Am. Stip. ¶ 17; CX-27, at 4, no. 8 (2012 Firm Questionnaire completed April 19, 2012); CX-28, at 3, no. 15 (2013 Firm Questionnaire completed July 28, 2013).

⁴² Am. Stip. ¶ 18.

⁴³ Am. Stip. ¶ 19; CX-29, at 3, no. 16 (2014 Firm Questionnaire completed June 2, 2014); CX-30, at 3, no. 15 (2015 Firm Questionnaire completed June 4, 2015).

Each Firm Questionnaire asked: “Do you know that you are required to immediately report [REDACTED] to [the Firm’s] Compliance Department?”⁴⁴ And each time Lewis answered “Yes” to this question.⁴⁵

The June 2015 Firm Questionnaire asked Lewis: “Have you notified your Supervisor and the Firm’s Compliance Department of all U4 amendments as described in the previous question?”⁴⁶ In response, she answered “Yes.”⁴⁷ This answer was false because Lewis did not report [REDACTED] to Voya’s Compliance Department.⁴⁸

E. FINRA Notifies Voya of Lewis’s [REDACTED] Matter and Voya Terminates Her

In or about September 2015, Voya Senior Compliance Analyst Jennifer Adamson⁴⁹ received a letter from FINRA informing her that Lewis [REDACTED] [REDACTED]⁵⁰ Adamson then notified RJR about the FINRA letter⁵¹ and told him she needed to speak with Lewis and that Lewis would need to explain in writing the circumstances surrounding the [REDACTED] matter and why she had not disclosed it to the Firm.⁵²

After speaking with RJR, Adamson called Lewis, who, according to Adamson, confirmed that the information in the FINRA letter was accurate, i.e., that Lewis [REDACTED] [REDACTED]⁵³ During that call, Adamson told Lewis that the Firm needed to make a Form U4 filing with FINRA and that she needed Lewis’s documentation relating to the [REDACTED] She also requested Lewis’s written statement.⁵⁴

⁴⁴ Am. Stip. ¶ 20.

⁴⁵ Am. Stip. ¶ 21; CX-27, at 4, no. 9 (2012 Firm Questionnaire completed April 19, 2012); CX-28, at 3, no. 16 (2013 Firm Questionnaire completed July 28, 2013); CX-29, at 4, no. 17 (2014 Firm Questionnaire completed June 2, 2014); CX-30, at 3, no. 17 (2015 Firm Questionnaire completed June 4, 2015).

⁴⁶ Am. Stip. ¶ 29. This question was not included in the 2012, 2013, and 2014 Firm Questionnaires.

⁴⁷ Am. Stip. ¶ 30; CX-30, at 3, no. 16.

⁴⁸ Am. Stip. ¶ 31. Notwithstanding the stipulation, Lewis testified at the hearing that she did not consider this a false answer because she reported the [REDACTED] matter to her supervisor. Tr. 89. We reject this testimony. It is contrary to the stipulation, and Lewis offered no reason why she should not be bound by a stipulation she entered into months before the hearing. In in any event, as discussed below, we did not credit Lewis’s testimony that she reported the [REDACTED] matter to her supervisor.

⁴⁹ Tr. 344–45.

⁵⁰ [REDACTED]

⁵¹ Tr. 303–04.

⁵² [REDACTED]

⁵³ [REDACTED]

⁵⁴ [REDACTED]

On or about September 15, 2015,⁵⁵ Lewis provided her written statement to Adamson.⁵⁶ After reviewing the statement and documentation Lewis supplied, the Firm decided to terminate Lewis. To communicate this decision, Adamson asked RJR to set up a conference call with her, Lewis, RJR, and RR.⁵⁷ On September 24, RJR contacted Lewis and told her that Adamson wanted to have a conference call the next day, Friday, September 25.⁵⁸ But Lewis declined to come into the office that day because she was having a garage sale. So, the call occurred on Monday, September 28,⁵⁹ in RJR's office. RJR, RR, and Lewis were present, and Adamson phoned in from her off-site location. RR recorded the call using his personal cell phone, which he placed near the speaker phone in RJR's office.⁶⁰ During that call, Adamson terminated Lewis's employment with Voya.⁶¹

F. Lewis's Defense

For her defense, Lewis asserted that she reported the [REDACTED] matter to RJR and RR and that RJR initially told her that it was not reportable. Further, according to her version of events, RJR later threatened to fire her and harm her physically if she reported the [REDACTED] matter to the Firm or revealed that he knew about it. Fearful of RJR, Lewis says she followed his instructions and did not report the [REDACTED] matter to the Compliance Department and answered the FINRA and Firm questionnaires falsely. These circumstances, she argues, constitute a defense to both the charges and a finding of willfulness, and, at a minimum, should be considered a mitigating factor for sanctions, should she be found liable.

At the hearing, Lewis testified in support of her defense. The Hearing Panel did not, however, credit key aspects of her testimony, as explained below. We begin our discussion with a summary of Lewis's version of events.

1. Lewis's Version of Events

[REDACTED]

⁵⁵ Tr. 98.

⁵⁶ JX-1.

⁵⁷ Tr. 258, 355.

⁵⁸ Tr. 518.

⁵⁹ Tr. 159, 518.

⁶⁰ Tr. 160. While RR admitted that he did not tell Lewis he was recording the call, he and RJR said his phone was placed in open view next to the speaker phone. Tr. 160, 328–29. He testified that he did not recall if he told Adamson he was recording the call. Tr. 160. For their part, both Adamson and Lewis testified they did not know the call was being recorded. Tr. 356, 519.

⁶¹ Tr. 96, 159–60, 257.

[REDACTED] 62 [REDACTED] 63 [REDACTED] 64
[REDACTED] 65 [REDACTED] 66
[REDACTED] 67

[REDACTED] 68 [REDACTED] 69 [REDACTED] 70
[REDACTED] 71 [REDACTED] 72

[REDACTED] 73 [REDACTED] 74 [REDACTED] 75
[REDACTED] 76 [REDACTED] 77

⁶² Tr. 489, 566.

⁶³ [REDACTED]

⁶⁴ [REDACTED]

⁶⁵ [REDACTED]

⁶⁶ [REDACTED]

⁶⁷ [REDACTED]

⁶⁸ [REDACTED]

⁶⁹ [REDACTED]

⁷⁰ [REDACTED]

⁷¹ [REDACTED]

⁷² [REDACTED]

⁷³ [REDACTED]

⁷⁴ [REDACTED]

⁷⁵ [REDACTED]

⁷⁶ [REDACTED]

⁷⁷ [REDACTED]

[REDACTED] 78
[REDACTED] 79
[REDACTED] 80

The next month, on or about April 19, 2012, the Firm asked Lewis to complete the Firm Questionnaire.⁸¹

[REDACTED] 82
[REDACTED] 83
[REDACTED] 84
[REDACTED] 85
[REDACTED] 86

[REDACTED] 87

Lewis testified that at that point, RJR told her that he had not looked into the question and would not do so; and, pointedly, he instructed her not to inform the Firm about it because if she did, he would fire her.⁸⁸ While this was the first time RJR

78 [REDACTED]

79 [REDACTED]

80 [REDACTED]

⁸¹ Tr. 509.

82 [REDACTED]

⁸³ Tr. 552–53. Lewis testified that she did not ask and was not told by RJR or RR to lie on her 2015 Firm Questionnaire about whether she had reported [REDACTED]. She claimed that around that time there was a compliance audit being conducted, and they had told her to lie on the audit questions. Tr. 548–49 (testifying that she was unsure whether she was referring to the FINRA audit and FINRA Questionnaire, or a Voya audit). *See also* Tr. 511–12 (testifying that she had asked RR several times from 2012 through 2015 about reporting [REDACTED]; each time he told her not to do so, so by the time she completed the 2015 Firm Questionnaire, she did not ask him how to respond).

84 [REDACTED]

85 [REDACTED]

86 [REDACTED]

87 [REDACTED]

⁸⁸ Tr. 507–08.

purportedly threatened her,⁸⁹ it would not be the last, according to Lewis. Lewis testified that afterward, RJR threatened several times to fire her if she ever told Voya about [REDACTED]
[REDACTED]⁹⁰

Although RJR purportedly began with threats against her livelihood,⁹¹ Lewis claims he did not stop there. Later, his threats allegedly became progressively more menacing and extended to Lewis's family.⁹² Lewis testified that in or around July 2012, she again spoke with RJR about completing compliance documents prior to a compliance audit and she asked him if she had to report [REDACTED] on the form. Lewis said that RJR reiterated what he told her in April 2012—i.e., that she should not report it⁹³—and at this point, he also threatened her family: “‘Remember, I know where you live,’ and [he] just told me that if I knew what was good for me, I wouldn’t do it.”⁹⁴ Lewis followed his instruction and did not report it at that time.⁹⁵ Lewis testified that his threats further escalated. She accused him of threatening to (1) take steps to burn down her house;⁹⁶ (2) assemble pipe bombs and use them against her;⁹⁷ (3) put her out on the street;⁹⁸ and (4) make sure a bus ran over her.⁹⁹

According to Lewis's summary of events, before RJR began making any threats, she followed his instructions not to report [REDACTED] because he told her he did not think [REDACTED] was reportable since it was unrelated to the financial services industry.¹⁰⁰ “I took him at his word. I didn’t know,” she said.¹⁰¹ And once he began threatening to fire her, even before he threatened her physically, she continued to follow his instructions that under no circumstances should she report [REDACTED]: “I didn’t know what to do, I just followed his

⁸⁹ Tr. 552–53, 574–75.

