

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

TODD B. WYCHE  
(CRD No. 2186536),

Respondent.

Disciplinary Proceeding  
No. 2015046759201

Hearing Officer–KBW

**HEARING PANEL DECISION**

February 2, 2018

**Respondent willfully failed to timely amend his Form U4 to disclose a tax lien. For this violation, Respondent is suspended from associating with any FINRA member firm in any capacity for six months, fined \$10,000, and ordered to pay hearing costs.**

**Appearances**

For the Complainant: Gary A. Chodosh, Esq., and Kevin Hartzell, Esq., Department of Enforcement, Financial Industry Regulatory Authority.

For the Respondent: Dochter D. Kennedy, Esq., AdvisorLaw, LLC.

**DECISION**

The Department of Enforcement alleged that Respondent Todd B. Wyche willfully violated Article V, Section 2(c) of the FINRA By-Laws and FINRA Rules 1122 and 2010, which required that Wyche update his Uniform Application for Securities Industry Registration or Transfer (Form U4) to report an unsatisfied lien against him within thirty days of learning of the lien. It is undisputed that the Internal Revenue Service filed a lien against Wyche in the amount of \$230,265.19 (the “IRS Lien”) in January 2014, the IRS Lien was unsatisfied, and he did not amend his Form U4 to disclose the IRS Lien until after FINRA staff asked him about it in August 2014.

The primary issue in this case is when Wyche learned of the IRS Lien. Enforcement asserts that Wyche learned of the IRS Lien on or about January 24, 2014. Wyche contends, however, that he did not learn of the IRS Lien until FINRA staff questioned him about it on August 7, 2014.

The Panel rejects Wyche’s contention, finds Wyche willfully violated Article V, Section 2(c) of the FINRA By-Laws and FINRA Rules 1122 and 2010, and assesses the appropriate remedial sanction.

## **I. Findings of Fact**

### **A. Wyche’s Background**

Wyche entered the securities industry in 1992.<sup>1</sup> Since then, he has been registered in various capacities through associations with several FINRA member firms.<sup>2</sup> From January 2014 through August 2014, he was simultaneously registered with FINRA through two firms: his own broker-dealer, Wyche Securities, Inc. (“Wyche Securities”), and Meyers Associates, L.P. (“Meyers”). The capacities in which Wyche was registered at both firms during this period included General Securities Representative, General Securities Principal, Financial and Operations Principal, Operations Professional, and Investment Banking Representative.<sup>3</sup> At both Meyers and Wyche Securities, Wyche worked with publicly-traded companies in connection with equity offerings.<sup>4</sup>

Since January 2015, Wyche has been registered through another FINRA member firm as, among other capacities, a General Securities Representative, a General Securities Principal, an Operations Professional, and an Investment Banking Representative.<sup>5</sup>

### **B. Form U4**

Registered representatives like Wyche must complete and file with FINRA a Form U4 to become registered through a FINRA member firm. The form “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.”<sup>6</sup> Form U4 “ultimately serves as a means of protecting the investing public.”<sup>7</sup>

---

<sup>1</sup> Complaint (“Compl.”) ¶ 2; Answer (“Ans.”) ¶ 2.

<sup>2</sup> Compl. ¶ 3; Ans. ¶ 3.

<sup>3</sup> Compl. ¶¶ 4-5; Ans. ¶¶ 4-5.

<sup>4</sup> Hearing Transcript (“Tr.”) 37-38.

<sup>5</sup> Compl. ¶ 6; Ans. ¶ 6.

<sup>6</sup> *Joseph S. Amundsen*, Exchange Act Release No. 69406, 2013 SEC LEXIS 1148, at \*23-24 (Apr. 18, 2013) (citing *Robert D. Tucker*, Exchange Act Release No. 68210, 2012 SEC LEXIS 3496, at \*26 (Nov. 9, 2012)) (“Members of the public can also access the information reported in the form, via BrokerCheck, and can use that information when deciding to whom they want to entrust their money.”), *aff’d*, 575 F. App’x 1 (D.C. Cir. 2014); *Id.* at \*24 n.42 (citing FINRA’s website, which describes BrokerCheck as “a free tool to help investors research the professional backgrounds of current and former FINRA-registered brokerage firms and brokers, as well as investment adviser firms and representatives. It should be the first resource investors turn to when choosing whether to do business or continue to do business with a particular firm or individual.”).

