

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

Department of Enforcement,

Complainant,

v.

Daniel Irvin McCourt (CRD No. 1336258),

Respondent.

DISCIPLINARY PROCEEDING
NO. 2012030670402

Hearing Officer—KBW

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: February 8, 2016

INTRODUCTION

Disciplinary Proceeding No. 2012030670402 was filed on January 20, 2015, by the Department of Enforcement of the Financial Industry Regulatory Authority (“FINRA”) (“Complainant”). Respondent Daniel Irvin McCourt (“Respondent” or “Mccourt”) submitted an Offer of Settlement (“Offer”) to Complainant dated January 15, 2016. 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 (as amended by the Offer), 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 (as

amended by the Offer), 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

McCourt first entered the securities industry when he associated with a FINRA member firm in or around December 1984. On or about September 3, 1985, McCourt associated with FINRA member firm Foothill Securities, Inc. ("Foothill" or the "Firm") and registered as a General Securities Representative, General Securities Principal, and as an Operations Professional with the Firm. McCourt remained registered with the Firm until he was permitted to resign on or about June 7, 2013, due to "possible violations of firm policies and procedures."

Although Respondent is no longer registered or associated with a FINRA member firm, 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 effective date of termination of Respondent McCourt's registration with Foothill, namely, June 7, 2013, and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member firm.

FINDINGS AND CONCLUSIONS

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

Respondent Daniel McCourt, while registered with a FINRA member firm, participated in private securities transactions without providing prior written notice to his member firm.

McCourt provided false information and falsified documents to a mortgage company on behalf of one of his clients at his member firm. The false information and falsified documents were provided to the mortgage company by McCourt to help the client qualify for a home loan.

FIRST CAUSE OF ACTION
Private Securities Transactions
(NASD Conduct Rules 3040 and 2110¹ and FINRA Rule 2010²)

At various times in or about May 3, 2005, through in or about May 29, 2009, McCourt participated in private securities transactions outside the scope of his association with Foothill without providing the Firm prior written notice of the proposed transactions or his proposed role in them, as set forth more fully below.

NASD Conduct Rule 3040 provides that an associated person may not participate in any securities transaction outside of the regular course of his employment with his member firm without first providing written notice to the member describing in detail the proposed transaction and his proposed role and stating whether he has received or may receive selling compensation for the transaction.

NASD Conduct Rule 2110 and FINRA Rule 2010 require, among other things, associated persons, in the conduct of their business, to observe high standards of commercial honor and just and equitable principals of trade.

In or around 1990, McCourt properly notified Foothill that he wanted to begin an outside business activity, namely a coffee business (the "OBA"). The Firm approved McCourt's OBA request and updated his Form U4 Uniform Application for Securities Industry Registration or Transfer to reflect this approved coffee business OBA.

McCourt is the founder and has been the majority owner and president of the OBA since its inception.

¹ From on or about May 3, 2005 through December 14, 2008.

² On or after December 15, 2008.

Beginning on or about May 3, 2005 and continuing until on or about May 29, 2009, McCourt's OBA began accepting investments from investors, including Foothill customers, in the form of long-term promissory notes. These promissory notes all had maturity dates in excess of nine months and have been outstanding in excess of three years.

Since May 3, 2005 and continuing until on or about May 29, 2009, McCourt's OBA has raised at least \$1,294,610.10 through the issuance of the long-term promissory notes.

Approximately \$1,102,032.18 of the principal raised by the OBA through the issuance of the promissory notes was from eleven Foothill customers.³

As of September 26, 2012, McCourt had repaid approximately \$266,134.49 in principal; \$145,634.49 of which was repaid to Foothill customers.

The promissory notes referenced above are securities.

Prior to participating in the foregoing private securities transactions, McCourt did not provide written notice to Foothill of the proposed investments in his OBA through the issuance of the promissory notes, nor did he provide written notice to Foothill of his proposed role in, or the selling compensation that he may receive from, the private securities transactions.

McCourt did not receive the requisite approval from Foothill to participate in the private securities transactions described above.

The foregoing acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 3040 and 2110⁴ and FINRA Rule 2010⁵ by Respondent McCourt.

³ Foothill customers RC, ED, SF, RF, RH, JH, JY, KH, MLW, MM, and BR.

⁴ From on or about May 3, 2005 through December 14, 2008.

⁵ On or after December 15, 2008.

SECOND CAUSE OF ACTION
Providing False Information and Falsified Documents
(FINRA Rule 2010)

FINRA Rule 2010 requires, among other things, associated persons, in the conduct of their business, to observe high standards of commercial honor and just and equitable principals of trade.

In February 2007, MLW became a customer of McCourt's at Foothill.

On or about April 15, 2009, MLW invested approximately \$63,500.00 in McCourt's OBA through a long-term promissory note.

In or around May 2009, MLW began looking to purchase a residence. At the time, MLW was essentially retired and did not earn any income through employment.

In or around November 2010, MLW asked McCourt if he would provide information to a mortgage loan company indicating that MLW was employed by McCourt, even though she was retired. MLW never worked for McCourt, nor was MLW ever employed by McCourt. McCourt agreed to MLW's request.

On or about November 14, 2010, McCourt filled out and signed a "Request for Verification of Employment" ("RVE") form, which he then sent via facsimile, to the mortgage loan company. In the RVE form, McCourt verified that: MLW had been employed by him at Foothill since October 7, 2007, as an analyst assistant; that MLW was a full time employee, working 40 hours a week; that MLW earned \$35,000 in 2008, \$41,000 in 2009, and \$36,166.67 as of October 31, 2010; and that MLW's probability of continued employment was "good."

The foregoing acts, practices and conduct constitute separate and distinct violations of FINRA Rule 2010 by Respondent McCourt.

Based on the foregoing, Respondent violated NASD Conduct Rules 3040 and 2110⁶ and FINRA Rule 2010.⁷

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 from association with all FINRA members in all capacities for two years; and
- Fined \$50,000

The fine shall be due and payable either immediately upon reassociation with a member firm following the two-year suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

⁶ From on or about May 3, 2005 through December 14, 2008.

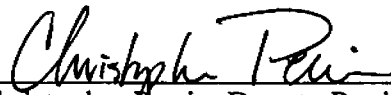
⁷ On or after December 15, 2008.

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



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