⁹⁰ Tr. 570–71. Lewis testified that RJR never specifically told her not to report [REDACTED], only that she should not report [REDACTED]. Tr. 559–60. She said she also told RR about the disposition of her [REDACTED] matter, and he did not ask her any questions about it. Tr. 508. According to Lewis, RR never threatened her. Tr. 596.

⁹¹ Tr. 572.

⁹² Tr. 572.

⁹³ Lewis testified that this July 2012 conversation—during a Voya compliance audit when RJR told her that she should not disclose [REDACTED] on her 2012 questionnaire—did not relate to her 2012 Firm Questionnaire. Rather, it related to a separate Voya internal questionnaire that had to be completed prior to the audit. Tr. 549–50.

⁹⁴ Tr. 510–11.

⁹⁵ Tr. 511.

⁹⁶ Tr. 569–70.

⁹⁷ Tr. 570.

⁹⁸ Tr. 572.

⁹⁹ Tr. 572.

¹⁰⁰ Tr. 575, 577.

¹⁰¹ Tr. 575.

direction.”¹⁰² As a result, according to Lewis, while she disclosed ██████████ to RJR and RR, she did not feel comfortable telling anyone else at Voya after RJR threatened her.¹⁰³

In retrospect, “I should not have listened to him,” Lewis conceded. “[M]y compliance team always told me if I had a problem, to tell my supervisor, I didn’t know if Voya would believe him over me, I was just afraid, and,” she added, “I was afraid of what happened with the court case, and I just didn’t want to cause any more waves.”¹⁰⁴

2. The Panel Did Not Credit Major Aspects of Lewis’s Version of Events

The Panel rejected Lewis’s claim that she timely reported ██████████ to RJR and RR and that she did not otherwise report it to Voya or FINRA because of RJR’s many threats to her. We did not credit her testimony for a number of reasons discussed below.

a. Lewis’s defense lacked corroboration.

Lewis’s defense was uncorroborated. She testified that she did not document the purported threats in any way.¹⁰⁵ And, although she testified that she told her husband, son, and his fiancée about RJR’s purported threats,¹⁰⁶ they did not testify at the hearing. Lewis also never filed a complaint or grievance about RJR’s alleged threats or otherwise report them to any law enforcement agency, FINRA, or any other regulator.¹⁰⁷

b. Lewis’s testimony was inconsistent with other credible evidence.

RJR and RR disputed Lewis’s accusations against them. Specifically, both denied:

1. Knowing that Lewis ██████████ ██████████, when Adamson called and informed them of these events, after she was notified by FINRA;¹⁰⁸
2. ██████████ ██████████¹⁰⁹

¹⁰² Tr. 576–78.

¹⁰³ Tr. 526–27.

¹⁰⁴ Tr. 578.

¹⁰⁵ Tr. 554.

¹⁰⁶ Tr. 578–79.

¹⁰⁷ Tr. 551–52. Lewis testified that she was trying to find other office space and procure other employment so she could then disclose the threats. Tr. 552. But this explanation rang hollow. Lewis failed to report the alleged threats even after she was terminated, claiming that she had no proof of them. Tr. 561.

¹⁰⁸ Tr. 148–50, 153, 235–36. *See also* Tr. 236–42.

¹⁰⁹ Tr. 184–85, 220, 246–47, 300–01, 383. There was extensive testimony regarding the mail handling/stamping procedures in the office. Tr. 205, 208–10, 293–94, 385, 388, 393. Lewis claimed that RJR’s administrative assistant

3. Telling Lewis that she should not amend or update her Form U4 to disclose her [REDACTED],¹¹⁰
4. Telling Lewis that [REDACTED] were not reportable for the purposes of amending or updating her Form U4;¹¹¹
5. Telling Lewis that she should not report [REDACTED] to Voya's Compliance or Licensing and Regulation Departments;¹¹²
6. Telling Lewis that they would fire her if she disclosed [REDACTED] to Compliance;¹¹³ or
7. Telling Lewis that she should answer any questions on her Firm Questionnaires in any particular way (other than RR giving her guidance on one question regarding calculation of her compensation) and RR, in particular, denied telling her to provide a false answer.¹¹⁴

Both RJR and RR acknowledged, however, that before Adamson's call, they each had some knowledge that Lewis [REDACTED]
 [REDACTED]¹¹⁵ At some point, according to RJR, he asked Lewis [REDACTED]
 [REDACTED]¹¹⁶

Similarly, RR testified that sometime in 2012, [REDACTED]
 [REDACTED]
 [REDACTED]¹¹⁷

showed him [REDACTED] around the time it was delivered to the Firm. The evidence, however, was inconclusive and supported, rather than undercut, RJR's denials. For example, the administrative assistant, who opened and date-stamped the mail, denied date-stamping [REDACTED] or even seeing it until her on-the-record interview with FINRA staff in March 2017. Tr. 391-92, 498. The evidence did not preclude a scenario in which Lewis intercepted the envelope when it arrived in the office and date-stamped it herself with the stamper that was located in the administrative assistant's unlocked desk drawer. Tr. 388-90.

¹¹⁰ Tr. 191, 270.

¹¹¹ Tr. 192, 270.

¹¹² Tr. 192, 270.

¹¹³ Tr. 192-93, 271.

¹¹⁴ Tr. 187-92, 250-55.

¹¹⁵ Tr. 242-44, 291.

¹¹⁶ [REDACTED]

¹¹⁷ [REDACTED]

Both RJR and RR denied any involvement in writing Lewis’s pre-termination letter to Adamson, and both denied telling her not to implicate them in that letter.¹¹⁸ And, most fundamentally, RJR specifically denied ever threatening Lewis or her family’s well-being or safety.¹¹⁹

We credited the testimony of RJR and RR. Each testified consistently with the other, as well as consistently with Adamson and the administrative assistant, and their testimony was not undermined by other credible evidence or by cross examination.

Lewis also failed to provide a credible explanation for why RJR and RR would put their careers at risk by failing to report, or requiring Lewis to report, ██████████ to Compliance. Lewis attempted unsuccessfully to prove her claims that RJR had strong motives for her to conceal ██████████ from Voya. Lewis argued that RJR was concerned that if she reported ██████████, their office would be subjected to increased scrutiny, which would reveal that he was performing tax/legal document preparation activities beyond the scope of his licenses.¹²⁰ On its face, this argument seemed far-fetched; even if RJR was involved in improper activities, it is unclear why they would come to light merely because Lewis reported ██████████ to the Firm.

Moreover, the evidence did not support Lewis’s assertion. As Lewis admitted at the hearing, while it was her “understanding at the time” that RJR was engaged in improper document preparation, she had no proof.¹²¹ Further, RJR’s tax preparation services were a disclosed outside business activity (“OBA”);¹²² RJR testified that his actual activities were consistent with his OBA disclosure,¹²³ and he denied being concerned that if Lewis were terminated, he could be exposed to legal liability or other adverse consequence if his tax preparation services were reviewed.¹²⁴ Lewis presented no contrary evidence.

Lewis also argued that RJR did not want to risk losing the income he derived from overrides on her production. Here, again, the evidence did not support Lewis’s argument. Instead, it showed that RJR derived a relatively small portion of his income from overrides on Lewis’s production.¹²⁵

¹¹⁸ Tr. 157–58, 256–57.

¹¹⁹ Tr. 271.

¹²⁰ Tr. 561.

¹²¹ Tr. 561.

¹²² Tr. 323.

¹²³ Tr. 327.

¹²⁴ Tr. 327–28.

¹²⁵ Tr. 259–61; CX-1; CX-2.

