

**FINANCIAL INDUSTRY REGULATORY AUTHORITY**

**OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

Stephen C. Carver (CRD No. 2230161),

Respondent.

DISCIPLINARY PROCEEDING  
No. 2017056071301

**COMPLAINT**

The Department of Enforcement alleges:

**SUMMARY**

1. During the period from April 2013 through November 2016, Stephen C. Carver willfully failed to timely amend his Uniform Application for Securities Industry Registration or Transfer (“Form U4”) to disclose three unsatisfied Internal Revenue Service (“IRS”) tax liens totaling approximately \$92,000 that were filed against him on March 12, 2013, August 27, 2013, and May 14, 2015. Carver’s willful failure to timely amend his Form U4 to disclose these IRS tax liens was in contravention of Article V, Section 2(c) of the FINRA By-Laws and violated FINRA Rule 2010 and FINRA Rule 1122.
2. On February 2, 2016, Carver falsely attested to Cetera Advisors, LLC (hereinafter “Cetera” or the “Firm”), his employing Firm, on an annual compliance questionnaire that he was in compliance with FINRA’s Form U4 disclosure requirements. By

making such a false attestation, Carver failed to observe high standards of commercial honor and just and equitable principles of trade, thereby violating FINRA Rule 2010.

### **RESPONDENT AND JURISDICTION**

3. Carver entered the securities industry in 1992, when he became associated with a FINRA member firm as a general securities representative. He has been registered with multiple firms since that time. Carver was associated with Cetera from November 2010 through September 2017, when the Firm filed a Uniform Termination Notice for Securities Industry Registration (“Form U5”) terminating his association. Carver is currently associated with another FINRA member firm.
4. Pursuant to Article V, Section 2 of FINRA’s By-Laws, FINRA has jurisdiction over Carver because he is currently registered with a member firm and the misconduct alleged in the Complaint occurred while he was registered with a member firm.

### **FACTUAL BACKGROUND**

5. The Department of Enforcement realleges and incorporates by reference paragraphs 1 through 4 above.
6. On or around March 12, 2013, the IRS filed a lien against Carver for \$24,980.38 for federal income taxes owed for the year 2011.
7. Pursuant to 26 U.S.C. § 6320(a)(1) and (2), the IRS was required by statute to serve notice on Carver within five business days of the lien filing.
8. On March 12, 2013, the IRS served Carver with a Notice of Federal Tax Lien Filing via certified mail notifying him of the lien and informing him of his right to a hearing.
9. The March 2013 lien remains unsatisfied.

10. On or around August 27, 2013, the IRS filed another lien against Carver for \$21,926.81 for federal income taxes owed for the year 2010.
11. Pursuant to 26 U.S.C. § 6320(a)(1) and (2), the IRS was required by statute to serve notice on Carver within five business days of the lien filing.
12. On August 29, 2013, the IRS served Carver with a Notice of Federal Tax Lien Filing via certified mail notifying him of the lien and informing him of his right to a hearing.
13. The August 2013 lien remains unsatisfied.
14. On or around May 14, 2015, the IRS filed another a lien against Carver for \$45,013.45 for federal income taxes owed for the year 2013.
15. Pursuant to 26 U.S.C. § 6320(a)(1) and (2), the IRS was required by statute to serve notice on Carver within five business days of the lien filing.
16. On May 14, 2015, the IRS served Carver with a Notice of Federal Tax Lien Filing via certified mail notifying him of the lien and informing him of his right to a hearing.
17. The May 2015 lien remains unsatisfied.
18. On June 23, 2015, Carver amended his Form U4 to disclose an IRS tax lien for \$7,792 filed against him in May 2011, after FINRA notified Cetera that a public records search had identified the lien.
19. Carver's June 2015 amendment did not disclose the March 2013, August 2013, or May 2015 IRS tax liens.
20. On February 2, 2016, Carver falsely affirmed to Cetera on his annual compliance questionnaire that that he had no liens to disclose on his Form U4, even though he was

aware of the March 2013, August 2013, and May 2015 IRS tax liens and those liens had neither been disclosed nor satisfied.