<sup>7</sup> *Id.* at \*24.

Question 14M of Form U4 asked, “Do you have any unsatisfied judgments or liens against you?” For affirmative responses, a Disclosure Reporting Page (“DRP”) included in the form asked for specific information about any judgment or lien, including the date the registered person learned of the judgment or lien.<sup>8</sup> Wyche knew at all relevant times that the Form U4 asked about unsatisfied liens and that he was obligated to timely amend his Form U4 to ensure that it was accurate.<sup>9</sup>

### **C. IRS Filed Lien Against Wyche**

In November 2012, the IRS notified Wyche that he owed taxes for 2011.<sup>10</sup> Wyche then spent more than one hundred hours on the telephone with the IRS to discuss his 2011 tax obligation.<sup>11</sup> On or about January 9, 2014, Wyche set up an installment payment agreement with the IRS to pay for his 2011 taxes.<sup>12</sup> According to Wyche’s testimony, the IRS assured him it would suspend all collection efforts and enforcement activities as long as he complied with the installment payment agreement.<sup>13</sup> About two weeks later, on or about January 24, 2014, the IRS filed the IRS Lien.<sup>14</sup>

### **D. Wyche Learned of the IRS Lien**

The IRS issued a Notice of Federal Tax Lien (“Tax Lien Notice”) to Wyche and his wife, MW, as the taxpayers, relating to the 2011 tax year.<sup>15</sup> The Tax Lien Notice reflects that the unpaid balance of the taxes (including interest and penalties) assessed for that tax year was \$230,265.19.<sup>16</sup> The IRS served the Tax Lien Notice on Wyche at his residential address by mail on or about January 23, 2014.<sup>17</sup>

---

<sup>8</sup> Compl. ¶¶ 11-12; Ans. ¶¶ 11-12; Joint Exhibit (“JX”)-03, at 12.

<sup>9</sup> Tr. 32-33, 204.

<sup>10</sup> Respondent’s Exhibit (“R”)-1, at 2.

<sup>11</sup> Tr. 140, 148-49.

<sup>12</sup> Joint Stipulations (“Stip.”) ¶ 4; Tr. 144; R-1, at 2.

<sup>13</sup> Tr. 117, 139-40. Wyche does not maintain that the filing of the IRS Lien violated any IRS policy or procedure. Tr. 293-95.

<sup>14</sup> Stip. ¶ 3; JX-11.

<sup>15</sup> JX-10.

<sup>16</sup> JX-10.

<sup>17</sup> The Tax Lien Notice shows the correct residential address for Wyche. Stip. ¶ 2; JX-10. An account transcript generated by the IRS showing activity with respect to Wyche’s 2011 tax obligation (the “IRS Account Transcript”) includes an entry for January 23, 2014, stating that the IRS “[i]ssued notice of lien filing and right to Collection Due Process hearing.” R-1, at 2. A report issued by the Inspector General for Tax Administration (“Inspector General Report”) states that “[m]ost lien notices are mailed to taxpayers by certified or registered mail rather than delivered in person.” Complainant’s Exhibit (“CX”)-01, at 23. Although Wyche testified that he did not receive the Tax Lien Notice in January 2014 and first learned of the IRS Lien in August 2014, under the “mailbox rule,” Tr. 73-74, 116-17, 177-78, 180, 232-33, the Panel may presume that documents mailed in the regular course of business were received. *Robert M. Fuller*, 56 S.E.C. 976, 990 (2003). The “‘mere denial of receipt’ is not sufficient to rebut the presumption.” *Dep’t of Enforcement v. Harari*, No. 2011025899601, 2015 FINRA Discip. LEXIS 2, at \*28 (NAC Mar. 9, 2015).

