

Quarterly Disciplinary Review

January 2015

FINRA publishes this quarterly review to provide firms with a sampling of recent disciplinary actions involving misconduct by registered representatives. The sample includes settled matters and decisions in litigated cases (National Adjudicatory Council (NAC) decisions and SEC decisions in FINRA cases). These summaries call attention to, and remind registered representatives and member firms of, specific conduct that violates FINRA rules and may result in disciplinary action. FINRA also provides [detailed disciplinary information and decisions](#) and a summary of [monthly disciplinary actions](#) on its website.

Failing to Disclose the Sale of a Company's Stock While Soliciting Customers to Purchase That Same Stock and Causing a Customer to Sign Blank Investment-Related Firm Documents

- ▶ FINRA settled a matter involving a registered representative who failed to disclose that he was selling a company's stock while he solicited customers to purchase that same stock, and caused a customer to sign blank investment-related firm documents. Between October 2008 and October 2010, the representative sold for his own accounts approximately 1.75 million shares of a medical device company's stock. The sales generated a profit of approximately \$406,000. During the same time period, he recommended to customers that they purchase the same company's stock, which they did. The representative's customers purchased approximately 2 million shares of the company's stock in transactions marked "solicited," at prices of up to \$0.65 per share. On 13 occasions, the representative sold the medical device company's shares from his account on the same day his customers purchased the stock. The representative should have disclosed this material information to his customers, so the customers would be aware of his potential conflict of interest and evaluate his recommendation accordingly. The representative's failure to disclose his sale of the company's stock, while his customers purchased the same stock on his recommendation, violated NASD Rule 2110* (ethical standards) and FINRA Rule [2010](#) (ethical standards).

In addition, in late 2013, the representative caused a colleague's customer to sign a blank "Alternative Investment Suitability Questionnaire" and several related documents pertaining to an investment in a real estate investment trust (REIT). The representative met with the colleague's customer and told her that he knew the documents were not complete. The representative also advised the customer to sign the documents, and explained that he and his colleague would complete the documents at a later date. The customer signed and initialed the blank investment-related documents at the representative's request. The representative then sent the signed—but blank—documents to his colleague, who then completed and submitted them to the firm. The representative

violated his firm's prohibition against such conduct, and, consequently, failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule [2010](#) (ethical standards).

For all of these violations, FINRA barred the representative from associating with any FINRA firm in any capacity.

Failing to Timely Amend a Form U4 to Disclose a Misdemeanor Charge, State and Federal Tax Liens, and a Civil Judgment

- ▶ FINRA settled a matter involving a registered representative who failed to timely amend his Form U4 to disclose a misdemeanor charge, state tax lien, federal tax lien and civil judgment. In June 2009, the Commonwealth of Pennsylvania's Department of Insurance filed a criminal charge against the representative in the Court of Common Pleas of Montgomery County, alleging that the representative paid "an unlicensed person commissions from the sale of fixed insurance products between 2005 and 2007." In August 2010, the Commonwealth of Pennsylvania filed a tax lien against the representative in the amount of \$18,687 for unpaid taxes in 2005, 2006 and 2007. In October 2011, the Internal Revenue Service (IRS) filed a tax lien against the representative in the amount of \$50,220 for unpaid taxes in 2005, 2006 and 2007. Finally, in January 2013, the representative was the subject of a civil judgment in the amount of \$35,157.

[Article V, Section 2\(c\) of FINRA's By-Laws](#) requires that "[e]very application for registration filed with the [c]orporation shall be kept current at all times by supplementary amendments ... not later than 30 days after learning of the facts or circumstances giving rise to the amendment." The representative's failure to timely amend his Form U4 to disclose the misdemeanor charge from June 2009 violated [Article V, Section 2\(c\) of FINRA's By-Laws](#) (application for registration), NASD Rule 2110* (ethical standards) and NASD IM-1000-1[†] (filing misleading information as to registration). The representative's failure to update his Form U4 to reflect the state tax lien in 2010, federal tax lien in 2011 and civil judgment in 2013 violated [Article V, Section 2\(c\) of FINRA's By-Laws](#) (application for registration), and FINRA Rules [1122](#) (filing misleading information as to registration) and [2010](#) (ethical standards). For failing to make these timely amendments, FINRA fined the representative \$5,000 and suspended him from associating with any FINRA firm in any capacity for three months.

Submitting False Expense Reports and Causing the Firm to Create False Books and Records

- ▶ FINRA settled a matter involving a registered representative who submitted false expense reports, falsified documentation to substantiate the false expenses, and caused her firm to create false books and records. Between March 2011 and June 2013, the representative filed three false expense reports for reimbursement through the firm's Business Development Amount Program (BDA). The representative's BDA, which contained claims for \$20,500, allowed the representative to pay business development expenses with her pre-tax compensation.

In March 2011, the representative submitted an invoice to the firm, claiming reimbursement for a \$6,500 fee for a career coaching program that she did not attend. She altered invoices from a program she had previously attended by changing the dates and the amount paid. The firm processed the claim and reimbursed the representative with pre-tax funds. One year later, in March 2012, the representative submitted an expense report to which she attached a false \$6,500 invoice for another career coaching program she did not attend. This time, the representative also attached a copy of a falsified credit card statement, which reflected a purported charge of \$6,500 for the program made in February 2012. The firm processed the claim and reimbursed the representative with pre-tax funds. Finally, in June 2013, the representative submitted a third falsified expense report to the firm, once again attaching an altered invoice. The falsified expense report that the representative submitted in June 2013 claimed a \$7,500 fee for a coaching program that she did not attend, and included an altered credit card statement reflecting a purported \$7,500 charge for the program made in February 2013. The firm did not reimburse the representative in the third instance because it discovered that the representative had not attended the training.

