

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

SCOTT DAVID MASON
(CRD No. 3270983)

Respondent.

Disciplinary Proceeding
No. 2009016363501

Hearing Officer: LOM

ORDER ACCEPTING OFFER OF SETTLEMENT

INTRODUCTION

Disciplinary Proceeding No. 2009016363501 was filed on May 26, 2011, by the Department of Enforcement (Enforcement) of the Financial Industry Regulatory Authority (FINRA). Scott David Mason (Mason) submitted an Offer of Settlement (Offer) to Complainant dated January 17, 2012. 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, Mason 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

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

BACKGROUND

Mason entered the securities industry in June 1999, when he was employed by a FINRA member firm. Mason was first registered with FINRA as an investment company and variable contracts products representative in August 1999. In March 2003, Mason was registered as an investment company and variable contracts products principal. Mason was employed by several FINRA member firms from June 1999 until October 2006. In October 2006, Mason became registered by FINRA member firm 1st Worldwide as an investment company and variable contracts products representative. Mason remained with 1st Worldwide until April 2009. Mason is currently associated with a FINRA member firm, and 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:

First Cause of Action

In March 2008, while registered with 1st Worldwide, Mason established a hedge fund: Sterling Advisor Fund, LP ("Sterling"), a Florida limited partnership. Sterling was formed "to pool investment funds of its investors ... for the purpose of investing and trading in a wide variety of securities and financial instruments ..." During the period from April 11, 2008 through October 21, 2008, Mason participated in the sale of Sterling limited partnership units to eight investors, two of which were customers of 1st Worldwide. In total, Mason raised over \$1.0 million through the sale of Sterling limited partnership units outside the scope of Mason's business with 1st Worldwide.

The Sterling limited partnership units were securities for the purposes of NASD Conduct Rule 3040. Mason was the managing member of the general partner of Sterling and was due a management fee for managing Sterling's investments. As such he received "selling compensation" as that term is defined in NASD Rule 3040(e)(2). Mason provided notice of his intent to sell Sterling units to 1st Worldwide in April 2008. However, 1st Worldwide did not provide written approval to engage in such sales. Instead, 1st Worldwide advised Mason through a series of e-mails that various changes needed to be made to the Sterling private placement memorandum, and further advised Mason that he needed to take the Series 62 exam (corporate securities representative), so that he was properly registered to sell the Sterling limited partnership units.

Mason sold Sterling limited partnership units without the approval of 1st Worldwide and failed to advise 1st Worldwide that he had participated in the sale of the Sterling limited partnership units. Mason completed Annual Certifications on April 28, 2008 and March 1, 2009, respectively, which he provided to 1st Worldwide. Mason failed to disclose his participation in the sale of Sterling limited partnership units on these certifications and failed to disclose his continuing involvement with Sterling on the March 1, 2009 certification. Sterling operated for over a year but suffered losses of approximately \$1.0 million. Commencing on June 1, 2009, Mason distributed the balance in Sterling on a pro rata basis to the remaining investors, and Sterling ceased operations. Based on the foregoing, Respondent Mason violated NASD Conduct Rules 3040 and 2110.

Second Cause of Action

Mason was registered with FINRA as an Investment Company and Variable Contracts Products Representative and an Investment Company and Variable Contracts Products Principal

by 1st Worldwide. Mason was advised by 1st Worldwide in writing that he was not properly registered to sell Sterling limited partnership units. Mason attempted to obtain a Series 62 (corporate securities representative) and a Series 82 (limited representative—private securities offerings) registration on May 22, 2008 and June 17, 2008, respectively. However, Mason failed to obtain a passing grade on either of the examinations. Mason then re-took the Series 62 examination on July 16, 2008, but once again failed to pass the examination.

However, Mason sold Sterling limited partnership units to eight investors during a seven-month period while he was registered only as an Investment Company and Variable Contracts Products Representative and Principal. Mason was not registered with FINRA in a capacity that permitted him to sell Sterling limited partnership units when he sold such units to investors. Based on the foregoing, Respondent Mason violated NASD Membership and Registration Rule 1031 and NASD Conduct Rule 2110.

Third Cause of Action

NASD Conduct Rule 3050(c) requires that prior to an associated person of a FINRA member placing an initial order for the purchase or sale of securities with a FINRA member with whom he is not associated; he must notify both the employer member and the executing member in writing of his association with the other member. After Mason had raised capital for Sterling, he opened securities accounts for Sterling with two other FINRA member firms. Mason opened the first account on July 1, 2008 and opened the second account on September 17, 2008. Mason exercised discretionary authority over both accounts.

Mason did not advise the FINRA member with whom he opened the account in July 2008 that he was associated with 1st Worldwide. Mason did not advise 1st Worldwide that he had opened a securities account for Sterling with another FINRA member firm. From July 2008 to

September 2008, Mason traded on behalf of Sterling in the account he opened with the first FINRA member firm. Mason did not direct that duplicate confirmations and account statements for the Sterling account be forwarded to 1st Worldwide. Moreover, in September 2008, Mason falsely indicated to the second FINRA member firm with whom the second account was opened, that he was not affiliated with a broker-dealer when he opened the second account for Sterling.

Consequently, Mason did not advise the second FINRA member with whom he opened an account in September 2008, that he was associated with 1st Worldwide, and did not request that duplicate confirmations and account statements be sent to 1st Worldwide. Again, Mason did not advise 1st Worldwide that he had opened a second account for Sterling with another FINRA member firm in September 2008. Mason traded in the Sterling account opened in September 2008 with the second FINRA member firm during the period from September 2008 through December 2008. 1st Worldwide was unaware of the trading by Mason on behalf of Sterling in either of the accounts maintained for Sterling at the other two FINRA member firms. Based on the foregoing, Respondent Mason violated NASD Conduct Rule 3050 and NASD Rule 2110 until December 15, 2008, and NASD Conduct Rule 3050 and FINRA Rule 2010 from December 15, 2008 until December 31, 2008.

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 Mason 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 Mason be suspended from association with any FINRA member firm in all capacities for a period of 18 months and required to re-qualify by examination prior to associating with any FINRA member firm in any capacity, after the 18-month suspension.¹ The sanctions imposed herein shall be effective on a date set by FINRA staff.

SO ORDERED.

January 26, 2012
Date

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

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¹ On November 3, 2011, Respondent Mason filed a Chapter 13 bankruptcy petition pursuant to Title 11, United States Code. Accordingly, no monetary sanction is being assessed in this matter.