

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

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REGISTRATION & DISCLOSURE

Department of Enforcement,

Complainant,

v.

GARY STEVEN SWIMAN,
CRD No. 2637243,

Respondent.

Disciplinary Proceeding
No. 20080120948

Hearing Officer:
Sarah Nelson Bloom

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: _____

INTRODUCTION

Disciplinary Proceeding No. 20080120948 was filed on May 1, 2009, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). With respect to the matters alleged by FINRA in the Amended Complaint, Respondent Gary Steven Swiman submitted an Offer of Settlement (Offer) to Complainant on September 9, 2009. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of

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findings and violations consistent with certain of the allegations of the Complaint, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Swiman became a Series 7 general securities representative on or about November 16, 1995 and remained registered as such until April 9, 2008.

During the period October 2000 until October 2006, Swiman was dually employed by Merrill Lynch & Co. and the broker dealer Merrill Lynch, Pierce, Fenner and Smith, Inc. (collectively "Merrill Lynch" or the "Firm"). Swiman was employed at the Firm as a Vice President and Director, Counsel and Assistant General Counsel at the Firm's Office of General Counsel.

From November 2006 until April 2008, Swiman was registered at various member firm organizations.

Swiman has not been registered with a member firm since April 9, 2008.

FINRA retains jurisdiction over Swiman pursuant to Article V, Section 4 of its By-Laws, in that the misconduct occurred while Swiman was associated with a member and a complaint was filed within two years following the expiration of Swiman's registration.

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

Respondent, by submitting inaccurate Travel and Expense Reports ("T&E's"), improperly obtained reimbursement from the Firm for expenses totaling approximately \$607.21 that were not related to Firm business.

From May 18, 2006 to May 19, 2006, Swiman charged \$481.25 in various expenses in connection with a purported business trip to Las Vegas, Nevada. There was no legitimate Firm business purpose for Swiman to be in Las Vegas at that time.

From June 17, 2005 to June 21, 2005 Swiman charged \$125.96 for taxi trips to and from purported Firm branch office visits. There was no legitimate Firm business purpose for those taxi trips, as they were taken days before the branch office visits were scheduled to begin.

Swiman subsequently reimbursed the Firm for the improper T&E expenses for which he had received reimbursement from the Firm.

Swiman engaged in conduct inconsistent with high standards of commercial honor and equitable principles of trade by improperly obtaining reimbursement from his member firm employer by submitting inaccurate T&E expenses that were not related to Firm business. As a result of his conduct, Swiman violated Rule 2110.

Swiman caused inaccurate entries to be made in T&Es which were books and records of his member firm employer. By virtue of his conduct, Swiman violated Rules 3110 and 2110.

Based on the foregoing, Respondent violated Rule 2110 when he improperly obtained from his member firm employer reimbursement to which he was not entitled by submitting inaccurate T&Es, and Rules 3110 and 2110 when he caused inaccurate entries to be made in the books and records of his member firm employer in connection with his T&Es.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be suspended for two years from associating with any FINRA member in any capacity. Respondent has submitted a sworn financial statement and demonstrated an inability to pay a fine. In light of the financial status of Respondent, no fine has been imposed.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

SO ORDERED.

FINRA

Signed on behalf of the
Director of ODA, by delegated authority

A handwritten signature in black ink, appearing to read 'L. Riefberg', is written over a horizontal line.

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