The representative's submission of the falsified expense reports and altered supporting documentation to the firm violated FINRA Rule [2010](#) (ethical standards). Because the false expense reports and supporting documents became part of the firm's books and records, the representative also caused the firm to create false book and records—a violation of NASD Rule 3110[†] (books and records), and FINRA Rules [4511](#) (books and records) and [2010](#) (ethical standards).

For these violations, FINRA fined the representative \$10,000 and suspended her from associating with any FINRA firm in any capacity for nine months.

Converting Customer Funds

- ▶ FINRA settled a matter involving a registered representative who converted customer funds for his own use and benefit. Between December 2010 and December 2013, the representative made a total of nine unauthorized disbursements from a customer's variable annuity and insurance policies. The disbursements totaled approximately \$201,000. The representative forged the customer's name on seven withdrawal forms and requested two loans from the policies, all without the customer's knowledge or consent, to effect the unauthorized disbursements. After forging the customer's signature on the documents, the representative directed the funds via electronic transfer and direct deposit to a checking account that he had opened in the customer's name without the customer's knowledge or authorization. The representative named himself as the beneficiary of the checking account and converted the customer's funds for his own use and benefit, in violation FINRA Rules [2150\(a\)](#) (improper use of customers' funds or securities) and [2010](#) (ethical standards). FINRA barred the representative from associating with any FINRA firm in any capacity.

Failing to Disclose Liens on a Form U4 in a Timely Manner, and Failing to Timely Respond to FINRA Requests for Information and Documents

- ▶ FINRA settled a matter involving a registered representative who failed to disclose liens on his Form U4 in a timely manner, and failed to timely respond to FINRA requests for information and documents. In December 2011, the representative received a notice explaining that the IRS had obtained two liens against him for unpaid taxes. The representative did not amend his Form U4 to reflect these liens until March 2012, after the IRS sent the firm with which he was associated a Notice of Levy regarding the liens. This failure to amend his Form U4 to disclose the IRS tax liens within 30 days violated [Article V, Section 2\(c\) of FINRA's By-Laws](#) (application for registration), and FINRA Rules [1122](#) (filing misleading information as to registration) and [2010](#) (ethical standards).

In connection with a FINRA investigation of the matter, FINRA sent the representative letters requesting certain information and documents. The requests, which were sent in September 2012 and October 2012, required the representative to respond by October 2012 and November 2012, respectively. The representative admittedly received the letters, but did not respond until March 2013. By failing to respond to FINRA's requests for information and documents in a timely manner, the representative violated FINRA Rules [8210](#) (provision of information and testimony and inspection and copying of books) and [2010](#) (ethical standards).

For these violations, FINRA fined the representative \$5,000 and suspended him from associating with any FINRA firm in any capacity for four months.

Altering the Official Report of a Series 7 Exam Score

- ▶ FINRA settled a matter involving a registered representative who altered the official report of his score on the Series 7 exam. The representative joined a FINRA firm as a Practice Management Development Financial Advisor trainee. As a condition of his employment, the representative had to obtain his Series 7 and Series 66 licenses by February 2013.

The representative first sat for the Series 7 exam at a testing center in Kansas City, Missouri, in January 2013. A score of 72 percent or higher was needed to pass, and the registered representative earned a score of 58 percent. After completing the exam, the representative received a printed score report from the exam proctor showing his score and the ranges of scores he received on each of the five sections of the exam. The representative subsequently notified a supervisor at his employing firm by email that he had failed the Series 7 exam, but he falsely stated in the email that he had scored 68 percent overall, rather than 58 percent. In addition, he provided the firm with a version of the official score report that he had falsified to show that he had scored 68 percent. The representative's altering of the official report of his Series 7 exam score violated FINRA Rule [2010](#) (ethical standards). FINRA fined the representative \$5,000 and suspended him from associating with any FINRA firm in any capacity for two months for the misconduct.

Engaging in Outside Business Activities Without Providing Prompt Written Notice, and Participating in Undisclosed Private Securities Transactions

- ▶ FINRA settled a matter involving a registered representative who engaged in outside business activities without providing his firm with prompt written notice of the activities. Between August 2012 and September 2012, while registered with a FINRA firm, the representative also worked for a currency trading and real estate company. The representative signed an operating agreement as a member and manager of the company. He also opened a bank account for the company in his capacity as the company's manager. The representative's activities with the currency trading and real estate company was outside the scope of his employment with the firm, and the representative did not provide the firm with prompt written notice of the activities, which violated FINRA Rules [3270](#) (outside business activities of registered persons) and [2010](#) (ethical standards).

The representative also participated in the marketing and solicitation of investments for the currency trading and real estate company from nine potential investors, including two of his firm's customers. One of these individuals purchased a \$300,000 interest in the company while the representative was still associated with his firm. The representative failed to provide his firm with written notice of his participation in these private securities transactions, and, consequently, violated NASD Rule [3040](#) (private securities transactions of an associated person) and FINRA Rule [2010](#) (ethical standards). For engaging in outside business activities without prompt written notice of the activities and participating in undisclosed private securities transactions, FINRA fined the representative \$10,000 and suspended him from associating with any FINRA firm in any capacity for 30 business days.

* NASD Rule 2110 has been superseded by FINRA Rule [2010](#), effective December 15, 2008.

† NASD IM-1000-1 has been superseded by FINRA Rule [1122](#), effective August 17, 2009.

‡ NASD Rule 3110 has been superseded by the FINRA Rule [4510](#) Series, effective December 5, 2011.