

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JEFFERY ALLEN VAUGHN
(CRD No. 2124515),

Respondent.

Disciplinary Proceeding
No. 2013037097602

Hearing Officer – RES

**AMENDED HEARING PANEL
DECISION¹**

January 11, 2017

Respondent willfully failed to amend his Form U4 to disclose tax liens and a state regulatory consent order, caused his Form U4 to report falsely the circumstances of a FINRA suspension, made false and misleading statements to his employer member firm about the suspension, and failed to provide documents and information requested by FINRA both in its investigation and after this proceeding was commenced, in violation of FINRA By-Laws and Rules. Respondent is barred from associating with any FINRA member firm in any and all capacities. Respondent is also subject to statutory disqualification under the Securities Exchange Act of 1934.

Appearances

For the Complainant: Mark Maldonado, Esq., Erica Gerson, Esq., Department of Enforcement, Financial Industry Regulatory Authority.

Respondent Jeffery Vaughn represented himself.

DECISION

I. Introduction

Respondent Jeffery Vaughn (“Vaughn”), a FINRA registered person, did not pay his Ohio State income taxes in 2005, 2006, and 2007. That failure caused Ohio to file two tax liens against him (the “Ohio State tax liens”). For nearly a year thereafter, Vaughn did not amend his Uniform Application for Securities Industry Registration or Transfer (“Form U4”) to disclose the tax liens. His unpaid Ohio State taxes gave impetus for the Department of Insurance of the

¹ The decision is amended only to reflect the timing of the sanctions. *See* Section VI. *infra*.

State of Ohio to commence a regulatory proceeding to revoke his license as a life insurance agent. That proceeding concluded with the filing of a regulatory consent order which Vaughn signed and in which he admitted that, among other things, his failure to pay taxes was a violation of state law (the “Ohio State consent order”).

In 2013, Vaughn’s FINRA member firm, Commonwealth Financial Network (“Commonwealth”), learned that the Internal Revenue Service had filed a tax lien against him in the amount of \$2.5 million for unpaid income taxes. Commonwealth permitted him to resign and reported on his Uniform Termination Notice for Securities Industry Registration (“Form U5”) that the reason for his resignation was an outstanding tax obligation.

Commonwealth’s Form U5 disclosure concerning Vaughn led to an inquiry by FINRA. On three occasions in June and July 2013, FINRA mailed Vaughn Rule 8210 requests for documents and information about his tax obligations and the reasons for his resignation. When he did not provide the documents and information or otherwise respond to the requests, FINRA suspended him from association with any member firm. Vaughn eventually provided the requested information, and FINRA terminated the suspension just before it automatically converted into a permanent bar. FINRA notified his new employer member firm, Horner, Townsend & Kent (“HTK”), that his Form U4 had to be corrected to disclose the suspension. Vaughn then made false and misleading statements to HTK that he had not received FINRA’s Rule 8210 requests and that, when he learned about them, he immediately provided the requested information. HTK included these false and misleading statements in Vaughn’s publicly-filed Form U4.

In December 2015, the State of Ohio sent a letter to HTK’s Chief Compliance Officer inquiring why Vaughn’s Form U4 did not disclose the Ohio State consent order. The revelation that such a consent order existed caused HTK to terminate his employment and registration with the firm.

FINRA’s Department of Enforcement filed the Complaint in this proceeding in October 2015. Vaughn filed an Amended Answer averring that his ex-wife was to blame for the failure to pay the Ohio State taxes back in 2005, 2006, and 2007, and that the Ohio State tax liens had been filed in error. Those averments, and the recent discovery of the Ohio State consent order, caused Enforcement to serve Vaughn with Rule 8210 requests seeking documents and information on these subjects. When he either did not provide the requested information or did so only partially, Enforcement filed an Amended Complaint adding two new causes of action—one for failure to respond to the two post-complaint Rule 8210 requests, and one for failure to amend his Form U4 to disclose the Ohio State consent order. Vaughn was held in default on these additional causes of action when he did not file another Amended Answer or addendum responding to them.²

² Order Granting in Part Enforcement’s Motion for Sanctions, dated September 13, 2016.

The Hearing Panel conducted a hearing in Chicago, Illinois on September 27 and 28, 2016.³ The evidence shows that Vaughn: (1) did not amend his Form U4 to disclose the Ohio State tax liens and the Ohio State consent order, and caused his member firm to file a false and misleading Form U4 misrepresenting the circumstances of his FINRA suspension, in violation of FINRA By-Laws Article V, Section 2(c) and FINRA Rules 1122 and 2010; (2) misrepresented to his member firm the circumstances of his FINRA suspension in violation of FINRA Rule 2010; and (3) did not provide documents and information in response to FINRA's pre-complaint and post-complaint information requests in violation of FINRA Rules 8210 and 2010.⁴

II. Jurisdiction

Vaughn was registered with a FINRA member firm, HTK, at the time the Complaint was filed. He was registered with Commonwealth at the time he failed to amend his Form U4 to disclose the Ohio State tax liens and the Ohio State consent order. He was registered with HTK at the time he: (1) caused a false and misleading Form U4 to be filed misrepresenting the circumstances of his FINRA suspension; (2) did not amend his Form U4 to disclose the Ohio State consent order; and (3) did not fully respond to one of Enforcement's post-complaint FINRA Rule 8210 requests. For these reasons, FINRA has jurisdiction over Vaughn under FINRA By-Laws Article V, Section 4.

III. Findings of Fact

A. Background

Vaughn was first employed in the securities industry in 1991. He holds Series 6, 22, and 63 securities licenses.⁵ In November 2005, he became registered with FINRA through Commonwealth.⁶ He operated his Commonwealth-associated brokerage business under the name of Principled Wealth Advisors.⁷ He remained with Commonwealth until May 2013.⁸ After a nine-month period of apparent unemployment, he became registered with HTK.

³ The hearing transcript is cited as "Tr." Enforcement's exhibits are cited as "CX." Vaughn was precluded from offering exhibits because he missed the deadline for filing and serving an exhibit list. *See* Order, dated September 9, 2016, Precluding Respondent From Introducing Exhibits and Calling Witnesses for Failure to Comply With the Case Management and Scheduling Order.

⁴ Because of the pre-hearing default order, Vaughn is automatically liable for not amending his Form U4 to disclose the Ohio State consent order and for not providing information to FINRA in response to its post-complaint Rule 8210 requests. It was not necessary for Enforcement to present evidence proving those claims.

⁵ Tr. 32-33.

⁶ Tr. 29.

⁷ Tr. 30.

⁸ Tr. 29.

B. Vaughn Failed to Amend his Form U4 to Disclose the Ohio State Tax Liens

On August 24, 2010, while Vaughn was registered with Commonwealth, the State of Ohio filed the Ohio State tax liens against him—one in the amount of \$94,494, and one in the amount of \$137,938.⁹ The Form U4 requires disclosure of tax liens. Question 14M asks: “Do you have any unsatisfied judgments or liens against you?”¹⁰ Vaughn learned of the tax liens on September 10, 2010.¹¹ He understood Commonwealth’s registered persons were required to report any unsatisfied liens to the firm’s Licensing Department within 48 hours.¹² Vaughn did not report the Ohio State tax liens to Commonwealth, violating the firm’s policy.¹³

Although Vaughn did not disclose the tax liens, Commonwealth nevertheless learned of them as a result of the firm’s surveillance procedures and told Vaughn of its discovery. For more than eight months, Commonwealth tried to get him to provide the information needed to file an amended Form U4 on his behalf. On November 16, 2010, JH, the Assistant Director for Licensing and Compliance at Commonwealth, sent an email to Vaughn requesting that he provide a written narrative of the tax obligation that led to the Ohio State tax liens and his current efforts to resolve them, and documentation surrounding the issuance and resolution of the liens.¹⁴ JH informed Vaughn that “[l]iens are reportable events on the Form U4 and must be added within 30 days of issuance in order to be timely with FINRA.”¹⁵

For the next two weeks, JH did not receive the requested written narrative or documentation or, for that matter, any response at all from Vaughn.¹⁶ JH began to document his follow-up efforts in a Commonwealth Case Report.¹⁷ On November 29, 2010, he left a telephone message with Vaughn’s assistant.¹⁸ This prompted Vaughn to leave a voicemail message to JH reporting he was delayed in providing the information because of a flood in his office.¹⁹ JH responded with an email trying to set up a phone call: “Thanks for the phone

⁹ Tr. 40-41, 51, 83.

¹⁰ CX-38, at 12.

¹¹ CX-52, at 17-18.

¹² Tr. 63, 69, 73, 75, 78.

¹³ Tr. 82, 210.

¹⁴ CX-27, at 1; *see* Tr. 49-50, 80, 207-08. Because of a typo, JH gave Vaughn a “deadline” of November 11 to provide the narrative and documentation, even though JH’s email was dated November 16. Tr. 209. The mis-typed deadline is not material to this Decision because Vaughn did not provide an adequate response to JH for the next eight months.

¹⁵ CX-27, at 1.

¹⁶ Tr. 211-12.

¹⁷ CX-26.

¹⁸ CX-26, at 1; *see* Tr. 212.

