

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

Department of Enforcement,

Complainant,

v.

Kevin R. Graetz
(CRD No. 1935982),

Respondent.

Disciplinary Proceeding
No. 2014038847602

Hearing Officer-LOM

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: May 15, 2017

INTRODUCTION

Disciplinary Proceeding No. 2014038847602 was filed on September 15, 2016, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Kevin R. Graetz submitted an Offer of Settlement (Offer) to Complainant dated May 11, 2017. 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 of Settlement, 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 of Settlement, 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

Graetz first became registered with a FINRA member in June 1988 as a General Securities Representative (Series 7). After being associated with several different member firms, Graetz became associated with Paulson Investment Co, Inc. ("Paulson") in February 2013. Graetz was associated with Paulson until May 3, 2017, when he was discharged from Paulson for reasons unrelated to this matter. Although Graetz 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 Bylaws of the Corporation, because (1) the Complaint was filed prior to his termination from Paulson, and (2) the Complaint charges Graetz with misconduct committed while he was registered with Paulson.

FINDINGS AND CONCLUSIONS

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

From February 2007 through November 2013, while registered with FINRA member firms, Kevin Richard Graetz was subject to, at various times, thirteen federal and state tax liens, totaling over \$1 million. Graetz failed to timely update his Uniform Application for Securities Industry Registration or Transfer (Form U4) to disclose the tax liens within FINRA's 30-day reporting deadline.

At least as early as June 2013, Graetz's failure to disclose the tax liens was willful in that he knew that he owed significant unpaid taxes and that he was subject to unsatisfied tax liens, but he nevertheless did not update his Form U4 to disclose those liens.

In February 2013, while he was subject to various unsatisfied tax liens, Graetz filed an initial Form U4 to register with FINRA member Paulson. Graetz's February 2013 Form U4 inaccurately and misleadingly indicated that Graetz was not subject to any unsatisfied tax liens, when in fact he was subject to at least ten unsatisfied tax liens at that time. Thereafter, amendments were filed to Graetz's Form U4 in February 2013, January 2014, and February 2014, which also inaccurately and misleadingly indicated that Graetz was not subject to any unsatisfied tax liens.

Graetz's willful failure to timely disclose on his Form U4 his numerous unsatisfied liens violated Article V, Section 2(c) of the FINRA Bylaws of the Corporation and FINRA Rules 1122 and 2010.

FACTUAL BACKGROUND

In January 2003, Graetz completed a Form U4 to become associated with FINRA member firm Maxim Group LLC. At that time, and during all other times relevant to this Complaint, a Form U4 included the question, "Do you have any unsatisfied judgments or liens against you?" In response to this question, Graetz reported that he was not subject to any unsatisfied judgments or liens.

After submitting his January 2003 Form U4 to become associated with Maxim Group, Graetz became the subject of at least ten federal and state tax liens recorded against him between February 2007 and January 2013, as follows:

- On February 28, 2007, the IRS recorded a federal tax lien against Graetz in the amount of \$43,352.74.
- On February 23, 2009, the IRS recorded a federal tax lien against Graetz in the amount of \$16,546.36.

- On August 6, 2009, the IRS recorded a federal tax lien against Graetz in the amount of \$179,234.06.
- Also, on August 6, 2009, the IRS recorded a federal tax lien against Graetz in the amount of \$206,490.15.
- On September 2, 2009, the IRS recorded a federal tax lien against Graetz in the amount of \$370,539.54.
- On September 10, 2010, the IRS recorded a federal tax lien against Graetz in the amount of \$206,741.30.
- On September 14, 2010, the IRS recorded a federal tax lien against Graetz in the amount of \$5,131.
- Also, on September 14, 2010, the IRS recorded a federal tax lien against Graetz in the amount of \$55,728.54.
- On July 14, 2011, the IRS recorded a federal tax lien against Graetz in the amount of \$95,863.
- On January 18, 2013, the State of Connecticut recorded a tax lien against Graetz in the amount of \$25,938.

Graetz received notice of each of the state and federal tax liens entered against him between February 2007 and January 2013 by mail sent to his CRD address of record at the time each lien was recorded.

Graetz did not disclose any of the liens that were entered against him between February 2007 and January 2013 within 30 days after he received notice that they had been filed against him.

In February 2013, Graetz filed his initial Form U4 to become registered with Paulson. At the time, Graetz was subject to at least ten unsatisfied state and federal tax liens that had been filed against him. Nevertheless, the February 2013 Form U4 inaccurately and misleadingly indicates that Graetz was not subject to any unsatisfied liens.

In February 2013, while he was registered with Paulson, an amendment was filed to Graetz's Form U4 adding state registrations. The February 2013 amendment inaccurately and misleadingly indicates that Graetz was not subject to any tax liens, when in fact he was subject to at least ten unsatisfied state and federal tax liens at that time.

In June 2013, Paulson received a Notice of Levy from the IRS related to several unsatisfied federal tax liens that had been recorded against Graetz. Graetz received notice of the Notice of Levy via mail to his CRD address of record at the time. Also, on or about June 25, 2013, Paulson notified Graetz that it had received a Notice of Levy from the IRS.