Finally, and most significantly, one of Lewis’s attempts to demonstrate RJR’s motives boomeranged, undercutting her credibility and bolstering his. Lewis asserted that RJR was concerned that if she sought to be appointed as an agent for an insurance carrier, the carrier would conduct a background check and discover [REDACTED]¹²⁶ RJR, she maintained, did not want that to happen, so he devised an approach to bypass the background check.¹²⁷ According to Lewis, under this arrangement, the insurance carrier paid her commission to Voya instead of directly to her. RJR would then temporarily retain 25 percent of the commission; she would receive the remainder; and, later, RJR would reimburse her for the 25 percent he initially retained.¹²⁸

To support her workaround argument, Lewis submitted at the hearing a compilation of documents that she described as “three related relevant documents concerning [her] reporting and compensation for life insurance sales.”¹²⁹ Part of her exhibit contained pages she had modified from a “FINRA document demonstrating that the 25% withheld for [RJR] in 2013 totaled \$1,357.81 . . . which then was reimbursed to me by [RJR] as shown on his Form 1099 to me.”¹³⁰ She created a portion of her compilation using FINRA’s summary documents reflecting her commission runs from January 1, 2011, through September 28, 2015.¹³¹ Lewis claimed that the total amount RJR reimbursed her as part of the arrangement was \$1,357.18.¹³²

Lewis, however, failed to establish this alleged insurance workaround. As Lewis admitted, she needed to be appointed as an agent with an insurance carrier in order to sell that carrier’s product, even if she directed the commissions for a sale of an insurance product to be paid through the broker-dealer.¹³³ Further, each of the purported reimbursement payments that RJR made to her related to carriers that had already appointed her as their agent.¹³⁴ So, there would have been no need to avoid or fear the background check.

Nor did Lewis’s summary exhibit support the existence of this purported arrangement. In preparing the exhibit, Lewis calculated the amount of the alleged hold-back by using a multiplier of .35 against her gross commissions, rather than a multiplier of .25. At the hearing, she first claimed that she had made a computational error and should have used .25.¹³⁵ Then she admitted

¹²⁶ Tr. 111–12; Respondent’s Responses to Department of Enforcement’s Objections to Respondent’s Exhibits (“Respondent’s Responses to Objections”) at 1.

¹²⁷ Tr. 112–13; Respondent’s Responses to Objections at 1.

¹²⁸ Tr. 129; Respondent’s Responses to Objections at 1–2.

¹²⁹ RX-1, at 4–6; Respondent’s Responses to Objections at 1.

¹³⁰ Respondent’s Responses to Objections at 1.

¹³¹ CX-3; Tr. 114–15.

¹³² Tr. 112.

¹³³ Tr. 107.

¹³⁴ Tr. 120–21.

¹³⁵ Tr. 123, 129.

that she had reverse engineered the exhibit by simply picking a multiplier that yielded the \$1,357.18 figure reflected on the Form 1099 sent to her by RJR.¹³⁶

By contrast, RJR offered a cogent, credible explanation for his payments to Lewis. The evidence showed that RJR issued two checks to Lewis totaling \$1,357.18, the exact amount reflected on the Form 1099-MISC¹³⁷ and the Form 1099-MISC Worksheet.¹³⁸ RJR explained that one check, in the amount of \$1,157.18,¹³⁹ represented an increase in Lewis's commission payout for one week's production.¹⁴⁰ The amount and timing of that check, as well as the FINRA examiner's analysis of Lewis's commission runs, supported RJR's explanation.¹⁴¹ The second check, in the amount of \$200,¹⁴² represented, according to RJR, a partial expense reimbursement in connection with an out-of-town conference that Lewis attended. A notation on the check also corroborated RJR's explanation.¹⁴³

Thus, it was evident that Lewis prepared summary exhibits designed to mislead the Panel about the real purpose of RJR's payments to her. Her attempt to support her insurance workaround argument with a deceptive summary exhibit undermined her credibility and is deemed by the Panel an aggravating factor for sanctions. By contrast, RJR's explanations, confirmed by the two checks, enhanced his credibility.

c. Lewis gave varying accounts of events.

After FINRA informed Voya that Lewis had failed to disclose [REDACTED], Lewis gave written statements to Voya, FINRA, and the Kansas Insurance Commission about the events relating to the non-disclosure. In those statements, she gave varying accounts of events and omitted key details that she supplied for the first time at the hearing. We discuss these statements, below.

i. Statement to Voya Compliance

In September 2015, at Adamson's request, Lewis prepared a written statement describing the circumstances relating to [REDACTED] and the reasons she did not disclose it to Voya's

¹³⁶ Tr. 129.

¹³⁷ RX-1, at 4.

¹³⁸ CX-52.

¹³⁹ CX-52, at 2.

¹⁴⁰ Tr. 264–65. RJR testified that he initially agreed to Lewis's request for an 80 percent payout. But, right afterward, he had misgivings and cut it back to 75 percent. Even so, he decided to give her the benefit of an 80 percent payout for one week's production.

¹⁴¹ Tr. 266, 454–64; CX-3, at 53–54.

¹⁴² CX-52, at 1.

¹⁴³ Tr. 262–63.

“home office” and FINRA.¹⁴⁴ Lewis wrote that she failed to do so because [REDACTED]

[REDACTED]¹⁴⁵ In her statement, Lewis did not claim that she had timely disclosed the [REDACTED] matter to RJR and RR; that RJR told her originally that the matter was not reportable; or that he had threatened her in any way.¹⁴⁶

ii. Termination Telephone Call

Lewis failed to tell Adamson, either during the termination conference call on September 28, 2015, or afterward,¹⁴⁷ that she had previously told RJR and RR about [REDACTED], or that RJR coerced her into not disclosing them to Compliance or FINRA. Instead, as reflected on the audio recording, she told Adamson during the call that she “didn’t even realize that this was a big issue until after most of this was said and done because [REDACTED]”¹⁴⁸ and [REDACTED]¹⁴⁹ Further, right after that call—while she, RJR, and RR were still in RJR’s office and the conversation was still being recorded—Lewis said nothing indicating that she had previously revealed the [REDACTED] matter to RJR and RR or that she had been coerced into silence.

iii. Responses to FINRA and Kansas Insurance Commission Information Requests

Two months after Lewis’s termination, her explanation of events changed when she responded to requests for information from FINRA and the Kansas Insurance Commission about her reporting failure. On November 27, 2015, Lewis responded by letter to a FINRA request for information under FINRA Rule 8210, the rule that authorizes FINRA staff to request information and documents in connection with an investigation, complaint, examination, or proceeding.¹⁵⁰ That day, she also sent a virtually identical response to the Kansas Insurance Commission in response to its request for information.¹⁵¹

¹⁴⁴ Tr. 98; JX-1.

¹⁴⁵ JX-1.

¹⁴⁶ At the hearing, Adamson recalled her first conversation with Lewis after FINRA told Adamson about the non-disclosure. According to Adamson, Lewis’s explanation of events during that conversation was generally consistent with Lewis’s written statement. Tr. 352–54. *See also* Tr. 648, 650–51, 657.

¹⁴⁷ Adamson testified that after the termination call, Lewis (1) did not say that she had told RJR and RR at the time of [REDACTED]; (2) never said that RJR and RR told her that she did not need to report [REDACTED] to the Firm or that they had ordered her not to report it; and (3) never told her that because RJR or RR were threatening her, she could not speak frankly during the termination call. Tr. 357–58.

¹⁴⁸ CX-50, at 6.

¹⁴⁹ CX-50, at 6–7.

¹⁵⁰ CX-23.

¹⁵¹ CX-24.

In those letters, she completely changed her story. Lewis wrote that she had notified RJR and RR about the [REDACTED] matter in the fall of 2011 and RJR told her that he did not know if it was reportable.¹⁵² Further, according to Lewis’s letters, several months later, in March 2012, Lewis again spoke with RJR about the matter after he saw information about [REDACTED]. Lewis wrote that she told RJR that she now knew that the [REDACTED] and that she was scared about “her career being in jeopardy.” At that time, the letters continued, RJR told her that he was not going to report the [REDACTED] matter to the Firm and neither should she, or else she would be terminated. In short, Lewis claimed that she reported the [REDACTED] matter to her supervisor; he at first led her to believe it was not necessary to report it; and later told her that she would lose her job if she disclosed it.

She went on to write that when [REDACTED]

[REDACTED]

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Although Lewis stated in the letters that she was afraid of losing her job, she did not accuse RJR of threatening her in any way prior to FINRA notifying the Firm about her unreported [REDACTED] matter. But after that notification, according to Lewis, RJR reiterated that he did not think the [REDACTED] matter was reportable. And, this time, he allegedly added a warning: if she wanted to keep her job, she should not say anything to the Firm’s Compliance Department implying that he was aware of her [REDACTED] matter. Even so, in the letters, Lewis did not accuse RJR of having made any physical threats to her.

iv. Lewis’s On-the-Record Testimony

On October 7, 2016, a year after her termination, FINRA took Lewis’s on-the-record testimony (“OTR”) in connection with the investigation that led to the institution of this proceeding.¹⁵⁴ There, she gave testimony similar to her FINRA Rule 8210 response. She testified that [REDACTED] that he told her she should not report the [REDACTED] matter, or else he or Voya would terminate her.¹⁵⁵ Lewis explained that because of her fear of termination, she did not report the [REDACTED] matter, adding that she did not want any other “issues” and that RJR “would say things to semi-threaten me or to keep my position and those kind of things and stay

¹⁵² CX-23, at 1.

¹⁵³ CX-23, at 2.

¹⁵⁴ JX-8.