Two emails that Wyche sent in early 2014 confirm that he learned of the IRS Lien on or about January 24, 2014. The first email, dated January 29, 2014, is Wyche's response to an email from MW. In her email, MW provided Wyche with the telephone number of a tax resolution firm.<sup>18</sup> Wyche responded and explained that tax resolution firms "monitor when tax liens are filed and then call to see if we need help resolving the lien. I'm assuming we'll get more calls like this from other folks who provide tax services."<sup>19</sup> In fact, at the hearing, Wyche admitted that he reviewed a telephone message in January 2014 in which a tax resolution firm informed him that the IRS had filed a lien against him on January 24, 2014.<sup>20</sup>

The second email is part of a chain of emails beginning on February 5, 2014, between Wyche and his tax accountant regarding Wyche's personal tax returns and the tax returns for Wyche Securities.<sup>21</sup> In response to an email from his tax accountant, Wyche referred to the IRS Lien.<sup>22</sup> Specifically, Wyche stated:

I am also anxious to get the tax lien removed that the IRS filed last month regarding the amount due from 2011. The tax lien causes a host of additional issues.<sup>23</sup>

In light of the foregoing, the Panel finds that Wyche learned of the IRS Lien on or about January 24, 2014.

#### **E. Wyche Did Not Disclose the IRS Lien in Response to a FINRA Questionnaire**

In July 2014, in connection with an examination of Meyers, FINRA staff asked Wyche to complete a Personal Activity Questionnaire (the "FINRA Questionnaire"). The FINRA Questionnaire asked, "Do you have any unsatisfied judgments or liens against you? If yes,

---

In an effort to rebut the presumption that he received the Tax Lien Notice, Wyche makes a two-step argument. First, Wyche states that if the IRS mailed the Tax Lien Notice, it mailed the notice by certified or registered mail. CX-01, at 2, 6, 23 (noting that notices of federal tax lien "must be given in person, left at the taxpayer's home or business, or sent by certified or registered mail to the taxpayer's last known address."). Second, Wyche notes that the IRS Account Transcript does not contain an entry indicating that Wyche signed a receipt for the Tax Lien Notice even though in two instances involving another type of notice there was such an entry. R-1, at 2. Wyche suggests that the absence of an equivalent entry for the Tax Lien Notice establishes that the Tax Lien Notice was never delivered to him. Tr. 311-12. In light of the fact that Wyche's argument is based on entries that involve (1) a different type of notice and (2) a Rule 8210 response letter (discussed below) in which Wyche represented that on or around January 24, 2014, he had received a letter from the IRS regarding the IRS Lien, the Panel declines to draw an inference from the absence of an entry reflecting the signing of a return receipt for the Tax Lien Notice.

<sup>18</sup> JX-12.

<sup>19</sup> Tr. 82-84; JX-12.

<sup>20</sup> Tr. 154-55, 166-70, 227-28.

<sup>21</sup> Tr. 85-86; JX-13; JX-32.

<sup>22</sup> This is the only reference in the email chain to the IRS Lien. JX-32.

<sup>23</sup> Wyche testified that he came to believe that the tax resolution firm's message may have been part of a scam. Tr. 154-55, 184, 212. But, regardless of what else Wyche came to think about the telephone message, Wyche's email to his tax accountant establishes that he continued to believe that the IRS had entered a lien against him.

provide detail as to each.” Rather than disclose the IRS Lien, Wyche responded, “n/a”, which was short for “Not Applicable.”<sup>24</sup>

#### **F. Wyche Amended His Form U4 After Receiving a Letter from FINRA**

On August 7, 2014, pursuant to FINRA Rule 8210, FINRA sent Wyche a letter informing him that the staff had learned of the IRS Lien. The Rule 8210 request letter asked Wyche to provide information relating to the lien, including a summary of the circumstances that led to the lien, the date on which he was notified of the lien and the manner in which he was notified of the lien, whether he disclosed the lien to Meyers and (if not) why not, whether he disclosed the lien on his Form U4 and (if the lien was not disclosed within thirty days after he learned of the lien) why the lien was not disclosed at that time, and whether the lien was satisfied.<sup>25</sup>

