

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

Department of Enforcement,

Complainant,

v.

Justin M. Witt,
CRD No. [5946714],

Respondent.

Disciplinary Proceeding
No. 2011029086401

Hearing Officer: SNB

Date: April 11, 2012

**ORDER ACCEPTING
OFFER OF SETTLEMENT**

INTRODUCTION

Disciplinary Proceeding No. 2011029086401 was filed on February 10, 2012, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Justin M. Witt submitted an Offer of Settlement (Offer) to Complainant dated March 21, 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, 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

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 Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

1. Witt became associated with Merrill Lynch, Pierce, Fenner & Smith, Incorporated ("Merrill Lynch") on May 23, 2011. Justin Witt took the Series 7 examination on July 24, 2011, but failed the examination. Merrill Lynch terminated Witt on August 11, 2011 and filed Witt's Uniform Termination Notice for Securities Industry Registration on September 7, 2011. Although Witt has never been registered with FINRA, he is subject to FINRA's jurisdiction by virtue of his completion of a Form U4 on June 23, 2011 in connection with his employment with Merrill Lynch. Although Witt is no longer associated with a FINRA member, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the date upon which he ceased to be associated with a FINRA member, specifically, August 11, 2011, and (2) the Complaint charges Witt with misconduct committed during his association with a FINRA member and with failing to respond to FINRA requests for information during the referenced two-year period.
2. Witt has no prior disciplinary history.

FINDINGS AND CONCLUSIONS

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

Summary

3. On July 29, 2011, Respondent Justin M. Witt submitted an altered Series 7 written examination report to his broker-dealer, Merrill Lynch that falsely indicated that he had passed that examination. Based on the foregoing, Witt violated FINRA Rule 2010.
4. Witt also failed to respond to FINRA staff's numerous requests for documents and information, in violation of FINRA Rules 8210 and 2010. Witt's failure to cooperate impeded the staff's investigation of the circumstances surrounding the altered Series 7 written examination report that falsely indicated Witt had passed the examination.

First Cause of Action *Falsification of Documents* *FINRA Rule 2010*

5. Witt was a Financial Advisor Trainee who joined Merrill Lynch on May 23, 2011. He was enrolled into the firm's training program to review and study for the Series 7 test.
6. On July 24, 2011, Witt sat for the General Securities Representative qualifications examination (Series 7) at the Prometric Testing Center in Dallas, Texas.
7. Witt failed the examination, with a score of 64%.
8. On July 25, 2011, Witt reported to Merrill Lynch's Office Financial Trainee Coach that he had passed the Series 7 examination. Later that same day, however, Merrill Lynch received an email via Merrill Lynch's registration system indicating that Witt had failed the Series 7 examination.
9. Merrill Lynch began investigating the discrepancy in the information.

10. On July 28, 2011 Witt faxed, and on July 29, 2011 Witt emailed, to Merrill Lynch a copy of a falsified score report for the Series 7 examination, captioned "FINRA PROCTOR Delivery System; Financial Industry Regulatory Authority." The altered report falsely indicated that Witt had passed the Series 7 examination with a score of 82%.
11. On July 29, 2011, Merrill Lynch contacted the FINRA Gateway Call Center and reported that Witt had passed the Series 7 examination with a score of 82%, as shown on the score report provided by Witt.
12. On August 10, 2011, FINRA contacted Merrill Lynch and requested that the original score report be mailed directly to FINRA. Merrill Lynch then requested that Witt provide the firm with his original copy of his July 24, 2011 Series 7 examination results.
13. On August 11, 2011, Witt informed Merrill Lynch that he could not locate the original copy of his July 24, 2011 Series 7 examination results.
14. On August 11, 2011, Merrill Lynch requested that FINRA email it a copy of the official score report from Witt's July 24, 2011 test session.
15. On August 11, 2011, FINRA emailed the official FINRA Proctor Score Report to Merrill Lynch reflecting that Witt had in fact failed the Series 7 examination with a score of 64%.
16. On August 11, 2011, Witt emailed Merrill Lynch, admitted fault and accepted responsibility for his conduct.
17. Merrill Lynch terminated Witt's employment on August 11, 2011.
18. Witt knew, or should have known, that the score report he submitted to Merrill Lynch was false and did not reflect his true, failing score on the Series 7 examination.

Second Cause of Action
Failure to Respond
FINRA Rules 8210 and 2010

19. By letter dated September 15, 2011, FINRA staff requested, pursuant to FINRA Rule 8210, that Witt provide a written response to questions regarding the allegations of altering his Series 7 examination test report results.
20. The September 15, 2011 letter was sent to Witt at his CRD home address. Witt was required to respond by September 29, 2011. Witt never responded and the letter was not returned.
21. By letter dated October 7, 2011, FINRA staff requested, pursuant to FINRA Rule 8210, that Witt provide a written response to questions regarding the allegations of altering his Series 7 examination test report results.
22. The October 7, 2011 letter was sent, via certified and first class mail, to Witt at his CRD home address. Witt was required to respond by October 21, 2011. Witt never responded. The first class letter was not returned. The certified mail letter was returned to FINRA as "Return to Sender/Unclaimed/Unable to Forward."
23. By letter dated October 28, 2011, FINRA staff requested, pursuant to FINRA Rule 8210, that Witt provide a written response to questions regarding the allegations of altering his Series 7 examination test report results.
24. The October 28, 2011 letter was sent, via certified and first class mail, to Witt at his CRD home address. Witt was required to respond by November 11, 2011. Witt never responded. Neither the first class nor the certified mail letter was returned.

25. By letter dated November 15, 2011, FINRA staff requested, pursuant to FINRA Rule 8210, that Witt provide a written response to questions regarding the allegations of altering his Series 7 examination test report results.
26. The November 15, 2011 letter was sent, via certified and first class mail, to Witt at his CRD home address and to Witt at an alternate address. Witt was required to respond by November 22, 2011. Witt never responded. The first class letters were not returned. Both letters sent via certified mail were returned marked "Return To Sender/Unclaimed/Unable to Forward."
27. By letter dated December 2, 2011, FINRA staff again requested, pursuant to FINRA Rule 8210, that Witt provide the previously requested information. The letter was sent, via certified and first class mail, to Witt at his CRD address and at an alternate address. Witt was required to respond by December 16, 2011. Witt never responded. The first class letters were not returned.
28. The return receipt card for the December 2, 2011 certified mailing sent to the alternate address was returned to FINRA signed by "Jann Witt" on December 7, 2011.
29. The December 2, 2011 certified mailing sent to the CRD address was returned to FINRA marked "Return to Sender."
30. To date, Witt has completely failed to respond to FINRA's requests for information.

Based on the foregoing, Respondent Justin M. Witt violated FINRA Rule 2010 as alleged in the First Cause of Action and FINRA Rules 8210 and 2010, as alleged in the Second Cause of Action.

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

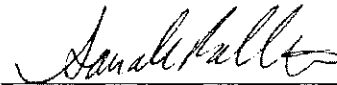
It is ordered that Respondent Justin M. Witt be barred from association with any FINRA member in all capacities.

The sanctions imposed herein shall be effective on a date set by FINRA staff. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA

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



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