21. Carver failed to disclose the March 2013, August 2013, and May 2015 IRS tax liens on the compliance questionnaire, even though the compliance questionnaire required him to acknowledge, among other things, that he had “an ongoing obligation to immediately amend [his] Form U4 through the Firm” to disclose changes “that include, but are not limited to ... liens.”
22. On November 15, 2016, Cetera amended Carver’s Form U4 to disclose the March 2013, August 2013 and May 2015 IRS tax liens after FINRA notified Cetera of the liens in October 2016.
23. Accordingly, Carver willfully failed to file or cause to be filed a supplementary amendment to his Form U4 within 30 days of receiving notice of the March 2013, August 2013, and May 2015 IRS tax liens as required by FINRA’s By-Laws.

#### **FIRST CAUSE OF ACTION**

##### **Willful Failure to Timely Amend Form U4 to Disclose Tax Liens (Article V, Section 2(c) of FINRA By-Laws and FINRA Rules 1122 and 2010)**

24. The Department of Enforcement realleges and incorporates by reference paragraphs 1 through 23 above.
25. A person registering with FINRA must comply with FINRA’s By-Laws by filing a Form U4 to provide the information FINRA requires. Article V, Section 2(c) of the FINRA By-Laws provides that every application for registration filed with FINRA shall be kept current at all times by supplementary amendments that must be filed

within 30 days after learning of the facts or circumstances giving rise to the amendment.

26. FINRA Rule 1122 provides that: “No 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.”
27. FINRA Rule 2010 provides that a member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.
28. A violation of Article V, Section 2(c) of FINRA’s By-Laws or FINRA Rule 1122 is also a violation of FINRA Rule 2010.
29. Carver willfully failed to file or cause to be filed a supplementary amendment to his Form U4 within 30 days of notice thereof to correct material information that had become inaccurate.
30. Specifically, at all times relevant to this Complaint, Question 14M of the Form U4 asked, “Do you have any unsatisfied judgments or liens against you?” If the answer was “yes,” the associated person was required to provide details about the lien or judgment.
31. The existence of an unsatisfied tax lien is a material fact.
32. Carver received notification on or around March 12, 2013, that the IRS had filed a \$24,980.38 lien against him for income taxes owed for 2011.
33. Carver received notification on or around August 27, 2013, that the IRS had filed a \$21,926.81 lien against him for income taxes owed for 2010.

34. Carver received notification on or around May 14, 2015, that the IRS had filed a \$45,013.45 lien against him for income taxes owed for 2013.
35. Carver knew that he had neither satisfied nor disclosed these three IRS tax liens on his Form U4 within 30 days of receiving notice thereof.
36. Carver knew that he was obligated to amend his Form U4 within 30 days of receiving notice of the IRS tax liens.
37. Carver received a Cautionary Action Letter from FINRA in July 2010 for failing to timely disclose IRS liens amounting to approximately \$100,000 for income tax obligations for tax years 2004 to 2008.
38. Despite his knowledge of the three outstanding IRS tax liens, as well as his knowledge of his disclosure obligations, Carver did not amend his Form U4 to disclose these three liens until November 15, 2016.
39. Carver's failure to amend his Form U4 in accordance with the timeframe set forth in Article V, Section 2(c) of the FINRA By-Laws was willful.
40. By reason of the foregoing, Carver acted in contravention of Article V, Section 2(c) of FINRA By-Laws and violated FINRA Rules 1122 and 2010.

## **SECOND CAUSE OF ACTION**

### **False Employee Affirmation (FINRA Rule 2010)**

41. The Department of Enforcement realleges and incorporates by reference paragraphs 1 through 40 above.
42. It is a violation of FINRA Rule 2010 for a registered person to make misrepresentations to his employing firm.

43. On February 2, 2016, Carver falsely affirmed to Cetera that he was in compliance with FINRA's Form U4 disclosure requirements.
44. Carver's affirmation was false because, at the time he made it, Carver knew that he had not disclosed three unsatisfied IRS tax liens on his Form U4.
45. Based on the foregoing, Carver failed to observe high standards of commercial honor and just and equitable principles of trade, thereby violating FINRA Rule 2010.

### **RELIEF REQUESTED**

WHEREFORE, the Department of Enforcement respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310 (a), including monetary sanctions, be imposed;
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and
- D. make specific findings that Respondent's conduct, as alleged in the First Cause of Action, was willful; the omitted information was material; and, the omission to state material facts was on a Form U4 application.

**FINRA DEPARTMENT OF ENFORCEMENT**

Date: Jan 3, 2019



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