¹⁹ Tr. 213-14. According to JH, Vaughn represented that the flood “was a piece of why he wasn’t able to get back to me.” Tr. 214.

message and sorry to hear about the water woes. Late morning works for me. If you happen to miss me I will call you right back.”²⁰

Vaughn did not call.²¹ JH left Vaughn phone messages on December 20 and December 31, which Vaughn did not return.²² In April 2011, JH turned again to email, resending Vaughn the original information request.²³ According to JH’s Case Report, “Jeff called me the morning of [April] 26th and said a package was coming. Have not received it so I called for a status.”²⁴ A couple of weeks later, Vaughn sent JH a copy of the Ohio State tax lien notices and a memorandum asking: “I’m not really sure what you’re looking for as far as supporting information, letters from the court??? I will be happy to supply you with that, please call me to discuss.”²⁵ Because the supporting information was missing from Vaughn’s package, JH wrote in his Case Report that he had “[r]eceived [sic] package and it was incomplete. Contacted Jeff on 5.11 for more information. Subsequently [sic] phone call to him on or about 5.19. No returned phone call and final call placed to Jeff on 5.31.”²⁶

In June 2011, JH arranged for Vaughn to deliver the tax lien documents and supporting information by passing it on to Commonwealth’s outside counsel at a firm conference Vaughn and the counsel both attended.²⁷ When JH received the documents from counsel, he had enough information to write an amended Form U4 for Vaughn, but the package from Vaughn did not include any of the documents JH had requested beyond the lien information. JH sent an email to Vaughn attaching an amended Form U4 and pointing out that the package Vaughn had provided was incomplete. JH requested that “[b]y Monday, June 27th please provide to me the ... documentation we agreed to you providing” and that Vaughn return the signed Form U4 by the same date. JH warned Vaughn that “[i]f you are unable to provide these by Monday, I will be left with no choice but to provide your situation to our Compliance Review Committee for potential disciplinary action.”²⁸

Vaughn did not provide the information by the June 27 deadline.²⁹ JH escalated the matter to Commonwealth’s Chief Compliance Officer, and requested authorization to disable

²⁰ CX-28.

²¹ Tr. 214.

²² Tr. 214-15.

²³ CX-30, at 1; *see* Tr. 215.

²⁴ CX-26, at 2.

²⁵ CX-31, at 1.

²⁶ CX-26, at 2. The package that Vaughn sent was incomplete because “it didn’t have the documentation, the liens.” Tr. 218. JH testified that the package “didn’t give me the information that I needed regarding the liens ... to amend his U4 provided to him for signature, and it didn’t answer outstanding financial questions.” Tr. 218.

²⁷ CX-32, at 1; *see* Tr. 220-21.

²⁸ CX-26, at 2. JH mentioned the Compliance Review Committee to Vaughn because JH’s department did not have the authority to hire or fire registered persons. Tr. 223.

²⁹ CX-33, at 1; *see* Tr. 106, 224.

Vaughn's login permissions to Commonwealth's COMMunityLink intranet system.³⁰ The Chief Compliance Officer sent an email to Vaughn stating: "Please contact [JH] promptly to resolve this issue."³¹ On July 5, Vaughn faxed the requested bank statements, a check register, and a signed amended Form U4, with the message "sorry for any delays!"³²

Commonwealth filed the amended Form U4 disclosing the Ohio State tax liens on August 12, 2011,³³ nearly a year after Ohio had filed the liens. For Vaughn's delays, Commonwealth fined him \$850 and issued a letter of caution.³⁴ Although he may have paid the fine promptly, Vaughn did not pay his past-due Ohio State taxes until July 2013—two years after the amended Form U4.³⁵

C. Vaughn Entered Into the Ohio State Consent Order

In August 2011, the State of Ohio Department of Insurance (the "Department") served a subpoena for Vaughn to appear for an interview on September 26 to answer questions about the Ohio State tax liens.³⁶ When Vaughn did not appear, the Department served him with a Notice of Opportunity for Hearing, which gave him the right to contest the revocation of his insurance license.³⁷ The notice informed him that "the Superintendent intends to suspend, revoke, or refuse to renew [your] license as an insurance agent in the state of Ohio and/or impose any other sanction authorized by section 3905.14(D) of the Revised Code."³⁸ The Notice stated that having an unpaid state tax liability was a ground for revocation of an insurance license:

Section 3905.14(B)(14) of the Revised Code provides the Superintendent may revoke any license of an insurance agent for failing to comply with any official

³⁰ CX-33, at 1. JH testified that "[o]ne of the tools we use in the past if we had been unable to get ... action is to shut down [the registered person's] access to the COMMunity Link system that I referenced." Tr. 224. As it turned out, Commonwealth did not disable Vaughn's access to the system. In his email to the Chief Compliance Officer, JH admitted there was a three-month gap in his follow-up efforts with Vaughn because "I got caught up on other issues and this slipped ..." CX-33, at 1.

³¹ CX-34, at 1.

³² CX-35, at 1.

³³ CX-38, at 13, 14, 15; *see* Tr. 226-27. For a reason not apparent in the record, on July 11 JH sent another Form U4 for Vaughn to sign but, as JH testified, "I don't believe it was received back and signed until closer to that 8-12 date." Tr. 240; *see* CX-36, at 1.

³⁴ CX-41, at 1; CX-42, at 1, 3-4.

³⁵ CX-48, at 1; *see* Tr. 88.

³⁶ Amended Complaint ("Compl.") ¶ 75. Because Vaughn defaulted by not answering the fifth and sixth causes of action in the Amended Complaint, the allegations in those causes of action are taken as true. FINRA Rules 9215(f), 9269(a).

³⁷ Compl. ¶¶ 75, 77; CX-49.

³⁸ CX-49, at 1.

invoice, notice, assessment, or order directing payment of state or local income tax, state or local state tax, or workers' compensation premiums.³⁹

The notice also stated: "Vaughn was issued a subpoena from the Department to appear at the Department for an interview on September 26, 2011. Vaughn did not show up as directed by the subpoena."⁴⁰

On May 9, 2013, Vaughn and the Department of Insurance agreed to and signed the Ohio State consent order.⁴¹ The consent order stated: (1) "It is alleged that Vaughn has an unresolved and outstanding monetary liability and lien obligation to the State of Ohio and is in violation of section 3905.14(B)(14) of the Ohio Revised Code;" and (2) "Vaughn admits that the above allegation is true and accurate and that he violated section 3905.14(b)(14) of the Revised Code."⁴² In the consent order, Vaughn agreed to pay an administrative fee in the amount of \$100.⁴³ He also agreed to pay the Ohio State tax liens in full within 60 days or enter into an approved repayment plan with the Ohio Attorney General's Office.⁴⁴ Vaughn did not notify anyone at Commonwealth that he had signed the Ohio State consent order, nor did he amend his Form U4 to disclose it.⁴⁵

D. Commonwealth Permitted Vaughn to Resign

Neither Commonwealth nor FINRA took any action against Vaughn for the next year. Then, in January 2013, the Internal Revenue Service (the "IRS") filed a federal tax lien against Vaughn in the amount of \$2,509,671 (the "\$2.5 million federal tax lien").⁴⁶ JH testified that in "mid to late March, we received on our credit monitoring report for that month another public record filing" with respect to Vaughn—namely, the federal tax lien.⁴⁷ Also, Commonwealth's controller received a Notice of Levy from the IRS requiring the firm to suspend some or all of Vaughn's commission payments.⁴⁸ Once Commonwealth found out about the \$2.5 million federal tax lien, Vaughn timely amended his Form U4 to disclose it.⁴⁹ Still, the tax lien caused Commonwealth to have serious concern about Vaughn's financial stability, and the firm again

³⁹ Compl. ¶ 78; CX-49, at 1.

⁴⁰ CX-49, at 1.

⁴¹ CX-50.

⁴² CX-50, at 1.

⁴³ CX-50, at 1.

⁴⁴ CX-50, at 1.

⁴⁵ Compl. ¶ 82.

⁴⁶ Tr. 41-42.

⁴⁷ Tr. 228.

⁴⁸ CX-80, at 24; *see* Tr. 120-21.

⁴⁹ CX-45, at 13-15; *see* Tr. 230.

launched an urgent but unsuccessful effort to obtain documents and information from him.⁵⁰ JH spent four weeks trying to set up a time when the firm could have a telephone conversation with Vaughn's Certified Public Accountant.⁵¹ On May 28, 2013, Commonwealth permitted Vaughn to resign from the firm and filed a Form U5 stating as the reason for the resignation an outstanding tax obligation.⁵²

E. Vaughn Failed to Provide Documents and Information in Response to FINRA's Pre-Complaint Rule 8210 Requests

The Form U5 led to an inquiry by FINRA about the Ohio State tax liens. On June 21, 2013, FINRA investigator Eric Ogowetsky sent a letter to Vaughn by certified mail and first class mail to Vaughn's CRD address requesting under FINRA Rule 8210 that Vaughn provide the following documents and information: (1) a signed statement in response to the allegations about the Ohio State tax liens; (2) a detailed explanation of Vaughn's reasons for not reporting the tax liens on his Form U4 in a timely manner; (3) copies of all correspondence and memoranda relating to the tax liens; and (4) documents relating to customer complaints in the last three years.⁵³ Vaughn did not respond to this Rule 8210 request.⁵⁴ Over the next five weeks, Ogowetsky sent Vaughn second and third requests seeking the same information by first class and certified mail addressed to Vaughn's CRD address.⁵⁵ Of the three requests, none of the first class mailings was returned to Ogowetsky. Two of the certified mailings were returned unsigned.⁵⁶ The certified mailing containing the third request was accepted and signed for by Vaughn's wife on August 1, 2013 at 11:37 a.m. at Vaughn's CRD address.⁵⁷

The Hearing Panel finds that Vaughn received and read the three unreturned first class mailings and did not sign for two of the certified mailings because he already knew what they said. From 2000 to the present, Vaughn's CRD address has not changed.⁵⁸ He did not respond

⁵⁰ CX-80, at 24, 26; Tr. 121-24.