In August 2013, in connection with his attempt to obtain financing for the purchase of a new car, Graetz received an email, dated August 15, 2013, from a car dealership with the subject "Tax Lien Info." In the August 15, 2013 email, the car dealership representative wrote to Graetz, "... Mercedes Benz Financial Services is looking for the formal repayment agreement for the tax liens. I understand that you have not ironed out the details with the government. In light of that, we can see if a letter from your accountant detailing the progress and anticipated resolution for the liens will work...." Graetz forwarded the email from the car dealership to his accountant with a request to call the car dealership.

On September 23, 2013, Graetz received an email from his accountant with the subject "Tax Lien." In the September 23, 2013 email, Graetz's accountant wrote to Graetz, "In response to your question about the 2011 tax lien, the IRS files liens as a matter of procedure for any

unpaid tax balances, particularly if there is large cumulative balance due for the individual taxpayer. That lien is put in place to protect their collection position in future periods if the liability is not satisfied. No further collection activity should result from the filing of that lien as long as we continue to make progress....”

After Graetz was registered with Paulson, he became subject to three additional state and federal tax liens, as follows:

- On September 10, 2013, the IRS recorded a federal tax lien against Graetz in the amount of \$52,750.62.
- On November 7, 2013, the IRS recorded a federal tax lien against Graetz in the amount of \$146,984.78 (the “First November 2013 Lien”).
- On November 13, 2013, the State of New York filed a tax lien against Graetz in the amount of \$3,841.28 (the “Second November 2013 Lien”). This lien was satisfied on or about February 13, 2014.

Graetz received notice of each of the state and federal tax liens entered against him between September 2013 and November 2013 by mail sent to his CRD address of record at the time each lien was recorded.

When the First November 2013 Lien and Second November 2013 Lien were recorded against him, Graetz was subscribed to a credit reporting service, FreeCreditReport.com, and received “Alerts” via email that “public filings” had been recorded against him.

Graetz failed to timely amend his Form U4 to disclose the state and federal tax liens that were filed against him between September 2013 and November 2013.

In November 2013, Paulson received a second Notice of Levy from the IRS regarding several of the unsatisfied federal tax liens that had been filed against Graetz. Graetz received notice of the Notice of Levy via mail to his CRD address of record at the time. Additionally, Paulson notified Graetz that it had received a second Notice of Levy from the IRS regarding Graetz's federal tax liens.

In January 2014 and February 2014, three amendments were filed to Graetz's Form U4, all of which inaccurately and misleadingly indicated that Graetz was not subject to any unsatisfied tax liens, when in fact he was subject to at least twelve unsatisfied liens.

After June 2013, Graetz willfully failed to timely update his Form U4 to disclose the federal or state tax liens that had been filed against him, until May 28, 2014.

Graetz updated his Form U4 to disclose his unsatisfied liens in May 2014, only after FINRA uncovered Graetz's tax liens during a cycle examination of his firm.

FIRST CAUSE OF ACTION

Willful Failure to Timely Update Form U4 (Article V, Section 2(c) of the FINRA By-Laws of the Corporation and FINRA Rules 1122 and 2010)

Article V, Section 2 of the FINRA By-Laws of the Corporation requires that associated persons who apply for registration must provide "such . . . reasonable information with respect to the applicant as [FINRA] may require" and further that such applications "shall be kept current at all times by supplementary amendment . . . filed . . . not later than 30 days after learning of the facts or circumstances giving rise to the amendment."

FINRA Rule 1122 prohibits associated persons from filing or failing to correct registration information that is incomplete or inaccurate so as to be misleading.

FINRA Rule 2010 requires associated persons to observe high standards of commercial honor and just and equitable principles of trade.

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 associated person is required to provide details about the lien or judgment.

In February 2013, Graetz filed an inaccurate and misleading Form U4 that failed to disclose numerous, unsatisfied state and federal tax liens that had been entered against him.

Specifically, in early February 2013, when he filed an initial Form U4 to register with Paulson, Graetz failed to disclose ten unsatisfied federal and state tax liens that had been entered against him between February 2007 and January 2013.

After he became associated with Paulson, Graetz failed to amend his Form U4 to disclose any of the tax liens that had been filed against him, until May 2014. In addition, amendments were filed to Graetz’s Form U4 in February 2013, January 2014, and February 2014, that inaccurately and misleadingly indicated that Graetz was not subject to any unsatisfied tax liens, when in fact, he was subject to at least ten and as many as twelve unsatisfied state and federal tax liens, totaling over \$1 million, when he filed these Form U4 Amendments.

At least as early as June 2013, Graetz willfully failed to timely update his Form U4 to disclose that he was subject to, at various times, between ten to twelve unsatisfied state and federal tax liens, totaling over \$1 million, despite knowing that tax liens had been filed against him and knowing his obligation to disclose liens on his Form U4.

By filing inaccurate and misleading Form U4 and Form U4 Amendments and/or willfully failing to amend his Form U4 in a timely manner to disclose the unsatisfied tax liens that had been entered against him between February 2007 and November 2013, Graetz violated Article V, Section 2(c) of the FINRA By-Laws of the Corporation and FINRA Rules 1122 and 2010.

Based on the foregoing, Respondent willfully omitted to state material facts on Forms U4 in violation of Article V, Section 2(c) of the FINRA By-Laws of the Corporation and FINRA Rules 1122 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 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 member in all capacities for six months; and
- Fined \$10,000.

The fine shall be due and payable either immediately upon re-association with a member firm, 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.

* * *

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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