On or shortly before August 15, 2014, Wyche notified Meyers’s compliance department of the IRS Lien. On August 15, 2014, Wyche sent an email to Meyers’s compliance department with information necessary to complete the DRP for Question 14M of Form U4. However, although the question asked for both the date the lien was filed and the date Wyche learned of the lien, he provided only one date, January 24, 2014.<sup>26</sup>

Wyche amended his Form U4 through Meyers and Wyche Securities on August 15 and August 20, 2014 respectively, to disclose the IRS Lien. In his Form U4 amendments, Wyche reported that the IRS Lien amount was \$17,502.59 and that he learned of the lien on August 7, 2014.<sup>27</sup>

On August 20, 2014, Wyche responded to the Rule 8210 request letter.<sup>28</sup> In his response letter, Wyche represented that he “received a letter from the IRS on or around January 24, 2014 notifying me of the lien.”<sup>29</sup> Wyche further represented that, until he received the Rule 8210 request letter, he “was not aware that overdue taxes are required to be disclosed.”<sup>30</sup>

---

<sup>24</sup> Tr. 93-96; JX-19, at 4.

<sup>25</sup> JX-21, at 1-2. Wyche testified that FINRA’s Rule 8210 request letter surprised him because he did not think the IRS had entered a lien against him. Tr. 117, 162.

<sup>26</sup> JX-22; JX-23, at 13-14. Wyche testified that he clarified in a telephone call to Meyers’s compliance department that he learned of the IRS Lien on August 7, 2014. Tr. 164.

<sup>27</sup> Stip. ¶¶ 8-10; Tr. 106-08, 116-17; JX-23, at 1, 13-14; JX-24, at 1, 13-14. The unsatisfied balance of the IRS Lien declined to about \$17,500 as of August 2014 as a result of payments that Wyche made pursuant to the installment payment agreement and a tax loss that he was able to carry back to 2011. Stip. ¶ 7; Tr. 182, 226.

<sup>28</sup> Tr. 100-01; JX-25.

<sup>29</sup> Tr. 113; JX-25, at 1. Wyche argues that his representation in his Rule 8210 response letter is a “misstatement.” He states that he was repeating information that he heard when he reviewed the tax resolution firm’s telephone message in January 2014 and when he talked to the IRS on August 7, 2014, and “just assumed that the IRS had sent me some notice on January 24<sup>th</sup> but that wasn’t the case.” Tr. 168-69, 172-73, 176. But, it is not plausible that Wyche would represent on August 20 that he learned of the IRS Lien on or around January 24 if—as he claims—he had only learned of the lien on August 7. Also, Wyche’s Rule 8210 response is consistent with his emails to his wife and tax accountant.

Wyche suggests that his representation in his Rule 8210 response letter is not plausible. The IRS Account Transcript indicates that the IRS issued the Tax Lien Notice on January 23, 2014, R-1, at 2, and Wyche argues that it is not

## H. Wyche Gave Testimony on the Record

Wyche testified at an on-the-record interview pursuant to FINRA Rule 8210 on October 25, 2016. Although he previously told FINRA that the IRS notified him of the IRS Lien on or about January 24, 2014, during his interview, Wyche testified that he learned of the IRS Lien on August 7, 2014.<sup>31</sup>

## II. Conclusions of Law

### A. Wyche Violated Article V, Section 2(c) of FINRA's By-Laws and FINRA Rules 1122 and 2010

Article V of FINRA's By-Laws protects the investing public by requiring associated persons to update crucial information in the Form U4.<sup>32</sup> Specifically, Article V, Section 2(c) of FINRA's By-Laws requires that "every Form U4 filed with FINRA must be accurate, and must be kept current through supplemental amendments that are to be filed within thirty days of learning of the facts and circumstances giving rise to the amendment."<sup>33</sup> As the Securities and Exchange Commission ("SEC") has stated, "The duty to maintain an accurate Form U4 lies primarily with an associated person who is in the best position to provide information about the questions presented in the form."<sup>34</sup>