⁵¹ CX-80, at 28; Tr. 126-27. JH testified that "[w]e never had the opportunity to speak with the CPA." Tr. 231.

⁵² CX-46, at 1, 4; Tr. 29-30, 128. JH testified that Commonwealth permitted Vaughn to resign given "the fact that we determined that taxes hadn't been filed, it just was no longer worth the continued affiliation with the firm." Tr. 232. Commonwealth permitted Vaughn to resign instead of discharging him because "we reserve discharging for something that's immediate client harm, rule violation," and on this occasion Vaughn did timely amend his Form U4 to disclose the \$2.5 million federal tax lien. Tr. 243.

⁵³ CX-2, at 1; Tr. 28, 129-31. The Rule 8210 request contained the warning that "[a]ny failure on your part to satisfy these obligations could expose you to sanctions, including a permanent bar from the securities industry." CX-2, at 1; *see* Tr. 131.

⁵⁴ Tr. 349-50.

⁵⁵ CX-3; CX-4. The second and third requests contained the warning that "[f]ailure to comply with this request may subject you to disciplinary action." *Id.*; *see* Tr. 134, 136.

⁵⁶ No one was at Vaughn's residence when delivery of the certified mailing of the first request was attempted. The postal delivery person left a notice at the residence. CX-2, at 5; *see* Tr. 348. Despite the notice, no one from Vaughn's residence went to the post office to claim the certified mailing.

⁵⁷ CX-4, at 5; *see* Tr. 136-37, 352.

⁵⁸ Tr. 28.

to any of the Rule 8210 requests or provide any information to Ogowetsky.⁵⁹ Without Vaughn's response, FINRA "was unable to proceed any further in their investigation."⁶⁰

At the same time FINRA sent the Rule 8210 requests, Vaughn applied for a job as a registered person with FINRA member HTK. He submitted an employment application on August 15, 2013.⁶¹ The Background Information section of the application asked Vaughn: "Have you **EVER** been the subject of any of the following? ... Disciplinary action taken by any regulatory authority."⁶² Despite the Ohio State consent order he signed three months before, Vaughn answered "No" to this question.⁶³ Nor did he inform HTK that there were outstanding FINRA Rule 8210 information requests he had not answered. Even in the absence of these disclosures, there was a seven-month delay in HTK's hiring of Vaughn "because he had certain tax issues, [and] it was made clear to him that he could not join the firm unless those issues were resolved."⁶⁴

While Vaughn's hiring by HTK was on hold, Ogowetsky sent him a letter, dated October 8, 2013, informing him that "we have determined to refer this matter to FINRA's Enforcement Department, which will be contacting you."⁶⁵ On November 5, Vaughn sent an email to Ogowetsky acknowledging receipt of the October 8 letter and professing a willingness to provide FINRA with documents and information:

Eric, I left you a detailed voicemail last Tuesday 10/29/13 at approximately 2:30pm & have yet to hear back from you—please contact me directly at [Vaughn's telephone number]. I had reconstructive shoulder surgery a few weeks ago & upon my return from Chicago where I had been recovering & dealing with a pending divorce, I received your letter dated 10/08/2013—This has been the only piece of correspondence that I had seen from you or your office & I reached out to you via phone because of the tone of your letter & typing one handed isn't fun!!! Please contact me immediately, to discuss what it is that you & your office is in need of & I will be glad to provide any information to you post haste!!!⁶⁶

On the same day (November 5), Ogowetsky sent a reply email to Vaughn stating: "As this matter has been referred to FINRA's Enforcement's department, someone from their

⁵⁹ Tr. 349-53.

⁶⁰ Tr. 353.

⁶¹ CX-51; *see* Tr. 170.

⁶² CX-51, at 3 (emphasis original).

⁶³ Tr. 171.

⁶⁴ Tr. 272.

⁶⁵ CX-5.

⁶⁶ CX-6, at 2; *see* Tr. 139-40.

department will be reaching out to you with further inquiries in relation to the investigation.”⁶⁷ Vaughn persisted with another email to Ogowetsky:

Thank you but, what are they or you in need of—I’m going through a difficult time in my life with a pending divorce & I think I know what happen [sic] but, would sincerely appreciate [it] if anyone could call me to prior anything going to the “Finra Enforcement Dept”“???!“⁶⁸

In response to Vaughn’s question “what are they or you in need of,” the next day Ogowetsky sent him an email attaching the three original Rule 8210 request letters.⁶⁹ Ogowetsky sent the email to jeffavaughn@yahoo.com. Vaughn acknowledges this is his personal email address.⁷⁰ Ogowetsky’s email stated: “Mr. Vaughn, please find the three letters attached that we sent to you, in which we never received a response from you.”⁷¹ Despite Ogowetsky’s reference to “the three letters attached,” Vaughn testified that “I didn’t know it had the three attachments in there.”⁷² Vaughn elaborated: “The Yahoo account just was recently opened, and I didn’t know what the attachments looked like on the Yahoo account.”⁷³

F. FINRA Suspended Vaughn

Regardless of whether he read the attachments, Vaughn did not respond to Ogowetsky’s November 6 email.⁷⁴ Enforcement commenced a suspension proceeding. On December 18, 2013, Enforcement sent an email to Vaughn at his personal email address attaching a Notice of Suspension stating:

PLEASE TAKE NOTICE that on January 13, 2014 ... pursuant to FINRA Rule 9552, you will be suspended from associating with any FINRA member in any capacity because you failed to provide information to FINRA, which had been requested from you in accordance with and pursuant to FINRA Rule 8210.⁷⁵

⁶⁷ CX-6, at 1; *see* Tr. 141.

⁶⁸ CX-6, at 1.

⁶⁹ Tr. 143; CX-6, at 1.

⁷⁰ Tr. 139.

⁷¹ CX-6, at 1; *see* Tr. 142.

⁷² Tr. 182.

⁷³ Tr. 183.

⁷⁴ Tr. 356. In his on-the-record testimony taken before the hearing, Vaughn testified he did not respond to Ogowetsky’s November 6 email for “no reason” and because of all the other stuff he was going through: “No reason except for the fact all—of all the other stuff I was going through at that time. Not an excuse. Just the truth.” Tr. 145. When Enforcement counsel suggested that he did not respond because he was in the mind-set of being done as a registered person, Vaughn responded: “I was done. That’s what I thought. At that time I was just trying to keep a one year old and a 9 year old.” Tr. 145.

⁷⁵ CX-7, at 2.

The Notice of Suspension was also delivered by FedEx to Vaughn's CRD address.⁷⁶ He did not respond to the Notice of Suspension.⁷⁷

On January 13, 2014, Enforcement emailed to Vaughn at his personal email address a Suspension from Association Letter stating that "you were suspended on January 13, 2014, from associating with any FINRA member in any capacity."⁷⁸ The Suspension from Association Letter was also delivered by FedEx to Vaughn's CRD address.⁷⁹ Vaughn did not respond to the Suspension from Association Letter until March 17, 2014.⁸⁰

Vaughn did not tell HTK about FINRA's suspension.⁸¹ The firm learned of it in March 2014. The person who was to be Vaughn's supervisor at HTK "said that he was shocked to learn that Mr. Vaughn had been suspended by FINRA."⁸² Because he could not be hired while he was suspended, Vaughn sent a letter to a Senior Director in FINRA's Los Angeles District Office stating:

I recently applied for a full time position with Penn Mutual/Hornor, Townsend & Kent, LLC & was informed that I was currently under suspension & had until March 21st to provide documentation to your office. I was surprised to say the least, with over 23 years in the industry & not one complaint ... I'm glad to say, that I have paid in full, all applicable taxes (several years had significant refunds) that were due & any fee's or penalty's associated with late filings.⁸³

Enclosed with the letter were certificates showing the Ohio State and federal tax liens had been released.⁸⁴ Vaughn followed this up a week later with a letter enclosing a copy of the IRS's Final Notice of the \$2.5 million federal tax lien.⁸⁵ In the letter, Vaughn stated that "I have NO knowledge of any prior or outstanding complaints, I have finally resolved all outstanding

⁷⁶ CX-8; *see* Tr. 148. The emailed version of the Notice of Suspension attached the original Rule 8210 requests that Ogowsky had mailed to Vaughn in June and July 2013. CX-7, at 4-7; *see* Tr. 150.

⁷⁷ Tr. 152.

⁷⁸ CX-9, at 2.

⁷⁹ CX-10.

⁸⁰ Tr. 359-60.

⁸¹ Tr. 283, 297.

⁸² Tr. 284.

⁸³ CX-11, at 1.

⁸⁴ CX-11, at 3-8.

⁸⁵ CX-12. In his letter, Vaughn informed FINRA that "I did find the email from your office; it was in my YAHOO SPAM FILE—That issue has been resolved once 100+ corrupted files were detected and properly deleted!!!" CX-12, at 1. With respect to the IRS Final Notice, Vaughn informed FINRA that he did not receive it for six weeks in January and February 2013 because it was signed for by his next-door neighbor's German nanny, who "placed it in a pile of old papers & magazines." CX-12, at 1; *see* Tr. 166-67.

