

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Clayton R. Sontag
(CRD No. 2371415),

Respondent.

DISCIPLINARY PROCEEDING
No. 2013035634401

HEARING OFFICER _____

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. While Clayton R. Sontag ("Sontag") was registered with FINRA through an association with J.D. Nicholas Associates Inc. (BD No. 44791) ("JD Nicholas " or the "Firm"), he willfully failed to disclose on his Uniform Application for Securities Industry Registration or Transfer ("Form U4") three federal tax liens and two judgments. Sontag was on notice of the existence of these reportable events from at least August 2012. In addition, Sontag made false attestations to his employer on an Annual Compliance Meeting Questionnaire ("Questionnaire") and Form U4 acknowledgement form ("Acknowledgement") through which he failed to disclose the judgments and liens.
2. Through his actions, Sontag violated Article V, Section 2 of FINRA's By-Laws and FINRA Rules 1122 and 2010 in connection with his willful failure to update

his Form U4 and FINRA Rule 2010 in connection with the false attestations.

RESPONDENT AND JURISDICTION

3. In June 1993, Sontag first became registered with FINRA as a General Securities Representative (“GSR”) through an association with a FINRA member firm. He became registered with FINRA as a General Securities Principal (“GSP”) through a member firm in October 1995. He has been registered with FINRA through an association with several member firms from June 1993 through June 2010. Sontag has acted in the capacity as both a GSR and a GSP through four member firms. Since July 1, 2010, Sontag has been registered with FINRA through JD Nicholas as a GSR. He is currently registered with FINRA and associated with a member firm. FINRA has jurisdiction over Sontag pursuant to Article V of FINRA’s By-Laws.

FIRST CAUSE OF ACTION

Willful Failure to Disclose Unsatisfied Judgments and Liens on a Form U4 Article V, Section 2 of FINRA’s By-Laws, FINRA Rules 1122 and 2010

4. The Department realleges and incorporates by reference paragraphs 1-3 above.
5. On or about January 29, 2010, the Internal Revenue Service (“IRS”) filed a tax lien against Sontag in the amount of \$81,278.54.
6. On or about January 29, 2010, the IRS filed a tax lien against Sontag in the amount of \$39,736.01.
7. On or about April 13, 2010, the IRS filed a tax lien against Sontag in the amount of \$26,488.36.
8. On or about August 7, 2012, the Supreme Court of the State of New York

County of Suffolk entered a Statement of Judgment in the favor of Ally Financial Inc. (“Ally Financial”) against Sontag in the amount of \$16,716.00 plus interest and costs.

9. On or about July 29, 2011, the First District Court of Suffolk County, NY entered a civil judgment in the favor of Capital One Bank USA (Capital One”) against Sontag in the amount of \$2,584.53.
10. On or about August 13, 2012, while Sontag was registered with FINRA through JD Nicholas, he ran a credit report on himself which disclosed that he was subject to the aforementioned judgments and liens.
11. Article V, Section 2 of FINRA By-Laws requires that every application for registration filed with FINRA shall be kept current at all times by supplementary amendments, which shall be filed with FINRA no later than 30 days after learning of the facts or circumstances giving rise to the amendment.
12. FINRA Rule 2010 requires the observance of high standards of commercial honor and just and equitable principles of trade. FINRA Rule 1122 requires all filings to be complete and accurate.
13. Question 14M of the Form U4 asks, “Do you have any unsatisfied judgments or liens against you?” If an affirmative answer is given to Question 14M, the registered person is required to provide details about the lien or judgment.
14. Respondent, after being put on notice on August 13, 2012, about his unsatisfied judgments and liens, did not update his Form U4 to report the liens and judgments until January 7, 2013, 117 days late.
15. Respondent’s failure to disclose his liens and judgments was a willful failure to

disclose material information.

16. By reason of the foregoing, Sontag violated Article V, Section 2(c) of FINRA's By-Laws and violated FINRA Rules 1122 and 2010.

SECOND CAUSE OF ACTION

False Attestations on Firm's Annual Compliance Questionnaire and Form U4 Acknowledgement FINRA RULE 2010

17. The Department realleges and incorporates by reference paragraphs 1-16 above.
18. On November 12, 2012, almost three months after Respondent was on notice of having unreported judgments and liens after obtaining his credit report, he attested to accurately and truthfully completing an Annual Compliance Questionnaire and Form U4 Acknowledgement required by his firm.
19. On November 12, 2012, Respondent signed his Firm's Acknowledgement attesting to the fact that he had reviewed his most recent Form U4 and that any discrepancies had been brought to Compliance. Attached to the Acknowledgement was a Form U4 dated August 9, 2012 and on that Form U4 Sontag had checked "no" to Item 14M on the Form U4 which asks whether the individual who is the subject of the Form U4 has any unsatisfied judgments or liens. However, although Respondent knew that he was subject to unsatisfied judgments and liens, he failed to notify Compliance or update his Form U4.
20. Additionally, in November 2012, on the Firm's Annual Compliance Questionnaire, Sontag was specifically asked whether in the last 12 months he had a judgment entered against him, and whether he had promptly notified the Firm. Respondent failed to disclose on the Questionnaire that Ally Financial had

filed a judgment against him on August 7, 2012, in the amount of \$16,716. Nevertheless, Sontag signed the Questionnaire on November 12, 2012, falsely attesting that his answers on such document were true and correct.

21. Sontag misled his firm by falsely completing the 2012 annual compliance questionnaire and Acknowledgement regarding his judgments and liens, thus failing to observe high standards of commercial honor and just and equitable principles of trade.

22. By reason of the foregoing, Respondent violated FINRA Rule 2010.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed;
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and

D. Make specific findings that Respondent's conduct, as alleged in the First Cause of Action, was willful; the omitted information was material; and, the omission to state material facts was on a Form U4 application.

FINRA DEPARTMENT OF ENFORCEMENT

Date: August 27, 2014

A handwritten signature in cursive script, reading "Kathleen S. Lynch", written in dark ink.

Kathleen S. Lynch, Senior Regional Counsel
FINRA Department of Enforcement
2 Jericho Plaza
2nd Floor, Wing A
Jericho, NY 11753
Kathleen.lynch@finra.org
(516) 949-4217; Fax No. (516) 949-4201