FINRA Rule 1122 states that "[n]o member or person associated with a member shall file with FINRA information with respect to membership or 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." Failing to timely amend a Form U4 to disclose an unsatisfied lien violates FINRA Rules 1122 and 2010, which requires FINRA member firms and their associated persons to observe high standards of commercial honor and just and equitable principles of trade.<sup>35</sup>

For several reasons, the Panel finds that Wyche learned of the IRS Lien on or about January 24, 2014.<sup>36</sup> The IRS mailed the Tax Lien Notice to his residential address on or about

---

possible for him to have received the Tax Lien Notice on January 24, 2014, if the IRS did not issue the notice until January 23, 2014. Tr. 19-20, 304. The Panel rejects this argument as a basis for not crediting Wyche's representation. Wyche's 8210 response letter does not represent that Wyche received the IRS letter *on* January 24; rather, it represents that he received the IRS letter "on or around" that day.

<sup>30</sup> Tr. 113; JX-25, at 1.

<sup>31</sup> Stip. ¶ 6; Tr. 63-64.

<sup>32</sup> *N. Woodward Fin. Corp.*, Exchange Act Release No. 74913, 2015 SEC LEXIS 1867, at \*35 (May 8, 2015).

<sup>33</sup> *See also Amundsen*, 2013 SEC LEXIS 1148, at \*25.

<sup>34</sup> *N. Woodward Fin. Corp.*, 2015 SEC LEXIS 1867, at \*28.

<sup>35</sup> *Michael Earl McCune*, Exchange Act Release No. 77375, 2016 SEC LEXIS 1026, at \*12 (Mar. 15, 2016), *aff'd*, 672 F. App'x 865 (10th Cir. 2016).

<sup>36</sup> In arguing that the Panel should not find that Wyche learned of the IRS Lien in January 2014, Wyche cited to *Dep't of Enforcement v. Au*, No. 2013036653301, 2016 FINRA Discip. LEXIS 58 (OHO Dec. 12, 2016). The evidence in *Au* differs significantly from the evidence in this proceeding. In *Au*, the account transcript generated by

that date, and Wyche has not rebutted the presumption that he received the notice. His emails to his wife and tax accountant in early 2014, and related testimony, establish that he reviewed a telephone message in late January about a tax lien having been filed against him. He admitted in his Rule 8210 response letter that he learned of the IRS Lien when he received a letter from the IRS on or around January 24, 2014, notifying him of the IRS Lien.

Wyche was obligated to amend his Form U4 to reflect the IRS Lien within thirty days of learning of the IRS Lien. By failing to do so, Wyche violated Article V, Section 2(c) of the FINRA By-Laws and FINRA Rules 1122 and 2010.

## **B. Wyche is Subject to Statutory Disqualification**

A person is subject to statutory disqualification under Section 3(a)(39)(F) of the Securities Exchange Act of 1934 (“Exchange Act”) if the person:

*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.<sup>37</sup>

As set forth below, Wyche is subject to statutory disqualification because his failure to timely update his Form U4 was willful and the omitted information was material.<sup>38</sup>

### **1. Wyche’s Failures to Amend His Form U4 were Willful**

If Wyche “voluntarily committed the acts that constituted the violation, then he acted willfully.”<sup>39</sup> Wyche voluntarily did not update his Form U4 to reflect the IRS Lien within thirty days of learning of the lien on or about January 24, 2014. The Panel therefore finds Wyche willfully failed to timely disclose the IRS Lien on his Form U4.

### **2. The Omitted Information was Material**

In the present context, “a fact is material if there is a substantial likelihood that a reasonable regulator, employer, or customer would have viewed it as significantly altering the

---

the IRS stated that the notice of tax lien was “unclaimed,” the respondent offered corroborative testimony to support his denial that he had not received the notice, and no exhibits indicated that he had received notice.

<sup>37</sup> 15 U.S.C. § 78c(a)(39)(F) (emphasis added).