Tax related Issues and I also have a commitment for fulltime employment once the FINRA suspension is removed from my license!!!”⁸⁶

On April 9, 2014, FINRA terminated Vaughn’s suspension because he provided the information that Ogowetsky had requested in June and July 2013.⁸⁷ The Termination of Suspension warned Vaughn that he could still be subject to further disciplinary action for his untimely responses to FINRA’s Rule 8210 requests.⁸⁸

G. Vaughn Caused a False and Misleading Form U4 to be Filed Misrepresenting the Circumstances of his FINRA Suspension

HTK hired Vaughn after the termination of his suspension. He made false and misleading statements to HTK that he had timely amended his Form U4 to disclose the Ohio State tax liens, that he had not known about FINRA’s Rule 8210 requests about the tax liens or his suspension, and that, once he was informed, he immediately provided the requested information and the suspension was immediately terminated. The documentary record shows that HTK acted in reliance on these statements. Vaughn’s supervisor-to-be sent an email to other HTK employees on April 14, 2014, stating that Vaughn’s FINRA suspension “was the result of Jeff’s failure to respond to an informational request from FINRA sent on December 18, 2013”⁸⁹ when, in fact, the Rule 8210 request was sent in June 2013. In another email, the supervisor stated that Vaughn “did amend his U-4 timely and responded to FINRA with that information”⁹⁰ when, in fact, his amended Form U4 was nearly a year late. When shown this email at the hearing, Vaughn admitted the supervisor’s statement was “probably not” true.⁹¹ The documentary record also shows Vaughn’s false statements. He wrote a memorandum to HTK representing that he responded to FINRA as soon as he became aware of its request:

In response to your request, I have attached the letter from FINRA that was misplaced by my wife and ultimately, led to my temporary suspension. As both [the supervisor] & I explained in my prior correspondence, as soon as I became aware of the letter and responded; FINRA terminated the suspension immediately.⁹²

⁸⁶ CX-12, at 1.

⁸⁷ CX-13.

⁸⁸ CX-13, at 3.

⁸⁹ CX-14, at 1.

⁹⁰ CX-15, at 1.

⁹¹ Tr. 180.

⁹² CX-16, at 1. The letter Vaughn attached to his memorandum shows the falsity of his story that he had received only one of FINRA’s Rule 8210 request letters, which was signed for and misplaced by his wife. The attached letter was the *first* Rule 8210 request, dated June 21, 2013. CX-16, at 2. But the certified mailing that Vaughn’s wife signed for was the *third* Rule 8210 request, dated July 29, 2013. CX-4, at 1, 5.

Vaughn did not inform HTK he received multiple letters from FINRA asking for information.⁹³ RN, Counsel of Securities and Regulatory at HTK, testified that “the only explanation was about his wife receiving a letter and not providing it to him.”⁹⁴ If Vaughn “had told us ... that there were three letters or that he actually responded to FINRA in an e-mail regarding the information request, then we would have made further inquiry.”⁹⁵

On April 29, 2014, HTK filed a Form U4 with FINRA for Vaughn to become registered with the firm. Question 14E(2) of the Form U4 asked Vaughn: “Has any self-regulatory organization ever ... found you to have been involved in a violation of its rules?”⁹⁶ Question 14E(4) of the Form U4 asked: “Has any self-regulatory organization ever ... disciplined you by expelling or suspending you from membership, barring or suspending your association with its members, or restricting your activities?”⁹⁷ Vaughn answered “No” to both questions. The next day, FINRA sent a disclosure letter to HTK informing the firm that Vaughn had to change his answers to “Yes” because FINRA had suspended him.⁹⁸

HTK conferred with Vaughn about FINRA’s directive that he file a corrected Form U4. Vaughn sent HTK a signed written statement describing his view of the FINRA suspension: “Respondent ‘NEVER’ received the request for information and was ‘TEMPORAIRLY’ [sic] Suspended. Upon learning of the request for information, Respondent IMMEDIATELY provided the requested information & the TEMPORARY SUSPENSION was IMMEDIATELY LIFTED on April 9, 2014.”⁹⁹ HTK included the contents of Vaughn’s signed statement in the optional comments section of a corrected Form U4, which Vaughn reviewed and signed.¹⁰⁰ On May 1, 2014, HTK filed the corrected Form U4 with Vaughn’s optional comments: “Respondent never received the request for information [and] was temporarily suspended. Upon learning of the request for information, Respondent immediately provided the requested information & the temporary suspension was immediately lifted on April 9, 2014.”¹⁰¹

The corrected Form U4 also included false statements about the Ohio State consent order. Vaughn answered “No” to Questions 14D(1)(b) and 14D(1)(d). Question 14D(1)(b) asked: “Has any other Federal regulatory agency or any state regulatory agency or foreign financial regulatory authority ever: ... found you to have been involved in a violation of

⁹³ Tr. 293.

⁹⁴ Tr. 294.

⁹⁵ Tr. 294.

⁹⁶ CX-17, at 6.

⁹⁷ CX-17, at 6.

⁹⁸ CX-17, at 1; *see* Tr. 303.

⁹⁹ CX-17, at 12; *see* Tr. 189-90.

¹⁰⁰ CX-18, at 1.

¹⁰¹ CX-18, at 23; *see* Tr. 36. The Hearing Panel refers to the May 1 Form U4 as a “corrected” Form U4 solely for ease of reference.

investment-related regulation(s) or statute(s)?"¹⁰² Question 14D(1)(d) asked: "Has any other Federal regulatory agency or any state regulatory agency or foreign regulatory authority ever: ... entered an order against you in connection with an investment-related activity?"¹⁰³

Vaughn did not disclose the Ohio State consent order when he applied for his job at HTK.¹⁰⁴ In conducting a background check of Vaughn, HTK discovered that he had paid a \$100 administrative fee to the State of Ohio Department of Insurance.¹⁰⁵ Vaughn did not use HTK's discovery as an opportunity to disclose the Ohio State consent order. Instead, when HTK asked Vaughn about the administrative fee, he told the firm that it was a "matriculation fee" that "the state of Ohio charged Mr. Vaughn for noting the several liens on his insurance license."¹⁰⁶

H. Vaughn Failed to Provide Documents and Information in Response to FINRA's Post-Complaint Rule 8210 Requests

FINRA's Department of Enforcement filed the Complaint in this proceeding in October 2015. In an Amended Answer, Vaughn averred that his ex-wife was to blame for the failure to pay Ohio State taxes and that the Ohio State tax liens had been filed in error against him:

Vaughn admits that even though he had made timely payments for portions of taxes he owed, certain tax liens were filed against him due to his former wife's failure to pay for taxes she owed. As a result, certain tax liens were filed in error against him by the State of Ohio in the amounts of \$94,494 and \$137,938.¹⁰⁷

On February 10, 2016, Enforcement sent to Vaughn's counsel by certified mail and email a post-complaint Rule 8210 request for documents and information (the "first post-complaint request").¹⁰⁸ This request sought documents and information relating to the Ohio State tax liens and, in particular, relating to Vaughn's assertion that his ex-wife was to blame for the failure to pay taxes and that the Ohio State tax liens had been filed in error.¹⁰⁹ Vaughn provided only part

¹⁰² Compl. ¶ 72; CX-54, at 10 (emphasis omitted). Because Vaughn defaulted by not answering the cause of action relating to the Ohio State consent order, the allegations in that cause of action are taken as true.

¹⁰³ Compl. ¶ 73; CX-54, at 10 (emphasis omitted). If an affirmative answer is given to Question 14D(1)(b) or 14D(1)(d), the individual is required to provide details about the finding or order. Compl. ¶ 74.

¹⁰⁴ Compl. ¶ 83; *see* Tr. 265-66, 309.

¹⁰⁵ Tr. 266-67. The Ohio State consent order directed that Vaughn pay this administrative fee. CX-50, at 1. But the information that HTK uncovered about the administrative fee did not indicate to the firm "there was a Consent Order which had all these requirements to have been met." Tr. 340. The sole source of HTK's information about the nature of the administrative fee was Vaughn.

¹⁰⁶ Tr. 277; *see* CX-53 (internal HTK email) ("The State of Ohio Insurance Department charged Jeff a \$100 'matriculation' fee for filing the lien against his Ohio insurance license ... The fee associated with that is \$100 and they charge the agent that amount.").

¹⁰⁷ Amended Answer ¶ 61.

¹⁰⁸ Compl. ¶ 94; *see* CX-61.

¹⁰⁹ CX-61, at 3-5.

of the documents and information requested.¹¹⁰ He did not respond to the follow-up request letters that Enforcement sent identifying the deficiencies in his response.¹¹¹

On December 23, 2015, the State of Ohio Department of Commerce Division of Securities (the “Division”) sent a letter to HTK’s Chief Compliance Officer informing him that the Division was “conducting a review of Jeffery Vaughn’s license to conduct securities transactions in Ohio due to items appearing on his CRD record.”¹¹² Among other things, the Division requested that the Chief Compliance Officer “address in writing the incomplete U-4 of Mr. Vaughn, whereas a reportable event is not disclosed under question 14D(1)(b) and/or 14D(1)(d), regarding the Ohio Department of Insurance Consent Order dated May 20, 2013.”¹¹³ RN testified that, on receipt of this letter, HTK asked the office supervising Vaughn “to make inquiries with Mr. Vaughn and ask about a Consent Order, and we were told that he didn’t recall signing a Consent Order.”¹¹⁴ HTK terminated Vaughn’s employment on February 22, 2016.¹¹⁵ Vaughn’s Form U5 stated he “was terminated for failing to disclose a Consent Order he executed with the Ohio Insurance Department when he joined the member firm.”¹¹⁶

On March 14, 2016, Enforcement sent Vaughn a second post-complaint Rule 8210 request for documents and information by certified mail and email (the “second post-complaint request”).¹¹⁷ This request sought: (1) a copy of Vaughn’s tax account transcript from the State of Ohio; (2) a written explanation of the Ohio State consent order; and (3) all documents relating to the consent order.¹¹⁸ Vaughn did not provide the requested documents and

¹¹⁰ Compl. ¶ 96; *see* CX-63; CX-67; CX-71. Vaughn did not provide documents evidencing the exact dates and amounts of payments he made for his Ohio State tax liabilities, or information about his ex-wife’s failure to pay the Ohio State taxes which gave rise to the liens. Compl. ¶ 96; *see* Tr. 361-62. By the time of his partial response, Vaughn was no longer represented by counsel and was “in the process of obtaining new counsel & will advise once one is retained.” CX-63, at 1. He never retained successor counsel.