¹⁵⁵ JX-8, at 2–3.

at his office.”¹⁵⁶ She also mentioned that RJR told her, just before she wrote the statement to Adamson, that she should not implicate him in any way as having been aware of the [REDACTED] matter.¹⁵⁷ She made it clear in her OTR, however, that the nature of RJR’s threats were “[j]ust basically my livelihood.” Lewis also recanted the explanations she gave to Adamson for her non-disclosure, namely, that the matter [REDACTED]¹⁵⁸ She explained that she provided those reasons to Adamson because RJR had threatened to fire her if she implicated him.¹⁵⁹

Notably, once again, Lewis said nothing about physical threats. Those revelations would not come for another six months—when Lewis responded to the Complaint in this disciplinary proceeding.

v. Answers to the Complaint

On April 11, 2017, Lewis filed an Answer to the Complaint; on May 12, 2017, she filed an Amended Answer (collectively, “Answers”). In the Answers, Lewis, for the first time, accused RJR of having threatened her with bodily harm. She claims that in October 2012, he stated, ominously: “Remember, I can cut your pay, and I know where you live!”¹⁶⁰ And, she added, more generally, that RJR “threatened me and my family’s wellbeing, aside from my livelihood.”¹⁶¹ The timing of the first alleged physical threat conflicted with her hearing testimony, where she gave two different dates for when they began: July 2012¹⁶² and early to mid-2013.¹⁶³ Further, the Answers contained no specifics about the physical threats: Lewis said nothing about RJR threatening her with pipe bombs, burning down her house, or making sure a bus ran over her. She provided these details only near the end of the hearing, when she was questioned by the Panel, following her direct and cross examinations.

¹⁵⁶ JX-8, at 4.

¹⁵⁷ JX-8, at 5, 11–14.

¹⁵⁸ JX-8, at 3–4, 9.

¹⁵⁹ JX-8, at 9–11.

¹⁶⁰ Amended Answer (“Am. Ans.”) ¶ 15.

¹⁶¹ Am. Ans. ¶¶ 29–30. Lewis added that “[t]his comment was stated in my original reply of November 27, 2015 because I continue to harbor some fear of this man together with his son.” But, in fact, her “reply” of that date did not mention any threats to her or her family’s physical well-being.

¹⁶² Tr. 511.

¹⁶³ Tr. 572–75.

vi. Lewis's Attempts to Justify Her Inconsistencies and Omissions

At the hearing, Lewis tried to explain away the inconsistencies and omissions in her various pre-hearing accounts. Regarding her written statement to Adamson, she explained the omissions on the basis that RJR had threatened her and told her not to implicate him.¹⁶⁴

As for why she said nothing to Adamson about RJR and RR being aware of [REDACTED], either before, during, or after the termination call, Lewis testified that when she first talked to Adamson about not having reported the [REDACTED] matter, she tried to tell her that she had reported it to RJR and RR, but Adamson did not want to listen to her.¹⁶⁵ We find that implausible. Also, Adamson denies that Lewis told her during a pre-termination phone call that she had notified RJR or RR about [REDACTED] around the time they occurred.¹⁶⁶ Had Lewis actually told RJR and RR about [REDACTED] and been coerced into non-disclosure, Lewis would likely have raised this in the termination call, or later, with Adamson.

Regarding her failure to mention the full extent of the purported threats in her response to the FINRA Rule 8210 request, Lewis testified she did not know that her response letter “was going to be encompassing of all of that, it was just asking me for a general statement.” She added: “That was very confusing as to how it was worded if you’ve read the document and the letter that was sent to me.”¹⁶⁷ We found this unconvincing. Contrary to Lewis’s description of FINRA’s Rule 8210 request as “very confusing,” the request letter explicitly asked her to explain why she did not disclose that [REDACTED]

[REDACTED]¹⁶⁸ Lewis also testified that at the time she responded to the Rule 8210 request, she was “still very frightened.”¹⁶⁹ This, too, was unconvincing. Later, she disclosed the alleged threats in the Answers, even though she claimed to still fear RJR.¹⁷⁰ Thus, Lewis failed to explain why her purported fear prevented her from making the disclosure to FINRA earlier.

Finally, according to Lewis, she failed to inform FINRA at her OTR about all the threats because “the questions were kind of vague, and I didn’t remember everything, and I was nervous at the moment, so I believe I didn’t disclose all of them.”¹⁷¹ We view this explanation as a self-serving, after-the-fact rationalization, and do not credit it.

¹⁶⁴ Tr. 516–17.

¹⁶⁵ Tr. 582.

¹⁶⁶ Tr. 354.

¹⁶⁷ Tr. 102.

¹⁶⁸ CX-39, at 2.

¹⁶⁹ Tr. 584.

¹⁷⁰ Am. Ans. ¶¶ 29–30; Tr. 553.

¹⁷¹ Tr. 579–80.

* * *

Before and after her termination, Lewis provided differing versions of the circumstances of her non-disclosure. She left out key details that she added for the first time near the end of the hearing. And, in particular, she failed to mention any purported physical threats until long after she was terminated, disclosing them only after disciplinary charges were filed against her. Her explanations for these differences and omissions were not credible and this undermined her overall credibility.

d. Conclusion

Based on the lack of corroboration, inconsistencies between Lewis's version of events and other credible evidence, and her varying accounts of the circumstances of her non-disclosure, we reject Lewis's assertion that she reported ██████████ to RJR and RR and was coerced into not reporting ██████ to the Compliance Department. Lewis, rather than RJR or RR, had a strong motive not to disclose her ██████ matter. We find it likely that the original explanations she gave to Adamson reflected the true reasons for non-disclosure: she did not believe her ██████ matter would result ██████████; she was embarrassed by the ██████ matter; and she feared that reporting it to the Compliance Department could jeopardize her job, ██████████.

III. Conclusions of Law

A. Lewis Violated Article V, Section 2(c) of FINRA's By-Laws and FINRA Rules 1122 and 2010 by Failing to Timely Amend Her Form U4

Article V, Section 2(a) of FINRA's By-Laws requires that every person seeking registration with a FINRA member firm submit an application on Form U4. Afterward, registered representatives have "a continuing obligation to timely update information required by Form U4 as changes occur."¹⁷² Specifically, under Article V, Section 2(c), registered persons must amend their Form U4 to ensure that information required to be reported is kept current. Under this section, the registered person must file amendments with FINRA no later than 30 days after learning of facts giving rise to the amendment, and no later than ten days after learning of facts if the circumstances involve a statutory disqualification.

Also, FINRA Rule 1122 prohibits filing with FINRA information regarding registration "which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof." Rule 1122 applies to "to Form U4, which is used by [FINRA] and other self-regulatory organizations to determine the fitness of applicants for registration as securities professionals."¹⁷³ A violation of Article V, Section 2(c) of

¹⁷² *Michael Earl McCune*, Exchange Act Release No. 77375, 2016 SEC LEXIS 1026, at *10–12 (Mar. 15, 2016), *aff'd*, 672 F. App'x 865 (10th Cir. 2016).

¹⁷³ *Jason A. Craig*, Exchange Act Release No. 59137, 2008 SEC LEXIS 2844, at *8 (Dec. 22, 2008).

FINRA’s By-Laws and FINRA Rule 1122 constitutes a violation of FINRA Rule 2010,¹⁷⁴ which requires “[a] member, in the conduct of its business, [to] observe high standards of commercial honor and just and equitable principles of trade.” FINRA Rule 2010 also applies to associated persons.¹⁷⁵

Lewis’s admissions establish that she violated Article V, Section 2(c) of FINRA’s By-Laws, and FINRA Rules 1122 and 2010. She admitted that (1) she was aware of her obligations to keep her Form U4 current and accurate; (2) she was aware of the obligation to timely amend the Form U4 whenever changes occur in answers previously reported and to promptly provide [the Firm] with a copy of [her] U4 and any amendment thereof; (3) she knowingly failed to timely amend her Form U4 to disclose [REDACTED]; (4) at all relevant times, the Form U4 asked the following two questions regarding [REDACTED]¹⁷⁶ [REDACTED] and (5) she never reported [REDACTED] to the Firm’s Compliance Department or to their Licensing and Disclosure Department.¹⁷⁷

Although Lewis admitted these facts, she argued in her defense that she first failed to report the [REDACTED] matter to Voya’s Compliance Department because, after disclosing the [REDACTED] matter to RJR and RR, RJR told her it was not reportable. Later, according to Lewis, RJR compelled her inaction by threatening her livelihood and, eventually, her physical well-being. As discussed above, we did not credit this version of events.