<sup>38</sup> *Dep’t of Enforcement v. Ottimo*, No. 2009017440201, 2017 FINRA Discip. LEXIS 10 (NAC Mar. 15, 2017) (holding that an individual respondent was statutorily disqualified because he willfully failed to disclose material information on his Form U4), *appeal docketed*, SEC Admin. Proc. No. 3-17930 (Apr. 14, 2017).

<sup>39</sup> *Dep’t of Enforcement v. Elgart*, No. 2013035211801, 2017 FINRA Discip. LEXIS 9, at \*19 (NAC Mar. 16, 2017) (quoting *McCune*, 2016 SEC LEXIS 1026, at \*15), *aff’d*, Exchange Act Release No. 81779, 2017 SEC LEXIS 3097 (Sept. 29, 2017), *appeal docketed*, No. 17-15283 (11th Cir. Nov. 28, 2017).

total mix of information made available.”<sup>40</sup> “[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.”<sup>41</sup> Here, the omitted information regarding the IRS Lien would have alerted Meyers and regulators that Wyche was subject to substantial economic pressures and could cause customers to question his judgment in advising them on equity offerings.<sup>42</sup> The Panel therefore finds that the omitted information was material.

### III. Sanctions

In considering the appropriate sanction for a violation, adjudicators in FINRA disciplinary proceedings look to FINRA’s Sanction Guidelines (“Guidelines”). For many specific violations, the Guidelines contain sanction recommendations and specify factors that adjudicators should consider in assessing sanctions. The Guidelines also contain overarching Principal Considerations in Determining Sanctions (“Principal Considerations”) and General Principles Applicable to All Sanction Determinations, both of which are applicable in all cases.<sup>43</sup>

For an individual’s willful failure to timely update a Form U4, the Guidelines recommend a fine of \$2,500 to \$37,000. Where aggravating factors are present, the Guidelines call for consideration of a suspension in any or all capacities for ten business days to six months. Where aggravating factors predominate, the Guidelines call for consideration of 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.<sup>44</sup>

The Guidelines for a failure to timely file a Form U4 suggest that adjudicators consider, among other things, the significance of the information at issue,<sup>45</sup> the number, nature and dollar value of the disclosable events at issue,<sup>46</sup> and the duration of the delinquency.<sup>47</sup> The information

---

<sup>40</sup> *McCune*, 2016 SEC LEXIS 1026, at \*21-22.

<sup>41</sup> *Dep’t of Enforcement v. McCune*, No. 2011027993301, 2015 FINRA Discip. LEXIS 22, at \*12 (NAC July 27, 2015), *aff’d*, 2016 SEC LEXIS 1026, *aff’d*, 672 F. App’x 865.

<sup>42</sup> *Elgart*, 2017 FINRA Discip. LEXIS 9, at \*30-31 (Disclosure of respondent’s “tax liens would have ‘alerted his firm to the outside financial pressures he was facing,’ ‘allowed customers to assess whether the . . . liens had a bearing on his ability to provide them with appropriate financial advice,’ and ‘provided his regulators with early notice about his financial difficulties and ability to manage his financial obligations’”) (quoting *McCune*, 2016 SEC LEXIS 1026, at \*21-22). Wyche testified that his tax liability for 2011 did not put him “under great financial stress.” Tr. 182-83. However, in Wyche’s February 5, 2014 email exchange with his tax accountant, Wyche described himself as “making progress digging out of the financial hole” and stated that he was trying to prepare his own tax return in order to keep his costs “as low as possible.” JX-32, at 4-5. The Panel therefore finds that Wyche was subject to substantial economic pressure when he learned of the IRS Lien on or about January 24, 2014.

<sup>43</sup> FINRA Sanction Guidelines (2017) (“Guidelines”), <http://www.finra.org/industry/sanction-guidelines>.

<sup>44</sup> Guidelines at 71.

<sup>45</sup> Guidelines at 71 (Principal Consideration No. 1).

<sup>46</sup> Guidelines at 71 (Principal Consideration No. 2).

<sup>47</sup> Guidelines at 71 (Principal Consideration No. 4).

regarding the IRS Lien was significant.<sup>48</sup> The amount of the IRS Lien, \$230,265.19, was large. Additionally, Wyche filed the amendments to his Form U4 more than five months late, and only after receiving an inquiry from FINRA.