¹¹¹ Compl. ¶¶ 97, 99, 100, 102.

¹¹² CX-55, at 1.

¹¹³ CX-55, at 1.

¹¹⁴ Tr. 309. At the same time Vaughn told HTK he did not recall signing the consent order, he failed to mention to HTK that the Department of Insurance had served him with a subpoena and a Notice of Hearing and that he had not complied with the subpoena. Tr. 310. Also, the consent order directed that “Vaughn shall provide each insurer with which he is appointed and the department of insurance of each state in which he is licensed with a copy of this Consent Order within 30 days.” CX-50, at 2. Despite this directive, he did not provide HTK with a copy of the consent order, even though the firm was wholly owned by an insurance company and he was authorized by virtue of his employment to sell the parent company’s insurance products to the public. Tr. 339-40.

¹¹⁵ Tr. 39. RN testified that Vaughn “was terminated because he had failed to disclose to the firm when he was onboarded during the application process that he had signed a Consent Order with the Ohio State Insurance Department.” Tr. 263. Before terminating Vaughn, HTK filed an amended Form U4 on his behalf disclosing, in response to Questions 14D(1)(b) and 14D(1)(d), that he had executed the Ohio State consent order with the Department of Insurance. Compl. ¶ 88.

¹¹⁶ CX-58, at 1; *see* Compl. ¶ 90.

¹¹⁷ Compl. ¶ 104.

¹¹⁸ CX-64, at 3-4.

information.¹¹⁹ He did not respond to the three letters Enforcement sent him about this request.¹²⁰

I. Vaughn’s Testimony was not Credible

Vaughn testified at the hearing. His testimony was not credible. He presented frivolous excuses for his misconduct. He offered more than those already mentioned in this Decision. First, he contends his physical mail was frequently mis-delivered by the post office because his first name is spelled J-E-F-F-E-R-Y instead of J-E-F-F-R-E-Y.¹²¹ Second, he could not respond to Commonwealth’s requests for information about the Ohio State tax liens because his office truly was flooded: “[O]n three different occasions we had water pouring down a window.”¹²² Third, he “did not know what a Consent Order was.”¹²³ Fourth, two employees of the State of Ohio told him that the \$100 administrative fee in the consent order was “not a big deal.”¹²⁴ Fifth, he could not arrange a telephone call between Commonwealth and his CPA because he and the CPA had a falling-out and the CPA had “decided to get in the investment business.”¹²⁵ Sixth, even though he admittedly signed off on the statements in his Forms U4, “when the Compliance department picks up the phone or sends you an e-mail or calls you ... they’re ... pretty much telling you what has to be in.”¹²⁶ Seventh, Vaughn did not have time to read the Ohio State consent order.¹²⁷ The excuses have built up to such a level that none of them is credible.

IV. Conclusions Of Law

Vaughn: (1) either did not timely respond, only partially responded, or did not respond at all to FINRA’s pre-complaint and post-complaint Rule 8210 requests for documents and information; (2) did not timely amend his Form U4 to disclose the Ohio State tax liens or the Ohio State consent order; (3) caused a false and misleading Form U4 to be filed misrepresenting the circumstances of his FINRA suspension; and (4) made false and misleading statements to HTK about his FINRA suspension. As explained below, these actions violated FINRA By-Laws and Rules.

¹¹⁹ Compl. ¶ 106; *see* CX-66; Tr. 360.

¹²⁰ Compl. ¶¶ 109, 112, 113; *see* CX-64; CX-69; CX-73.

¹²¹ Tr. 373. A variation of this excuse is that the numerical designation of Vaughn’s CRD address is 4-1-0-9, whereas his next-door neighbor’s is 4-0-8-9. Tr. 373.

¹²² Tr. 374.

¹²³ Tr. 374-75.

¹²⁴ Tr. 376.

¹²⁵ Tr. 380.

¹²⁶ Tr. 384.

¹²⁷ Tr. 376-77, 429-30.

A. Vaughn Violated FINRA Rules 8210 and 2010 by not Responding to FINRA’s Information Requests (First and Sixth Causes of Action)

FINRA Rule 8210(c) provides: “No member or person shall fail to provide information or testimony or to permit inspection and copying of books, records, or accounts pursuant to this Rule.” The Rule requires that a registered person respond fully, completely, and truthfully to an information request from FINRA.¹²⁸ The requirements of the Rule “are unequivocal and unqualified, and compliance is mandatory.”¹²⁹ Compliance is mandatory because “[d]elay and neglect on the part of members and their associated persons undermine the ability of [FINRA] to conduct investigations and thereby protect the public interest.”¹³⁰ “An associated person who provides false or misleading information to [FINRA] in the course of an investigation violates Rule 8210.”¹³¹

Vaughn did not timely provide documents or information in response to FINRA’s pre-complaint Rule 8210 requests, which concerned the Ohio State tax liens. In June and July 2013, FINRA staff sent Vaughn three requests. In November 2013, FINRA staff had two to three email exchanges with Vaughn, and FINRA sent the Rule 8210 requests to him again as attachments to a reply email. In December 2013, FINRA staff delivered to Vaughn a Notice of Suspension by FedEx to his CRD address and by email to his email address. In January 2014, FINRA staff delivered a Suspension from Association letter to his CRD address and by email to his email address. Vaughn did not respond until March 17, 2014, when his suspension was days away from converting automatically into a bar and he needed to get the suspension terminated so he could take his new job at HTK. His failure to provide documents and information in a timely manner violated FINRA Rule 8210(c).

Vaughn also failed to provide documents and information in response to the two post-complaint requests, again violating FINRA Rule 8210(c). He did not make a complete response to the first post-complaint request and did not respond at all to the second post-complaint request. He ignored Enforcement’s follow-up letters pointing out the deficiencies. Because of

¹²⁸ *Dep’t of Enforcement v. Taboada*, No. 2012034719701, 2016 FINRA Discip. LEXIS 7, at *67-68 (OHO Mar. 18, 2016).

¹²⁹ *Dep’t of Enforcement v. Lundgren*, No. FPI150009, 2016 FINRA Discip. LEXIS 2, at *12 (NAC Feb. 18, 2016); *accord Dep’t of Enforcement v. Toomer*, No. FPI160009, 2016 FINRA Discip. LEXIS 46, at *12 (Oct. 5, 2016) (same); *Dep’t of Enforcement v. North Woodward Financial Corp.*, No. 2010021303301, 2014 FINRA Discip. LEXIS 32, at *19 (NAC July 21, 2014) (same).

¹³⁰ *Dep’t of Enforcement v. Gallagher*, No. 2008011701203, 2012 FINRA Discip. LEXIS 61, at *12 (NAC Dec. 12, 2012) (quoting *Paz Securities, Inc.*, Exchange Act Release No. 57656, 2008 SEC LEXIS 820, at *12-13 (Apr. 11, 2008)).

¹³¹ *Geoffrey Ortiz*, Exchange Act Release No. 58416, 2008 SEC LEXIS 2401, at *23 (Aug. 22, 2008). A violation of FINRA Rule 8210 “constitutes conduct inconsistent with just and equitable principles of trade and therefore also establishes a violation of FINRA Rule 2010.” *Dep’t of Enforcement v. Jarkas*, No. 2009017899801, 2015 FINRA Discip. LEXIS 50, at *36 (NAC Oct. 5, 2015) (quoting *Dep’t of Enforcement v. North Woodward Financial Corp.*, Exchange Act Release No. 74913, 2015 SEC LEXIS 1867, at *13 (May 8, 2015)). Likewise, “providing false information to FINRA is an independent violation of FINRA Rule 2010.” *Dep’t of Enforcement v. Harari*, No. 2011025899601, 2015 FINRA Discip. LEXIS 2, at *16 (NAC Mar. 9, 2015).

his default on the Amended Complaint and the default order issued against him before the hearing, Vaughn is liable for this violation with respect to the post-complaint requests.

B. Vaughn Violated FINRA By-Laws Article V, Section 2(c) and FINRA Rules 1122 and 2010 by not Amending his Form U4 and by Causing HTK to File a False and Misleading Form U4 (Second, Fourth, and Fifth Causes of Action)

To become registered through a FINRA member firm, an individual must complete and file with FINRA a Form U4 and keep his Form U4 current. FINRA By-Laws provide: “Every application for registration filed with the Corporation shall be kept current at all times by supplementary amendments via electronic process or such other process as the Corporation may prescribe to the original application.”¹³² FINRA Rule 1122 provides:

No member or person associated with a member shall file with FINRA information with respect to membership or registration which is incomplete or incorrect so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof.

The Form U4 “is critical to the effectiveness of the screening process used to determine who may enter (and remain in) the industry. It ultimately serves as a means of protecting the investing public.”¹³³ The “Form U4 is used by all self-regulatory organizations (including FINRA), state regulators, and broker-dealers to determine and monitor the fitness of securities professionals who seek initial or continued registration with a member firm.”¹³⁴

Accuracy, completeness, and truthfulness are critical to the effectiveness of the Form U4. “Every person submitting [a] Form U4 has the obligation to ensure that the information provided on the form is true and accurate.”¹³⁵ Given the size of its membership, FINRA “cannot

¹³² FINRA By-Laws, Art. V, Sec. 2(c).