But even if RJR had told Lewis that the [REDACTED] matter was not reportable, this would not constitute a defense. It is the responsibility of every person submitting a Form U4 “to ensure that the information provided on the form is true and accurate.”¹⁷⁸ And that responsibility is not satisfied merely by informing a supervisor about information that must be the subject of an amendment.¹⁷⁹ Lewis bore primary responsibility for correctly answering the questions on her

¹⁷⁴ *Dep’t of Enforcement v. Mission Sec. Corp.*, No. 2006003738501, 2010 FINRA Discip. LEXIS 1, at *17 n.13 (NAC Feb. 24, 2010) (citing *Joseph Abbondante*, Exchange Act Release No. 53066, 2006 SEC LEXIS 23, at *36 (Jan. 6, 2006)); *Dep’t of Enforcement v. Riemer*, No. 2013038986001, 2017 FINRA Discip. LEXIS 38, at *9–10 (NAC Oct. 5, 2017) (“A violation of any FINRA Rule, including the rules concerning Form U4 disclosures, violates . . . FINRA Rule 2010, which require[s] associated persons to observe high standards of commercial honor and just and equitable principles of trade.”), *appeal docketed*, Admin. Pro. No. 3-18262 (SEC Oct. 20, 2017).

¹⁷⁵ See FINRA Rule 0140(a) (“The Rules shall apply to all members and persons associated with a member. Persons associated with a member shall have the same duties and obligations as a member under the Rules.”).

¹⁷⁶ [REDACTED]; Am. Stip. ¶ 10.

¹⁷⁷ Tr. 73.

¹⁷⁸ *Robert B. Tucker*, Exchange Act Release No. 68210, 2012 SEC LEXIS 3496, at *30 (Nov. 9, 2012).

¹⁷⁹ See *Joseph S. Amundsen*, Exchange Act Release No. 69406, 2013 SEC LEXIS 1148, at *33 (Apr. 18, 2013) (finding that respondent’s alleged discussion with firm supervisors did not affect his obligation to provide complete and accurate information on every Form U4 that he completes), *aff’d*, 575 F. App’x 1 (D.C. Cir. 2014); see also *Dep’t of Enforcement v. Jordan*, No. 2005001919501, 2009 FINRA Discip. LEXIS 15, at *53 (NAC Aug. 21, 2009)

Form U4, as she was the person directly impacted by the matters involved and was in the best position to provide accurate information about those subjects.¹⁸⁰ In short, Lewis “cannot shift responsibility to comply with [FINRA’s] rules to another senior person at the firm.”¹⁸¹

Finally, even if Lewis had been threatened by RJR, this, too, would not constitute a defense. Lewis was aware of [REDACTED] a long time before RJR allegedly threatened her with bodily harm.¹⁸² Moreover, if Lewis believed that she was under threat or duress, she should have sought out help from FINRA or governmental authorities, rather than choosing to ignore her regulatory obligations.¹⁸³

Accordingly, we find that Lewis violated Article V, Section 2(c) of FINRA’s By-Laws, and FINRA Rules 1122 and 2010.

B. Lewis Is Subject to Statutory Disqualification Because She Acted Willfully and the Information She Omitted from the Form U4 Was Material

Article III, Section 4 of FINRA’s By-Laws states that a person is subject to disqualification from association with a FINRA member if such person is subject to any “statutory disqualification” as that term is defined in Section 3(a)(39) of the Securities Exchange Act of 1934 (“Exchange Act”). Under Section 3(a)(39)(F) of the Exchange Act, a person is subject to statutory disqualification if, among other things, the person:

has willfully made or caused to be made in any application for membership or participation in, or to become associated with a member

(holding that registered representative was responsible for her actions and cannot shift her responsibility to her member firm or its staff).

¹⁸⁰ *Amundsen*, 2013 SEC LEXIS 1148, at *31–32 (finding that respondent “bore primary responsibility for correctly answering the questions on the Forms U4” because he was “the individual directly impacted” by the matters involved and so was “in the best position to provide accurate information about those subjects”); *Tucker*, 2012 SEC LEXIS 3496, at *37 (holding that the “[respondent] . . . was in the best position to provide accurate information about the judgments, bankruptcies, and liens covered by the questions in the Forms U4, demonstrating why it was appropriate that he bore ‘primary responsibility for maintaining [their] accuracy’”).

¹⁸¹ *See Scott Mathis*, Exchange Act Release No. 61120, 2009 SEC LEXIS 4376, at *28 (Dec. 7, 2009), *aff’d*, 671 F.3d 210 (2d Cir. 2012); *see also Dist. Bus. Conduct Comm. v. Vaughn*, No. C04940026, 1995 NASD Discip. LEXIS 233, at *35 (DBCC Oct. 24, 1995) (“[A]n employee cannot avoid responsibility for misconduct if he or she alleges that the employer instructed him or her to act in an unethical manner.”).

¹⁸² Tr. 575.

¹⁸³ *See Dist. Bus. Conduct Comm. v. Gibbons*, No. C3A940038, 1995 NASD Discip. LEXIS 234, at *15 (NBCC Oct. 24, 1995) (“[I]f the respondent believed himself to have been under threat or duress . . . his remedy lay in obtaining assistance of the NASD or other regulatory authorities to help him . . . rather than in [violating NASD rules.]”), *aff’d*, 52 S.E.C. 791 (1996); *cf. Dist. Bus. Conduct Comm. v. Barnes*, No. C01950015, 1996 NASD Discip. LEXIS 40, at *14 (NBCC Aug. 1, 1996) (rejecting as a defense to respondent’s violation of just and equitable principles rule that respondent feared for the lives of himself and his children because of threats from a gang member who loaned him money).

of, a self-regulatory organization, . . . any statement which was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application . . . any material fact which is required to be stated therein.¹⁸⁴

This statutory provision “applies to representatives who have willfully provided on a Form U4 false statements with respect to a material fact or who willfully failed to amend Form U4 with material information that is required to be stated on the Form U4.”¹⁸⁵

1. Lewis Acted Willfully

To establish willfulness, Enforcement must prove that Lewis “intentionally commit[ted] the act which constitutes the violation.”¹⁸⁶ A willfulness finding does not require that Lewis was aware she was “violating one of the Rules or Acts; it simply requires the voluntary commission of the acts themselves.”¹⁸⁷ Or, stated slightly differently, “[a] willful violation under federal securities law means that the person charged with the duty knows what he is doing.”¹⁸⁸ If Lewis voluntarily committed the acts that constituted the violation, then she acted willfully.¹⁸⁹

We find that Lewis acted willfully in failing to update her Form U4 to disclose [REDACTED]. Even so, over the next approximately three and a half years—through her termination on September 28, 2015—she failed to update her Form U4 to disclose these events and allowed her Form U4 to falsely reflect that [REDACTED].¹⁹⁰ The [REDACTED] matters questions on the Form U4 were clear and unambiguous. Additionally, Lewis repeatedly

¹⁸⁴ 15 U.S.C. § 78c(a)(39)(F).

¹⁸⁵ *Dep’t of Enforcement v. Elgart*, No. 2013035211801, 2017 FINRA Discip. LEXIS 9, at *18–19 (NAC Mar. 16, 2017), *aff’d*, Exchange Act Release No. 81779, 2017 SEC LEXIS 3097 (Sept. 29, 2017), *appeal docketed*, No. 17–15283 (11th Cir. Nov. 28, 2017).

¹⁸⁶ *Elgart*, 2017 SEC LEXIS 3097, at *13 (quoting *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000)).

¹⁸⁷ *Id.* (internal quotation marks omitted); *see also Amundsen*, 2013 SEC LEXIS 1148, at *38 (noting, in making findings of willfulness, that respondent’s conduct was neither “involuntary nor inadvertent”); *Tucker*, 2012 SEC LEXIS 3496, at *42 (same). *But see Hammon Capital Mgmt. Corp.*, 48 S.E.C. 264, 265 (1985) (expressly stating that “[a] failure to make a required report, even if inadvertent, constitutes a willful violation”) (citing *Jesse Rosenblum*, 47 S.E.C. 1065, 1067 & n.9 (1984), *aff’d*, 817 F.2d 106 (9th Cir. 1987)).

¹⁸⁸ *Amundsen*, 2013 SEC LEXIS 1148, at *37–38.

¹⁸⁹ *See McCune*, 2016 SEC LEXIS 1026, at *15.

¹⁹⁰ *See id.* at *15–19 (finding that respondent willfully failed to amend his Form U4 where, among other things, he knew about the bankruptcies and liens that were required to be disclosed).

concealed [REDACTED] not just by repeatedly failing to amend the Form U4,¹⁹¹ but also by falsely answering the [REDACTED] matters questions on the FINRA and Firm Questionnaires.¹⁹²

Lewis’s principal defense to a willfulness finding was the same as her defense to a finding of liability. And, for the same reasons we rejected that defense, we reject her defense to a willfulness finding.¹⁹³ Accordingly, we find that Lewis’s failure to amend her Form U4 with accurate information about her [REDACTED] matters was a voluntary act and, therefore, willful.

2. Lewis Omitted Material Information

The information Lewis failed to disclose was material. For the purposes of Form U4’s reporting requirements, information is material if there is a “substantial likelihood” that its disclosure would cause “a reasonable regulator, employer, or customer” to think the information would significantly alter the “total mix” of information available.¹⁹⁴ The National Adjudicatory Council (“NAC”) has held that “essentially all of the information that is reportable on the Form U4 may be considered to be material,”¹⁹⁵ and, in particular, a [REDACTED] is a material disclosure.¹⁹⁶ Lewis did not contest the materiality of [REDACTED]. Accordingly, we find that Lewis’s [REDACTED] were material.