The Principal Considerations include whether Wyche attempted to conceal his misconduct<sup>49</sup> and whether Wyche's misconduct was intentional, reckless, or negligent.<sup>50</sup> Here, the evidence establishes that he knew of the IRS Lien on or about January 24, 2014. Yet, Wyche attempted to conceal his misconduct by not disclosing the IRS Lien in response to the FINRA questionnaire, by falsely testifying at his on-the-record interview that he learned of the IRS Lien on August 7, 2014, and by amending his Form U4 to falsely report that he learned of the IRS Lien on August 7, 2014. Wyche's conduct was intentional—he waited until August 2014 to update his Form U4 even though in January 2014 he knew of the IRS Lien and his obligation to timely disclose the lien.

One of the Principal Considerations calls for adjudicators to consider whether “the respondent demonstrated reasonable reliance on competent legal or accounting advice.”<sup>51</sup> Wyche asks the Panel to find two factors mitigating under this Principal Consideration: (1) that he reasonably relied on the accounting advice to prepare his 2011 tax return<sup>52</sup> and (2) that he reasonably relied on assurances from the IRS that it would suspend enforcement and collection efforts.<sup>53</sup> However, the relevant inquiry under this Principal Consideration is whether Wyche reasonably relied on competent legal or accounting advice in not amending his Form U4 within thirty days of learning of the IRS Lien on or about January 24, 2014. The record does not show—and Wyche does not contend—that either his tax accountant or the IRS advised him that he need not amend his Form U4, much less that he relied on such advice. Thus, the Panel does not find either factor to be mitigating under this Principal Consideration.

The Panel concludes that the appropriate remedial sanction for Wyche is a suspension of six months in all capacities and a fine of \$10,000.

#### **IV. Order**

Respondent Todd B. Wyche is fined \$10,000, suspended from associating with any FINRA member firm in any capacity for six months, and subject to statutory disqualification for willfully violating Article V, Section 2(c) of the FINRA By-Laws, and FINRA Rules 1122 and 2010 by failing to timely amend his Form U4 to disclose an unsatisfied lien. Wyche is also

---

<sup>48</sup> *Dep't of Enforcement v. McGuire*, No. 20110273503, 2015 FINRA Discip. LEXIS 53, at \*46-47 (NAC Dec. 17, 2015) (A registered representative's financial problems raise concerns about whether he could responsibly manage his own financial affairs.).

<sup>49</sup> Guidelines at 7 (Principal Consideration No. 10).

<sup>50</sup> Guidelines at 8 (Principal Consideration No. 13).

<sup>51</sup> Guidelines at 7 (Principal Consideration No. 7).

<sup>52</sup> Tr. 295-96.

<sup>53</sup> Tr. 295-96.

ordered to pay hearing costs in the amount of \$3,077.94, which includes an administrative of \$750 and the cost of the hearing transcript.

If this Decision becomes FINRA's final disciplinary action, the suspension shall become effective with the opening of business on Monday, April 2, 2018. The fines and assessed costs shall be due on a date set by FINRA, but not less than 30 days after this Decision becomes FINRA's final disciplinary action in this proceeding.<sup>54</sup>



Kenneth B. Winer  
Kenneth B. Winer  
Hearing Officer  
For the Hearing Panel

Copies to:

Todd B. Wyche (via overnight courier and first-class mail)  
Dochtor D. Kennedy, Esq. (via electronic and first-class mail)  
Gary A. Chodosh, Esq. (via electronic mail and first-class mail)  
John Baraniak, Esq. (via electronic and first-class mail)  
Kevin Hartzell, Esq. (via electronic mail)  
Andrew T. Beirne, Esq. (via electronic mail)  
Lara C. Thyagarajan, Esq. (via electronic mail)  
Jeffrey D. Pariser, Esq. (via electronic mail)

---

<sup>54</sup> The Panel has considered, and rejects, all arguments raised by the parties that are inconsistent with this Decision.