¹³³ *Joseph S. Amundsen*, Exchange Act Release No. 69406, 2013 SEC LEXIS 1148, at *23 n.41 (Apr. 18, 2013) (quoting *Robert D. Tucker*, Exchange Act Release No. 68210, 2012 SEC LEXIS 3496, at *26 (Nov. 9, 2012)), *petition for review denied*, *Amundsen v. SEC*, 575 Fed. App’x 1 (D.C. Cir. 2014).

¹³⁴ *Id.* at *23-24 (quoting *Tucker*, 2012 SEC LEXIS 3496, at *26); *accord Dep’t of Enforcement v. McCune*, No. 2011027993301, 2015 FINRA Discip. LEXIS 22, at *8 (NAC July 27, 2015) (FINRA uses the Form U4 “to screen applicants and monitor their fitness for registration within the securities industry”); *Dep’t of Enforcement v. Zayed*, No. 2006003834901, 2010 FINRA Discip. LEXIS 13, at *10 (NAC Aug. 19, 2010) (“[t]he questions on a Form U4 are a critical means of providing FINRA with the information needed to protect investors”).

¹³⁵ *Tucker*, 2012 SEC LEXIS 3496, at *30; *accord Scott Mathis*, Exchange Act Release No. 61120, 97 S.E.C. 23228, 23235, 2009 SEC LEXIS 4376, at *16 (Dec. 7, 2009) (“[t]he candor and forthrightness of [individuals submitting Forms U4] is critical to the effectiveness of [the] screening process”) (quoting *Timothy H. Emerson, Jr.*, Exchange Act Release No. 60328, 96 S.E.C. 18882, 2009 SEC LEXIS 2417, at *16 n.8 (July 17, 2009)), *aff’d*, *Mathis v. SEC*, 671 F.3d 210 (2d Cir. 2012); *Guang Lu*, Exchange Act Release No. 51047, 2005 SEC LEXIS 117, at *19-20 (Jan. 14, 2005) (same), *aff’d*, 179 Fed. App’x 702 (D.C. Cir. 2006).

investigate the veracity of every detail in each document filed with it, [and] must depend on its members to report to it accurately and clearly in a manner that is not misleading.”¹³⁶

Vaughn violated FINRA By-Laws and Rules in not timely amending his Form U4 to disclose the Ohio State tax liens and the Ohio State consent order and causing HTK to file a false Form U4 misrepresenting the circumstances of his FINRA suspension. The reasons for these conclusions are as follows.

1. Vaughn Failed to Amend his Form U4 to Disclose the Ohio State Tax Liens and the Ohio State Consent Order

Section 14 of Form U4 includes Question 14M, which asks: “Do you have any unsatisfied judgments or liens against you?” The instructions to Section 14 direct the individual to provide details: “If the answer to any of the following questions is ‘yes,’ complete details of all events or proceedings on the appropriate DRP(s).” The DRP contains six mandatory and one optional question asking for detailed information about each judgment and lien, including the amount and filing date. The General Instructions for the Form U4 state: “An individual is under a continuing obligation to amend and update information required by Form U4 as changes occur.”¹³⁷ The individual is required to update his Form U4 within thirty days after the reportable event.¹³⁸

On August 24, 2010, the State of Ohio filed two tax liens against Vaughn. He had notice of them on September 10. But he did not amend his Form U4 within thirty days. On November 16, Commonwealth informed him that the firm knew of the Ohio State tax liens and told him he had to disclose them on his Form U4 within thirty days. Then ensued a months-long process of trying to get Vaughn to produce the information needed to amend his Form U4. He did not file the Form U4 until August 12, 2011, almost a year after the Ohio State tax liens. Vaughn’s failure to file an amended Form U4 in a timely manner violated FINRA By-Laws Article V, Section 2(c) and FINRA Rules 1122 and 2010.¹³⁹

Vaughn also failed to amend his Form U4 to disclose the Ohio State consent order, again violating FINRA By-Laws Article V, Section 2(c) and Rules 1122 and 2010. Because of his default of the Amended Complaint and the default order issued against him before the hearing, Vaughn is automatically liable for this violation with respect to the Ohio State consent order.

¹³⁶ *Robert Kauffman*, Exchange Act Release No. 33219, 51 S.E.C. 838, 1993 SEC LEXIS 3163, at *3 (Nov. 18, 1993), *aff’d*, 40 F.3d 1240 (3d Cir. 1994). As of December 2016, there were 3,869 securities firms with 641,133 brokers under FINRA’s jurisdiction.

¹³⁷ Quoted in *Dep’t of Enforcement v. The Dratel Group, Inc.*, No. 2009016317701, 2015 FINRA Discip. LEXIS 10, at *11 n.5 (May 6, 2015).

¹³⁸ “The By-Laws further require that certain reportable events be reported accurately no later than 30 days after a member firm learns of the facts or circumstances giving rise to a reportable event.” *Dep’t of Enforcement v. The Dratel Group, Inc.*, 2015 FINRA Discip. LEXIS 10, at *11.

¹³⁹ A violation of FINRA Rule 1122 also violates FINRA Rule 2010. *Dep’t of Enforcement v. Geffner*, No. 2013039639101, 2016 FINRA Discip. LEXIS 41, at *13 (OHO Aug. 12, 2016).

2. Vaughn Caused HTK to File a False and Misleading Form U4 Misrepresenting the Circumstances of his FINRA Suspension

As Vaughn applied for a job at HTK, he did not inform the firm that FINRA suspended him in January 2014 for not responding to Rule 8210 requests. Following the termination of suspension and his hiring by HTK, the firm filed a Form U4 on his behalf that did not mention the suspension. After FINRA sent a disclosure letter demanding this Form U4 be corrected, HTK filed a corrected Form U4 disclosing the suspension.

Vaughn violated FINRA By-Laws Article V, Section 2(c) and Rules 1122 and 2010 by causing false statements to be made in the optional comments section of the corrected Form U4. He falsely stated he had not received FINRA's 8210 requests and that he immediately provided the information on learning of the requests and his suspension. In reality, Vaughn received the requests but did not respond to them for eight months.

3. Vaughn is Subject to Statutory Disqualification

The statutory consequences are clear when an individual fails to amend his Form U4 timely or causes a false and misleading Form U4 to be filed (Vaughn did both). Under Section 3(a)(39)(F) of the Securities Exchange Act of 1934 (the "Exchange Act"), an individual is subject to statutory disqualification if he:

has willfully made or caused to be made in any application ... to become associated with a member 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 ... any material fact which is required to be stated therein.¹⁴⁰

The elements of a Form U4 statutory disqualification are that the individual acted willfully and the information was material.¹⁴¹ A finding of willfulness does not require intent to violate the law, but only intent to do the act that constitutes a violation of the law.¹⁴² It is not necessary that the individual know of the rule he violated or that he act with a culpable state of

¹⁴⁰ 15 U.S.C. § 78c(a)(39)(F).

¹⁴¹ *Dep't of Enforcement v. Kraemer*, No. 2006006192901, 2009 FINRA Discip. LEXIS 39, at *15 (NAC Dec. 18, 2009) ("[a] finding of willfulness in the context of [a] Form U4 violation has significant collateral consequences because it, coupled with a finding that the [undisclosed information] was material information, results in . . . statutory disqualification").

¹⁴² *Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965) ("it has been uniformly held that 'willfully' . . . means intentionally committing the act which constitutes the violation"); *Dep't of Enforcement v. The Dratel Group, Inc.*, 2015 FINRA Discip. LEXIS 10, at *14-15 ("our finding that [the respondents] acted willfully is predicated on respondents' intent to commit the act that constitutes the violation – failing to amend the forms"); *Robert D. Tucker*, Exchange Act Release No. 68210, 2012 SEC LEXIS 3496, at *41 (Nov. 9, 2012) ("A willful violation under Section 3(a)(39)(F) simply means 'that the person charged with the duty knows what he is doing.'") (quoting *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000)).

mind.¹⁴³ Here, the evidence is overwhelming that Vaughn acted willfully when he failed to amend his Form U4 timely to disclose the Ohio State tax liens and the Ohio State consent order and when he inserted false and misleading statements about the circumstances of his FINRA suspension.

The information about the Ohio State tax liens, the Ohio State consent order, and the FINRA suspension was material. “[A] fact is material if a reasonable investor would view the disclosure of the omitted information as ‘having significantly altered the total mix of information made available.’”¹⁴⁴ A reasonable investor would have found the total mix of information to have been altered if she learned that her registered person had been subject to state tax liens, a state consent order in which he admitted he had violated state law, and a FINRA suspension arising from his failure to respond to the organization’s requests for information. And “[b]ecause of the importance that the industry places on full and accurate disclosure of information required by the Form U4, [it is presumed] that essentially all the information that is reportable on the Form U4 is material.”¹⁴⁵

The false statements about Vaughn’s FINRA suspension and his failure to amend his Form U4 to disclose the Ohio State tax liens and the Ohio State consent order were willful, and the information was material.¹⁴⁶ Vaughn is subject to statutory disqualification under Section 3(a)(39)(F) of the Exchange Act.