¹⁹¹ Lewis’s Form U4 was amended six times following [REDACTED]. See CX-13 (Oct. 3, 2013); CX-14 (July 21, 2014); CX-15 (July 23, 2014); CX-16 (Oct. 28, 2014); CX-17 (Oct. 28, 2014); CX-18 (Dec. 12, 2014). Thus, Lewis forewent numerous opportunities to disclose the [REDACTED] matter. The Firm filed a Form U5 on September 29, 2015, after terminating her the previous day. CX-7. While the Form U5 contained a “yes” answer to the question asking whether [REDACTED] [REDACTED] CX-7, at 3.

¹⁹² See *Elgart*, 2017 FINRA Discip. LEXIS 9, at *22 (“This finding of willfulness is only bolstered by Elgart’s repeated actions to conceal several liens, not just by repeatedly failing to amend Form U4 but also by falsely answering the liens question on the” FINRA questionnaire.); see also *McCune*, 2016 SEC LEXIS 1026, at *16–17 (finding that respondent’s responses on annual compliance questionnaires were further evidence that he acted willfully in failing to amend his Form U4).

¹⁹³ See also *Richard A. Neaton*, Exchange Act Release No. 65598, 2011 SEC LEXIS 3719, at *22–23 (Oct. 20, 2011) (rejecting respondent’s argument that his firm’s “failure to advise” him of the need to amend his Form U4 “should vitiate Enforcement’s claim of willfulness”).

¹⁹⁴ *McCune*, 2016 SEC LEXIS 1026, at *21–22 and nn.25–26; see also *Tucker*, 2012 SEC LEXIS 3496, at *47 (“We have also deemed omitted facts material when they ‘would have assumed actual significance in the deliberations of’ the representative’s employers, regulators, and investors.”) (citing *Mathis*, 2009 SEC LEXIS 4376, at *31).

¹⁹⁵ *Dep’t of Enforcement v. Toth*, No. E9A2004001901, 2007 NASD Discip. LEXIS 25, at *34 (NAC July 27, 2007), *aff’d*, Exchange Act Release No. 58074, 2008 SEC LEXIS 1520 (July 1, 2008); see also *Dep’t of Enforcement v. Fretz*, No. 2010024889501, 2015 FINRA Discip. LEXIS 54, at *56 (NAC Dec. 17, 2015) (“Because of the importance that the industry places on full and accurate disclosure of information required by the Form U4, we presume that essentially all the information that is reportable on the Form U4 is material.”) (quoting *Dep’t of Enforcement v. Knight*, No. C10020060, 2004 NASD Discip. LEXIS 5, at *13 (NAC Apr. 27, 2004)).

¹⁹⁶ [REDACTED]

* * *

Our finding that Lewis’s failure to timely update her Form U4 was willful and that the information she failed to update was material subjects her automatically¹⁹⁷ to a statutory disqualification from the securities industry.¹⁹⁸ As a result, she cannot become or remain associated with a FINRA member unless her member firm employer applies for, and is granted by FINRA, relief from the statutory disqualification.¹⁹⁹

C. Lewis Violated FINRA Rule 2010 by Providing a False Statement to FINRA

FINRA Rule 2010 enables FINRA to “regulate the ethical standards of its members.”²⁰⁰ In connection with disciplinary actions brought for violations of this rule, the SEC has “long applied a disjunctive bad faith or unethical conduct standard.”²⁰¹ “Providing false information in response to a FINRA request, including requests that do not specifically cite FINRA Rule 8210, is inconsistent with high standards of commercial honor and just and equitable principles of trade.”²⁰²

Lewis’s false answer on the FINRA Questionnaire was unethical, in bad faith, and a violation of FINRA Rule 2010. The FINRA Questionnaire that FINRA staff provided to Lewis asked a simple and straightforward question about [REDACTED]

[REDACTED]²⁰³ This question was not subject to misinterpretation. Lewis admitted that at the time she completed the FINRA Questionnaire, she knew that [REDACTED] and that her responses would be provided to FINRA staff. Rather than responding truthfully to FINRA’s straightforward question, she chose to falsely respond “no.” At the time she answered the FINRA Questionnaire, Lewis had knowingly failed to disclose the [REDACTED] matter on her Form U4 for over two and a half years. Thus, she chose to answer the question dishonestly to continue her

¹⁹⁷ *Riemer*, 2017 FINRA Discip. LEXIS 38, at *25 (“The imposition of the statutory disqualification is ‘automatic’ where, as here, a respondent has willfully failed to disclose material information of a Form U4.”); see *McCune*, 2016 SEC LEXIS 1026, at *37.

¹⁹⁸ See, e.g., *McCune*, 2016 SEC LEXIS 1026, at *13–23 (finding that applicant was statutorily disqualified for willfully failing to amend his Form U4).

¹⁹⁹ See FINRA By-Laws Art. III, § 3; *Amundsen*, 2013 SEC LEXIS 1148, at *2 n.4. Lewis’s “statutory disqualification is a consequence imposed by operation of Section 3(a)(39)(F) of the Exchange Act and is not a sanction imposed by FINRA.” *Riemer*, 2017 FINRA Discip. LEXIS 38, at *24–25.

²⁰⁰ *Elgart*, 2017 FINRA Discip. LEXIS 9, at *32.

²⁰¹ *Id.* (internal quotation marks omitted) (quoting *Blair Alexander West*, Exchange Act Release No. 74030, 2015 SEC LEXIS 102, at *20 (Jan. 9, 2015) (holding that disciplinary action under Rule 2010’s predecessor need be only either unethical or done in bad faith), *aff’d*, 641 F. App’x 27 (2d Cir. 2016)).

²⁰² *Elgart*, 2017 FINRA Discip. LEXIS 9, at *32–33.

²⁰³ Am. Stip. ¶ 25.

deception. Accordingly, Lewis provided a false answer to FINRA on the FINRA Questionnaire unethically and in bad faith, in violation of FINRA Rule 2010.²⁰⁴ By providing a false answer on the FINRA Questionnaire, she completed and signed on October 30, 2014, Lewis violated FINRA Rule 2010.

D. Lewis Violated FINRA Rule 2010 by Providing False Information to Her Employer Firm

The standard of conduct set forth in FINRA Rule 2010 “includes the obligation to truthfully disclose material information to an associated person’s firm.”²⁰⁵ Hence, providing false information on a Firm compliance questionnaire is “in direct contravention of high standards of commercial honor and just and equitable principles of trade” and constitutes a violation of Rule 2010.²⁰⁶ We found, above, that on the June 2015 Firm Questionnaire, Lewis falsely responded “Yes” to the question: “Have you notified your Supervisor and the Firm’s Compliance Department of all U4 amendments as described in the previous question?” We find that this false response related to a material fact and that when she provided this answer, Lewis acted unethically and in bad faith, for the same reasons we set forth above in connection with her false answer to the FINRA Questionnaire. Therefore, we find that Lewis’s false response on the June 2015 Firm Questionnaire violated FINRA Rule 2010.

IV. Sanctions

A. Overview

In considering the appropriate sanctions to impose on Lewis, the Panel looked to FINRA’s Sanction Guidelines (“Guidelines”).²⁰⁷ The Guidelines contain General Principles Applicable to All Sanction Determinations (“General Principles”), overarching Principal Considerations in Determining Sanctions (applicable to all misconduct), and guidelines and Principal Considerations for specific violations. The General Principles explain that “sanctions should be designed to protect the investing public by deterring misconduct and upholding high standards of business conduct.”²⁰⁸ Adjudicators are therefore instructed to “design sanctions that

²⁰⁴ Lewis argues that she provided the false response on the FINRA Questionnaire because RJR first told her that the [REDACTED] matter was not reportable and, later, he coerced her into not disclosing it. We reject this excuse for the same reasons we rejected Lewis’s purported explanations for not updating her Form U4 to disclose [REDACTED].

²⁰⁵ *Rierner*, 2017 FINRA Discip. LEXIS 38, at *11–12 (citing *Dep’t of Enforcement v. Mullins*, Nos. 20070094345 and 20070111775, 2011 FINRA Discip. LEXIS 61, at *30 (NAC Feb. 24, 2011), *aff’d in rel. part*, Exchange Act Release No. 66373, 2012 SEC LEXIS 464 (Feb. 10, 2012)).

²⁰⁶ *Dep’t of Enforcement v. Rausch*, No. 2009017918001, 2012 FINRA Discip. LEXIS 51, at *12 (OHO May 10, 2012); *see also Mullins*, 2011 FINRA Discip. LEXIS 61, at *29–38 (finding that respondents’ misstatements on firm’s compliance questionnaires violated Rule 2010’s predecessor).

²⁰⁷ FINRA Sanction Guidelines (May 2018), <http://www.finra.org/industry/sanction-guidelines>.

