

**FINANCIAL INDUSTRY REGULATORY AUTHORITY ("FINRA")
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ANDREW C. POWELL,
(CRD No. 4826369)

Respondent.

Disciplinary Proceeding
No. 2009016221401

Hearing Officer: AHP

ORDER ACCEPTING OFFER OF SETTLEMENT

INTRODUCTION

Disciplinary Proceeding No. 2009016221401 was filed on June 9, 2010, by the Department of Enforcement (Enforcement) of the Financial Industry Regulatory Authority (FINRA). Powell submitted an Offer of Settlement (Offer) to Enforcement on November 12, 2010. Pursuant to FINRA Rule 9270(e), Enforcement 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 Enforcement and approved by the NAC.

Under the terms of the Offer, Powell 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 findings and violations consistent with the allegations of the Complaint, and to the imposition of

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the sanctions set forth below, and fully understands that this Order will become part of Powell's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Andrew C. Powell first became registered as a general securities representative in July 2005, while associated with a FINRA member firm. In December 2008, Powell was registered by International Financial Solutions, Inc. (IFS), a FINRA member firm, as a general securities representative. Powell remained with IFS until March 2009. Powell is not currently associated with a FINRA member firm, but remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

FINDINGS AND CONCLUSIONS

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

Cause of Action

On March 24, 2009, IFS filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") on behalf of Powell. The Form U5 indicates that Powell had been terminated for conducting an unapproved outside business activity. In April 2009, FINRA initiated an investigation into the allegations on the Form U5 filed by IFS, including but not limited to, whether Powell had engaged in an undisclosed, unapproved outside business activity. In May 2009, FINRA requested that Powell submit a detailed written response regarding the outside business activity.

On June 11, 2009, FINRA received a letter from an attorney who indicated that he had been retained by Powell in connection with FINRA's request. Counsel indicated in the June 11, 2009 letter that he was in the process of gathering information pursuant to FINRA's request, but

asked for an extension to respond until June 24, 2009 to provide the requested information. On June 25, 2009, Counsel submitted a response on behalf of Powell.

FINRA determined that it needed additional information including Powell's bank account statements and tax returns in order to resolve certain discrepancies between the allegations on the Form U5 filed by IFS and the information submitted by Powell's counsel.

Therefore, on July 17, 2009, FINRA sent a letter to Powell at his residential CRD address [REDACTED] and to an alternate address [REDACTED] [REDACTED] obtained through a LexisNexis address search, via first class and certified mail.¹

The July 17, 2009 letter requested, pursuant to FINRA Procedural Rule 8210, that Powell provide FINRA with copies of his personal bank account statements for the period of December 2008 through March 2009, and his personal and business tax filings, including all 1040 forms, and any other forms used for his tax filings. The July 17, 2009 letter set a deadline of July 31, 2009, for the production of the requested information.

The July 17, 2009 letters sent by first class mail were not returned. The July 17, 2009 letters sent by certified mail were also not returned, but according to the U.S. Postal Service's website, the certified letters sent to Powell at his residential CRD address and the alternate address were both delivered on July 21, 2009. Powell failed to respond by the July 31, 2009 deadline.

FINRA contacted Counsel via telephone concerning Powell's lack of response. Counsel advised FINRA that he no longer represented Powell.

Therefore, on August 6, 2009, FINRA sent a final letter to Powell at his residential CRD address and to the alternate address via first class and certified mail. The August 6, 2009 letter

¹ A copy of the July 17, 2009 letter was also sent to Counsel.

requested, pursuant to FINRA Procedural Rule 8210, that Powell provide FINRA with the same information requested in the July 17, 2009 letter, (i.e., copies of his personal bank account statements for the period of December 2008 through March 2009, and his personal and business tax filings, including all 1040 forms, and any other forms used for his tax filings). The August 6, 2009 letter set a deadline of August 20, 2009, for the production of the requested information.

The August 6, 2009 letters sent by first class mail were not returned. The August 6, 2009 letter sent to Powell's residential CRD address by certified mail was returned stating that it was "unclaimed." The August 6, 2009 letter sent to Powell's alternate address by certified mail was also returned stating that the address was "insufficient." Powell failed to respond by the August 20, 2009 deadline.

Subsequent to the June 9, 2010 filing of the Complaint, Powell responded to FINRA's requests for information and provided all of the requested information. However, Powell's failure to submit the requested information in a timely manner impeded FINRA's investigation and prevented FINRA from completing its regulatory responsibility to fully investigate potential rule violations. Based on the foregoing, Respondent Powell violated FINRA Rules 8210 and 2010.

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 Powell from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

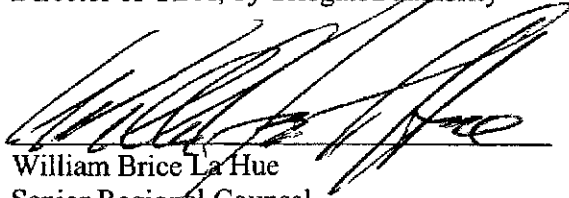
SANCTIONS

It is ordered that Powell be fined \$5,000 and suspended from association with any FINRA member firm in all capacities for a period of six-months. The sanctions imposed herein shall be effective on a date set by FINRA staff.

SO ORDERED.

11/17/10
Date

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



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