C. Vaughn Violated FINRA Rule 2010 by Making False and Misleading Statements to his Employer Member Firm About the Circumstances of his FINRA Suspension (Third Cause of Action)

FINRA Rule 2010 provides: “A member in the conduct of its business shall observe high standards of commercial honor and just and equitable principles of trade.”¹⁴⁷ The National

¹⁴³ *Dep’t of Enforcement v. McGuire*, No. 20110273503, 2015 FINRA Discip. LEXIS 53, at *48 (NAC Dec. 17, 2015) (“We need not find that McGuire ‘was aware of the rule he violated or that he acted with a culpable state of mind.’”) (quoting *Robert D. Tucker*, 2012 SEC LEXIS 3496, at *41); accord *Dep’t of Enforcement v. Geffner*, 2016 FINRA Discip. LEXIS 41, at *14 (Aug. 12, 2016) (“A failure to make a required disclosure on a Form U4 renders it inaccurate, and is willful if the person acts ‘of his own volition’ and the resulting filing of the inaccurate Form U4 is ‘neither involuntary nor inadvertent.’”) (quoting *Joseph S. Amundsen*, 2013 SEC LEXIS 1148, at *38).

¹⁴⁴ *Dep’t of Enforcement v. Fretz*, No. 2010024889501, 2015 FINRA Discip. LEXIS 54, at *56 (NAC Dec. 17, 2015) (quoting *Mathis v. SEC*, 671 F.3d at 219).

¹⁴⁵ *Dep’t of Enforcement v. Tucker*, No. 2007009981201, 2011 FINRA Discip. LEXIS 66, at *20-21 (NAC Oct. 4, 2011) (quoting *Dep’t of Enforcement v. Knight*, No. C10020060, 2004 NASD Discip. LEXIS 5, at *13 (NAC Apr. 27, 2007)); accord *Dep’t of Enforcement v. Fretz*, 2015 FINRA Discip. LEXIS 54, at *56 (same); *Dep’t of Enforcement v. Toth*, No. E9A2004001901, 2007 NASD Discip. LEXIS 25, at *34 (July 27, 2007) (same).

¹⁴⁶ Because of his default and the default order issued against him before the hearing, Vaughn is automatically subject to a finding of willfulness and materiality with respect to the Ohio State consent order. See Compl. ¶ 91.

¹⁴⁷ “Associated persons are subject to the duties and obligations of FINRA Rule 2010 pursuant to FINRA Rule 0140.” *Dep’t of Enforcement v. Giblen*, No. 2011025957702, 2014 FINRA Discip. LEXIS 39, at *12 n.13 (Dec. 10, 2014).

Adjudicatory Council recently re-affirmed the purpose and scope of FINRA Rule 2010, holding once again that it applies to all business-related conduct of associated and registered persons:

FINRA Rule 2010 is a broad and generalized ethical provision. FINRA’s authority to pursue discipline for violations of FINRA Rule 2010 is sufficiently wide to encompass any unethical, business-related conduct, regardless of whether it involves a security ... The rule therefore applies “when the conduct reflects on [an] associated person’s ability to comply with the regulatory requirements of the securities business and to fulfill his fiduciary duties in handling other people’s money.”¹⁴⁸

To prove a violation of FINRA Rule 2010, Enforcement need not show the respondent had a bad motive or *scienter*.¹⁴⁹

Vaughn violated FINRA Rule 2010 by making false and misleading statements to HTK about the circumstances of his FINRA suspension. When HTK found out about the suspension, he falsely told the firm that he had not received the Rule 8210 information requests and that, when he was informed of the requests and the suspension, he immediately provided the requested information. The matter gained more urgency after FINRA demanded that the Form U4 be corrected to disclose the suspension. Vaughn then sent HTK a signed statement for inclusion in the corrected Form U4.¹⁵⁰ As explained earlier, this signed statement was false. Withholding material information from one’s employer member firm is unethical and in violation of FINRA Rule 8210:

A registered representative’s failure to disclose material information to his firm violates ... FINRA Rule 2010 and is misconduct that calls into question the registered representative’s “ability to comply with regulatory requirements

¹⁴⁸ *Dep’t of Enforcement v. Grivas*, No. 2012032997201, 2015 FINRA Discip. LEXIS 16, at *22 (NAC July 16, 2015), *aff’d*, Exchange Act Release No. 77470 (Mar. 29, 2016); *accord Blair C. Mielke*, Exchange Act Release No. 75981, 2015 SEC LEXIS 3927, at*46 (Sept. 24, 2015) (holding that FINRA’s disciplinary authority under Rules 2010 and 2110 “is broad enough to encompass business-related conduct that is inconsistent with just and equitable principles of trade even if that activity does not involve a security”) (quoting *Vail v. SEC*, 101 F.3d 37, 39 (5th Cir. 1996)); *Geoffrey Ortiz*, 2008 SEC LEXIS 2401, at *22 (“conduct that reflects negatively on an applicant’s ability to comply with regulatory requirements fundamental to the securities industry is inconsistent with just and equitable principles of trade”).

¹⁴⁹ *Dep’t of Enforcement v. Golonka*, No. 2009017439601, 2013 FINRA Discip. LEXIS 5, at *24 (NAC Mar. 4, 2013) (“A violation of J&E Rules like Rule 2010 ‘need not be premised on a motive or scienter finding’”) (quoting *Thomas W. Heath, III*, Exchange Act Release No. 59223, 2009 SEC LEXIS 14, at *15 (Jan. 9, 2009), *aff’d sub nom. Heath v. SEC*, 586 F.3d 122 (2d Cir. 2009)); *Dep’t of Enforcement v. Jennings*, No. 2008013864401, 2013 FINRA Discip. LEXIS 18, at *54 n.142 (OHO Mar. 4, 2013) (“Rule 2110 focuses on the securities professional’s conduct rather than on a subjective inquiry into the professional’s intent or state of mind. Accordingly, a violation of the rule need not be premised on a motive or scienter finding”). NASD Rule 2110 was the predecessor to FINRA Rule 2010.

¹⁵⁰ CX-17, at 12.

necessary for the proper functioning of the securities industry and the protection of the public.¹⁵¹

Giving the employer false information is more serious than withholding information. Vaughn violated FINRA Rule 2010 when he made false statements to HTK about the circumstances of his FINRA suspension.

V. Sanctions

The Complaint has six causes of action: (1) failing to respond in a timely manner to FINRA's pre-complaint Rule 8210 requests for documents and information; (2) willfully filing a false and misleading Form U4 misrepresenting the circumstances of a FINRA suspension; (3) misrepresenting to an employer member firm about the circumstances of the FINRA suspension; (4) willfully failing to amend a Form U4 timely to disclose the Ohio State tax liens; (5) willfully failing to amend the Form U4 timely to disclose the Ohio State consent order; and (6) failing to respond or only partially responding to post-complaint Rule 8210 requests for documents and information. The Principal Considerations of the Sanction Guidelines should be considered with respect to these violations.

A. The Principal Considerations

Several of the Principal Considerations provide aggravating factors that weigh against Vaughn. He engaged in numerous acts and a pattern of misconduct.¹⁵² Many of his acts were needed for him to preserve his registered status so that he could continue making money as a stockbroker. His violative activities extended in time for over five years: from his first failure to file an amended Form U4 in September 2010 to his failure to respond to the second post-complaint Rule 8210 request in 2016.¹⁵³ He concealed his violations and misled both Commonwealth and HTK.¹⁵⁴ His failure to respond to the Rule 8210 requests delayed the

¹⁵¹ *Dep't of Enforcement v. Mielke*, No. 2009019837302, 2014 FINRA Discip. LEXIS 24, at *39-40 (NAC July 18, 2014) (quoting *Dep't of Enforcement v. Davenport*, No. C05010017, 2003 NASD Discip. LEXIS 4, at *9-10 (May 7, 2003)), *aff'd*, Exchange Act Release No. 75981, 2015 SEC LEXIS 3927 (Sept. 24, 2015), *appeal docketed*, No. 05-1234 (11th Cir. Nov. 19, 2015).

¹⁵² FINRA Sanction Guidelines ("Guidelines") at 6 (2016), <http://www.finra.org/industry/sanction-guidelines> (Principal Consideration No. 8: Whether the respondent engaged in numerous acts and/or a pattern of misconduct).

¹⁵³ *Id.* (Principal Consideration No. 9: Whether the respondent engaged in the misconduct over an extended period of time).

¹⁵⁴ *Id.* (Principal Consideration No. 10: Whether the respondent attempted to conceal his or her misconduct or to lull into inactivity, mislead, deceive or intimidate the member firm with which he or she is/was associated).

investigation and concealed information from FINRA.¹⁵⁵ And his misconduct was the result of intentional acts.¹⁵⁶

With the Principal Considerations in mind, the sanctions for each of Vaughn's violations are addressed separately below.¹⁵⁷

B. Rule 8210 Requests

Vaughn did not respond to the pre-complaint Rule 8210 requests in a timely manner. The Sanction Guideline for Failure to Respond in a Timely Manner to Requests Made Pursuant to FINRA Rule 8210 recommends adjudicators consider a monetary fine of \$2,500 to \$37,000 and, where mitigation exists, consider suspending the individual in any and all capacities for up to two years.¹⁵⁸ There are three considerations specific to this Sanction Guideline.¹⁵⁹ The first is the importance of the information requested as viewed from FINRA's perspective. The second is the number of requests made and the degree of regulatory pressure required to obtain a response. The third is the length of time to respond.¹⁶⁰

Vaughn shall be barred from associating with any FINRA member in any and all capacities for his failure to respond timely to FINRA's pre-complaint Rule 8210 requests. Applying the three specific considerations, the information requested was important as viewed from FINRA's perspective. FINRA sought documents and information to account for Vaughn's long delay in filing an amended Form U4 to disclose the Ohio State tax liens. Amending a Form U4 is a fundamental obligation of all registered persons. The information sought would have been central to any disciplinary proceeding brought against Vaughn. Because he did not respond to the Rule 8210 requests, FINRA's investigation came to a halt. FINRA made three separate Rule 8210 requests, each of which Vaughn ignored. Then came the intense regulatory pressure, in the form of a suspension from associating with any FINRA member firm. Vaughn responded only when his suspension was days away from automatically converting into a bar. The length

¹⁵⁵ *Id.* at 7 (Principal Consideration No. 12: Whether the respondent attempted to delay FINRA's investigation, to conceal information from FINRA, or to provide inaccurate or misleading testimony or documentary information to FINRA).