²⁰⁸ Guidelines at 2 (General Principles, No. 1).

are meaningful and significant enough to prevent and discourage future misconduct by a respondent and deter others from engaging in similar misconduct.”²⁰⁹ Further, sanctions should “reflect the seriousness of the misconduct at issue,”²¹⁰ and should be “tailored to address the misconduct involved in each particular case.”²¹¹

In determining sanctions, we considered all relevant circumstances, including the seriousness of the violations, any aggravating or mitigating factors, and the risk of future harm posed by Lewis. The sanctions we impose are appropriate, proportionally measured to address Lewis’s misconduct, and are designed to protect and further the interests of the investing public, the industry, and the regulatory system.

Because Lewis’s violations are based on the same facts and course of conduct, we impose a unitary sanction.²¹² In arriving at the unitary sanction, we considered the Guidelines applicable to each violation. And, when no Guideline specifically addressed a violation, we looked to the guidelines for analogous violations, where possible.²¹³

B. Form U4 Violation

The Guideline applicable for failing to timely file amendments to a Form U4 recommends a fine of \$2,500 to \$37,000. Where aggravating factors are present, the Guideline directs the Adjudicator to consider suspending an individual in any or all capacities for a period of 10 business days to six months. And, where aggravating factors predominate, the Adjudicator should consider a longer suspension in any or all capacities (of up to two years) or, where the respondent intended to conceal information or mislead, a bar.²¹⁴ The Guideline also includes three Principal Considerations directly applicable to this case: (1) the nature and significance of the information at issue; (2) the number, nature, and dollar value of the disclosable events at

²⁰⁹ *Id.*

²¹⁰ *Id.*

²¹¹ Guidelines at 3 (General Principles, No. 3).

²¹² See Guidelines at 4 (General Principles No. 4); *Blair C. Mielke*, Exchange Act Release No. 75981, 2015 SEC LEXIS 3927, at *59 (Sept. 24, 2015) (affirming FINRA’s imposition of a single sanction for violations that are based on the same facts); *Dep’t of Enforcement v. Holeman*, No. 2014043001601, 2018 FINRA Discip. LEXIS 12, at *27 n.10 (NAC May 21, 2018) (affirming imposition of a unitary sanction for failing to timely disclose material information on Form U4 and making false statements to the firm on an annual compliance questionnaire). *But see Elgart*, 2017 FINRA Discip. LEXIS 9, at *44 (imposing separate and consecutive sanctions for respondent’s failure to timely update his Form U4 and providing a false answer on a FINRA questionnaire).

²¹³ Guidelines at 1 (“For violations that are not addressed specifically, Adjudicators are encouraged to look to the guidelines for analogous violations.”).

²¹⁴ Guidelines at 71.

issue; and (3) whether the omission of information or the inclusion of false information was done in an intentional effort to conceal information or in an attempt to mislead.²¹⁵

C. FINRA Questionnaire Violation

The Guidelines do not address violations relating to untruthful information provided in response to a request for information not made under Rule 8210. We did not find any other Guidelines directly analogous, though we did find instructive a Principal Consideration contained in the Guideline for Rule 8210 violations: the “[i]mportance of the information requested as viewed from FINRA’s perspective.”²¹⁶ We also considered the nature of Lewis’s misconduct and the Guidelines’ Principal Considerations in Determining Sanctions that apply to all misconduct.²¹⁷

D. Firm Questionnaire Violation

There are no specific Guidelines applicable to false statements to a firm employer in violation of FINRA Rule 2010. We find the Guidelines for recordkeeping violations and falsification of records are analogous because Lewis’s failure to disclose her [REDACTED] matter

²¹⁵ Guidelines at 71. One Principal Consideration under this Guideline is whether the failure to file an amendment “resulted in a statutorily disqualified individual becoming or remaining associated with a firm.” *Id.* (Principal Considerations, No. 7—Form U4 Violations). Enforcement argues that this is an aggravating factor here. Department of Enforcement’s Brief 17. We disagree. [REDACTED]

[REDACTED]

²¹⁶ Guidelines at 33 (Principal Considerations, No. 1—Failure to Respond or to Respond Truthfully); *Dep’t of Enforcement v. Stonegate Partners, LLC*, No. E112005002003, 2008 FINRA Discip. LEXIS 26, at *33 (OHO May 15, 2008) (finding “helpful” two principal considerations contained in the Guideline for Rule 8210 violations although the false and misleading information was provided in response to a formal FINRA request that did not cite Rule 8210).

²¹⁷ See *Elgart*, 2017 FINRA Discip. LEXIS 9, at *42–44 (considering the nature of the misconduct and the Guidelines’ Principal Considerations in Determining Sanctions that apply to all misconduct in a case involving a failure to timely update a Form U4 with material information and providing a false answer on a FINRA questionnaire).

caused her firm to maintain inaccurate books and records.²¹⁸ We also separately considered the Principal Considerations in Determining Sanctions.²¹⁹

For recordkeeping violations, the Guidelines recommend a fine of \$1,000 to \$15,000 and where aggravating factors predominate, the Guidelines recommend a fine of \$10,000 to \$146,000, and a higher fine where significant aggravating factors predominate. The recordkeeping violation Guideline directs the Adjudicator to consider suspending the responsible individual in any or all capacities for a period of 10 business days to three months and, where aggravating factors predominate, to consider a longer suspension (of up to two years) or a bar.²²⁰ The Guideline includes the following Principal Considerations: (1) the nature and materiality of the inaccurate or missing information; (2) the nature, proportion, and size of the firm records at issue; (3) whether inaccurate or missing information was entered or omitted intentionally, recklessly, or as the result of negligence; (4) whether the violations occurred during two or more examination or review periods or over an extended period of time, or involved a pattern or patterns of misconduct; and (5) whether the violations allowed other misconduct to occur or to escape detection.

The Guideline for falsification of records recommends a fine of \$5,000 to \$146,000 for falsifications without authorization, in the absence of other violations or customer harm. For falsifications without authorization or ratification, that do not involve a transaction, and in the absence of customer harm or other violations, the Guideline recommends that the Adjudicator consider suspending the respondent for a period of two months to two years. But a bar is standard where a respondent falsifies a document without authorization, in furtherance of another violation, resulting in customer harm or accompanied by significant aggravating factors. The Principal Considerations in the Guideline applicable to this case are the nature of the document(s) falsified and whether the respondent had a good-faith, but mistaken, belief of express or implied authority.

²¹⁸ See *Riemer*, 2017 FINRA Discip. LEXIS 38, at *22–23 (affirming application of Guidelines for recordkeeping violations and falsification of records for respondent’s false statements to firm on annual compliance questionnaire because the misconduct caused his firm to maintain inaccurate books and records); *Dep’t of Enforcement v. McGee*, No. 2012034389202, 2016 FINRA Discip. LEXIS 33, at *86–87 (NAC July 18, 2016) (same), *aff’d*, Exchange Act Release No. 80314, 2017 SEC LEXIS 987 (Mar. 27, 2017), *petition for review denied*, 2018 U.S. App. LEXIS 12112 (2nd Cir. May 9, 2018); *but see Dep’t of Enforcement v. Mielke*, No. 2009019837302, 2014 FINRA Discip. LEXIS 24, at *69–70 n.80 (NAC July 18, 2014) (“Although there are no specific Guidelines concerning misstatements on firm compliance questionnaires, we find that the Guidelines related to the falsification of records are sufficiently analogous under the circumstances.”), *aff’d*, 2015 SEC LEXIS 3927; *Dep’t of Enforcement v. Braff*, No. 2007011937001, 2011 FINRA Discip. LEXIS 15, at *26–27 (NAC May 13, 2011) (applying the Guideline related to the falsification of records where the respondent made false statements on firm compliance questionnaires concerning outside brokerage accounts), *aff’d*, Exchange Act Release No. 66467, 2012 SEC LEXIS 620, at *1 (Feb. 24, 2012).

²¹⁹ See *Holeman*, 2018 FINRA Discip. LEXIS 12, at *29–30 (applying Principal Considerations in Determining Sanctions, but not the Guidelines for recordkeeping or falsification guidelines, for failure to disclose tax liens on a firm compliance questionnaire).

²²⁰ Guidelines at 29.

E. Sanctions Analysis

We begin by recognizing the seriousness of Lewis’s violations. Both the SEC and FINRA have repeatedly emphasized the importance of the Form U4, describing it as “a critically important regulatory tool” and observing that “[t]he duty to provide accurate information and to amend the Form U4 to provide current information assures regulatory organizations, employers, and members of the public that they have all material, current information about the securities professional with whom they are dealing.”²²¹ Further, “[i]nformation disclosed on the Form U4 is used by FINRA, other self-regulatory organizations, and state regulators to determine the fitness of individuals seeking to join and remain in the securities industry.”²²² The public also uses this information “in deciding whether to entrust their money to a registered representative.”²²³ Form U4 disclosures “can serve as an early warning mechanism, identifying individuals with troubled pasts or suspect financial histories and [u]ntruthful answers [on the Form U4] call into question an associated person’s ability to comply with regulatory requirements.”²²⁴

The NAC has also recognized that providing false information to FINRA and a member firm constitutes serious wrongdoing. “[P]roviding false information to FINRA in response to a FINRA request for information, including one that does not cite FINRA Rule 8210, is serious misconduct,” the NAC observed in a similar case involving a false response on a FINRA Questionnaire. “Supplying false information to [FINRA] during an investigation . . . mislead[s] [FINRA] and can conceal wrongdoing, and subvert[s] [FINRA’s] ability to perform its regulatory function and protect the public interest.”²²⁵ And failing to disclose or truthfully disclose material information to a member firm “calls into question the registered representative’s ability to comply with regulatory requirements necessary for the proper functioning of the securities industry and the protection of the public.”²²⁶

In addition to the seriousness of the violations, there are numerous aggravating factors present. The information that Lewis failed to disclose related to important events: [REDACTED]

²²¹ *Riemer*, 2017 FINRA Discip. LEXIS 38, at *8–9 (internal quotation marks omitted) (quoting *Amundsen*, 2013 SEC LEXIS 1148, at *24–26).

²²² *Id.* at *9 (citing *Tucker*, 2012 SEC LEXIS 3496, at *26).

²²³ *Id.*

²²⁴ *Id.* (internal quotation marks omitted).

²²⁵ *Elgart*, 2017 FINRA Discip. LEXIS 9, at *42 (internal quotation marks omitted) (quoting *Geoffrey Ortiz*, Exchange Act Release No. 58416, 2008 SEC LEXIS 2401, at *32–33 (Aug. 22, 2008)); see also *Michael A. Rooms*, 58 S.E.C. 220, 229 (2005) (noting that providing false information to FINRA is more damaging than refusing to respond to a request for information because it misleads FINRA and can conceal wrongdoing).

²²⁶ *Riemer*, 2017 FINRA Discip. LEXIS 38, at *11–12 (quoting *Mullins*, 2011 FINRA Discip. LEXIS 61, at *30); see also *James A. Goetz*, 53 S.E.C. 472, 477–78 (1998) (holding that registered representative’s false statements on firm’s forms reflect directly on his ability to comply with regulatory requirements fundamental to the securities industry).

██████████. Her violations amounted to a pattern of intentional dishonest misconduct spanning several years²²⁷ that only came to light after FINRA discovered it and notified the Firm. By concealing her ██████████ matter, Lewis misled her Firm, FINRA, and customers.²²⁸ Lewis also failed to accept responsibility for her wrongdoing.²²⁹ Instead, she blamed RJR for her failure to amend her own Form U4 and for the false answers she provided on the questionnaires.²³⁰ And in so doing, she went so far as to create and submit a misleading summary exhibit to buttress a demonstrably false explanation for payments RJR had made to her.²³¹

In addition to these aggravating facts, there is no mitigation. Lewis argued in mitigation of sanctions, as she did as a defense to liability and a finding of willfulness, that she engaged in the misconduct while under duress. As we discussed above, we rejected these duress claims. But even if we had found that RJR had threatened Lewis, as she alleged, that would not mitigate her wrongdoing. Lewis's coercion argument was akin to the stress argument advanced by the respondent in *John M.E. Saad*.²³² There, although the SEC credited the respondent's assertions of professional and personal stress at the time he submitted false expense reports, it did not find his stress a mitigating factor. According to the SEC, the respondent's "course of conduct was not the type that one might associate with stress, such as an unthinking reaction during a stressful moment that is later redressed. Instead," the SEC added, "his deceptive conduct demonstrated a high degree of intentionality over a long period of time."²³³ Finally, the respondent's "repeated

²²⁷ Guidelines at 7–8 (Principal Considerations in Determining Sanctions, Nos. 8, 9, and 13). *See also Elgart*, 2017 FINRA Discip. LEXIS 9, at *36 (finding that the failure to update the Form U4 to reflect liens was intentional, based in part on the number of Form U4 amendments that respondent filed without disclosing the liens).

²²⁸ Guidelines at 7 (Principal Considerations in Determining Sanctions, No. 10).

²²⁹ Guidelines at 7 (Principal Considerations in Determining Sanctions, No. 2). Although Lewis claimed that she regretted not amending her Form U4 and giving false responses on the questionnaires, this is not mitigating. Her acceptance of responsibility was both incomplete (she continued to blame her supervisor) and too late (she did not accept any responsibility until after detection and intervention by both FINRA and the Firm). "[M]erely expressing regret for a mistake is not an acknowledgement of an intentional violation of FINRA rules or an expression of remorse for having done so." *Elgart*, 2017 FINRA Discip. LEXIS 9, at *40.

²³⁰ *See Scott Epstein*, Exchange Act Release No. 59328, 2009 SEC LEXIS 217, at *73 (Jan. 30, 2009) (finding that respondent's blame-shifting arguments demonstrate failure to accept responsibility for own actions), *aff'd*, 416 F. App'x 142 (3d Cir. 2010); *Dep't of Enforcement v. Eplboim*, No. 2011025674101, 2014 FINRA Discip. LEXIS 8, at *45 (NAC May 14, 2014) (finding that respondent's continued denial of responsibility and attempts to blame others was "troubling and serves to aggravate his misconduct").

²³¹ *See Thomas S. Foti*, Exchange Act Release No. 31646, 1992 SEC LEXIS 3329, at *13 (Dec. 23, 1992) (finding lack of candor at hearing an aggravating factor); *Dep't of Mkt. Regulation v. Burch*, No. 2005000324301, 2011 FINRA Discip. LEXIS 16, at *47 (NAC July 28, 2011) (finding respondent's lack of candor during proceeding to be "disturbing" and an aggravating factor).

²³² *John M.E. Saad*, Exchange Act Release No. 76118, 2015 SEC LEXIS 4176 (Oct. 8, 2015), *denied in part, remanded in part*, 873 F.3d 297 (D.C. Cir. 2017).

²³³ *Id.* at *20–21.

deception of his employer and attempt to mislead FINRA investigators are contrary to his assertions that his conduct was the result of ‘stress not dishonesty.’”²³⁴

We find the reasoning in *Saad* applicable here. In short, Lewis “voluntarily chose and then methodically continued an unethical course of conduct and, thus, did not react to the [purported duress] in a manner appropriate for a person registered with FINRA.”²³⁵

* * * *

Considering the nature of Lewis’s violations, the presence of numerous aggravating factors, and the absence of mitigation, we find that Lewis’s conduct was egregious and demonstrates that she is unfit to continue to participate in an industry that depends on the honesty and integrity of its members. She poses too great a threat to a member firm employer and to the public. Accordingly, to remedy her violations and to prevent her, and to deter others, from engaging in similar violations, we bar Lewis from associating with any member firm in any capacity.²³⁶

V. Order

Respondent Kris Lynn Lewis is barred in all capacities from association with any member firm for (1) violating Article V, Section 2(c) of FINRA’s By-Laws and FINRA Rules 1122 and 2010 by failing to timely amend her Form U4; (2) violating FINRA Rule 2010 by providing false information to FINRA on a Personal Activity Questionnaire; and (3) violating FINRA Rule 2010 by making a false attestation on a firm Annual Compliance Questionnaire. If this decision becomes FINRA’s final disciplinary action, the bar shall become effective immediately.

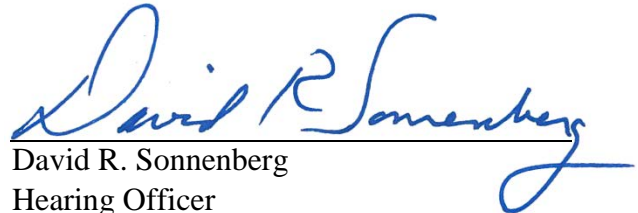
Lewis is ordered to pay costs in the amount of \$6,247.25, which includes a \$750 administrative fee and the cost of the hearing transcript, \$5,497.25. The assessed costs shall be due on a date set by FINRA, but not sooner than 30 days after this decision becomes FINRA’s final disciplinary action in this proceeding.

²³⁴ *Id.* at *23.

²³⁵ *Dep’t of Enforcement v. Saad*, No. 2006006705601, 2015 FINRA Discip. LEXIS 49, at *35–36 (NAC Mar. 16, 2015).

²³⁶ In light of the bar, we exercise our discretion and do not impose monetary sanctions. *See* Guidelines at 10 (“Adjudicators may exercise their discretion in applying FINRA’s policy on the imposition and collection of monetary sanctions as necessary to achieve FINRA’s regulatory purposes” and “[i]n all cases, Adjudicators may exercise their discretion.”).

Because we find that Lewis acted willfully in failing to amend her Form U4 with material information that was required to be disclosed on the Form U4, she is also subject to statutory disqualification.²³⁷


David R. Sonnenberg
Hearing Officer
For The Hearing Panel

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²³⁷ The Hearing Panel considered and rejected without discussion all other arguments of the parties.