¹⁵⁶ *Id.* (Principal Consideration No. 13: Whether the respondent's misconduct was the result of an intentional act, recklessness or negligence).

¹⁵⁷ On March 9, 2006, the State of Ohio filed a tax lien against Vaughn in the amount of \$7,718. Tr. 43. This tax lien was not part of Enforcement's Amended Complaint. Enforcement urges the Hearing Panel to treat Vaughn's alleged failure to inform FINRA or the Hearing Panel of this tax lien as an aggravating factor in the determination of sanctions. Tr. 422. We decline to do so because there are already enough factors to impose appropriate sanctions.

¹⁵⁸ Guidelines at 33.

¹⁵⁹ *Id.*

¹⁶⁰ *Id.*

of time from request to response was eight months. Such a long delay was tantamount to a failure to respond in any manner, for which a bar is standard.¹⁶¹

Vaughn shall be subject to a separate individual bar for his failure to respond to Enforcement's post-complaint Rule 8210 requests. He provided a partial but incomplete response to the first post-complaint request. According to the applicable Sanction Guideline, "[w]here the individual provided a partial but incomplete response, a bar is standard unless the person can demonstrate that the information provided substantially complied with all aspects of the request."¹⁶² Vaughn made no such showing here.

There are three considerations specific to the Sanction Guideline for Providing a Partial but Incomplete Response. The first is the importance of the information requested that was not provided as viewed from FINRA's perspective, and whether the information provided was relevant and responsive to the request.¹⁶³ The second is the number of requests made, the time the respondent took to respond, and the degree of regulatory pressure required to obtain a response. The third is whether the respondent thoroughly explains valid reasons for the deficiencies in the response.¹⁶⁴ With respect to the first post-complaint request, the information sought but not provided concerned the factual basis for the averment in Vaughn's Amended Answer that his ex-wife was to blame for the failure to pay the Ohio State taxes and that the Ohio State tax liens had been filed in error. These subjects were basic to the claim in Enforcement's Complaint that Vaughn failed to amend his Form U4 to disclose the Ohio State tax liens. His lack of a response also left a gap in the documentary record as to how he managed to pay more than \$231,000 in back taxes.¹⁶⁵ FINRA made two follow-up requests pointing out the deficiencies in Vaughn's response but, despite a significant degree of regulatory pressure—including orders to compel and orders to show cause—Vaughn never provided the missing information.¹⁶⁶ Nor did he explain with valid reasons the deficiencies in his response.¹⁶⁷

¹⁶¹ *Id.*; see *Blair C. Mielke*, 2015 SEC LEXIS 3927, at *74 (respondent's belated appearance for on-the-record testimony "was treated as a complete failure [to comply] because he did not appear ... until after FINRA instituted disciplinary proceedings against him").

¹⁶² Guidelines at 33.

¹⁶³ *Id.*

¹⁶⁴ *Id.*

¹⁶⁵ Tr. 402-03.

¹⁶⁶ Tr. 364.

¹⁶⁷ Tr. 363; see *Dep't of Enforcement v. Toomer*, 2016 FINRA Discip. LEXIS 46, at *28 (imposing a bar for a partial but incomplete response because "[t]he misconduct under investigation was serious and the information Enforcement requested was important"); *Dep't of Enforcement v. Jarkas*, 2015 FINRA Discip. LEXIS 50, at *48 ("we uphold the Hearing Panel's decision to impose the sanction of a bar against Jarkas for his failure to respond completely to FINRA's Rule 8210 requests"); *Dep't of Enforcement v. Gallagher*, 2012 FINRA Discip. LEXIS 61, at *48 ("A partial, but incomplete response ... presents the functional equivalent of a failure to respond in any manner because individuals have selectively kept certain information from FINRA.").

Vaughn did not respond at all to the second post-complaint request. The Sanction Guideline provides that “[i]f the individual did not respond in any manner, a bar should be standard.”¹⁶⁸ There are no specific considerations for this circumstance, indicating the adjudicators’ discretion to impose less than a bar is extremely limited.¹⁶⁹ We conclude that a bar should apply here because Vaughn has provided no excuse for his complete failure to respond.

C. Forms U4

Vaughn shall be subject to three individual bars for his failure to file amended Forms U4 in a timely manner and for causing a false and misleading Form U4 to be filed. The Sanction Guideline for Late Filing of Forms U4 or Amendments and Filing of False, Misleading or Inaccurate Amendments recommends adjudicators consider a fine of \$2,500 to \$73,000 and suspending the individual in any and all capacities for 5 to 30 business days.¹⁷⁰ There is one specific consideration applicable to Vaughn’s failure to amend and his false and misleading amendment: the nature and significance of the information at issue.

Vaughn committed three Form U4 violations: (1) he failed to amend his Form U4 timely to disclose the Ohio State tax liens; (2) he failed to amend his Form U4 to disclose the Ohio State consent order; and (3) he caused a false and misleading Form U4 to be filed misrepresenting the circumstances of his FINRA suspension. The information at issue was significant. Tax liens “cast doubt on [a registered person’s] ability to manage his personal financial affairs and provide investors with appropriate financial advice.”¹⁷¹ Signing a consent order admitting a violation of state law is a critical adverse event for a registered person purporting to provide financial services to citizens of the state. And the truth about Vaughn’s FINRA suspension—the fact that it arose from his months-long failure to respond to Rule 8210 information requests sent to him several times—was relevant to an assessment of his ability to adhere to regulatory requirements.

This is an egregious Form U4 case. Vaughn failed to amend for nearly a year on one subject, failed to amend at all on a second subject, and filed a false and misleading Form U4 on a third subject.¹⁷² The cumulative effect of his multiple Form U4 violations calls for a proportionate regulatory response: an individual bar for each of the three violations.¹⁷³ Also,

¹⁶⁸ Guidelines at 33.

¹⁶⁹ The Securities and Exchange Commission has “observed that ... the complete failure to respond to [Rule 8210] requests is ‘fundamentally incompatible’ with FINRA’s regulatory mission because “the self-regulatory system of securities regulation cannot function without compliance with Rule 8210 requests.” *Geoffrey Ortiz*, 2008 SEC LEXIS 2401, at *30-31 (quoting *Paz Securities, Inc.*, 2008 SEC LEXIS 820, at *12-13).

¹⁷⁰ Guidelines at 69.

¹⁷¹ *Robert D. Tucker*, 2012 SEC LEXIS 3496, at *47.

¹⁷² With considerable understatement, JH described Vaughn’s delay in amending his Form U4 to disclose the Ohio State tax liens as “memorable” and “[v]ery much” an unusual event. Tr. 241-42.

¹⁷³ *Dep’t of Enforcement v. Gallagher*, 2012 FINRA Discip. LEXIS 61, at *54 (imposing a bar for Form U4 violations because the respondent’s “misconduct was egregious, and we conclude that a bar in all capacities will best serve to protect the investing public and deter others from engaging in the troubling conduct at issue here”).

because Vaughn's violations were willful and the information material, he is subject to statutory disqualification under Section 3(a)(39)(F) of the Securities Exchange Act of 1934.

D. False and Misleading Statements to HTK

For Vaughn's false and misleading statements to HTK about the circumstances of his FINRA suspension, the Hearing Panel would suspend him in any and all capacities for six months and fine him \$100,000. No Sanction Guideline applies to the kind of FINRA Rule 2010 violation we have here. The closest analogy is Fraud, Misrepresentations or Material Omissions of Fact, which calls on adjudicators to consider a fine of \$10,000 to \$146,000 for intentional or reckless misconduct and, in such cases, strongly consider barring the individual.¹⁷⁴ The adjudicators are to consider the applicable Principal Considerations in determining the duration of a suspension or whether to impose a bar.¹⁷⁵ Here, Vaughn's misconduct was intentional, and the false and misleading statements probably kept HTK from rejecting his job application. But, in light of the bars already described in this Decision, the Hearing Panel considers the additional sanctions sought for this violation to be redundant and does not impose them.¹⁷⁶

VI. Order

Respondent Jeffery Vaughn did not timely respond to FINRA's information requests in violation of FINRA Rules 8210 and 2010, failed to amend his Form U4 in a timely manner and caused a false and misleading Form U4 to be filed on his behalf in violation of FINRA By-Laws Article V, Section 2(c) and FINRA Rules 1122 and 2010, and made false and misleading statements to his employer member firm in violation of FINRA Rule 2010.¹⁷⁷ For each violation, he shall be permanently barred from associating with any FINRA member firm in any and all capacities. Vaughn is subject to statutory disqualification under Section 3(a)(39)(F) of the Securities Exchange Act of 1934. Vaughn also is ordered to pay the costs of the hearing in the amount of \$4,137.69, consisting of an administrative fee of \$750 and the cost of the transcript.

¹⁷⁴ Guidelines at 87.

¹⁷⁵ *Id.*

¹⁷⁶ *See, e.g., id.* 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").

¹⁷⁷ The Hearing Panel considered all arguments of the parties. The arguments are rejected or sustained to the extent they are inconsistent or in accord with the views expressed in this Decision.

The costs are due immediately on issuance of this Decision. The bars shall be effective immediately if this decision becomes FINRA's final action in this disciplinary proceeding.

For the Hearing Panel

Richard E. Simpson
Hearing Officer