

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

EDWARD BEYN
(CRD No. 5406273),

Respondent.

DISCIPLINARY PROCEEDING
NO. 2015044823502

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From March 2012 through May 2015, while registered through Craig Scott Capital, LLC ("CSC" or the "Firm"), Respondent Edward Beyn excessively traded and churned six customers' accounts. As a result of his churning, Beyn willfully violated Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), Rule 10b-5 promulgated thereunder, and FINRA Rules 2020 and 2010. Because of his excessive and unsuitable trading in the customer accounts, Beyn also violated NASD Conduct Rule 2310, and FINRA Rules 2111 and 2010.

RESPONDENT AND JURISDICTION

2. Beyn first became registered with FINRA as a General Securities Representative (“GSR”) through a member firm in May 2008. Beyn joined CSC as a GSR in January 2012.
3. From January 2012 through September 2015, Beyn was registered through CSC as a GSR. Since September 2015, Beyn has been registered through another member firm.

BACKGROUND

4. From the start of his tenure with CSC, Beyn aggressively traded his customers’ accounts without regard to the suitability of his recommended trading. While some of Beyn’s customers listed “speculative” as the investment objective on new account forms, Beyn traded actively even in instances when his customers did not identify on new account forms that they had a speculative investment objective.
5. Beyn implemented this aggressive active trading in the accounts of customers EK, EH, TP, JBO, WR and BM (collectively, the “Customers”).
6. Beyn used a short-term trading strategy in the Customers’ accounts as a means to turn over the accounts quickly and generate outsize commissions for himself and the Firm. To do this, he relied heavily on buying and selling equities of companies releasing their earnings reports as a catalyst for excessively trading accounts.
7. Every buy and sell -- after the opening transaction in the account -- carried both (1) either an agency commission or principal markup, generally between 3-5% of the trade amount; and (2) an additional standard \$99 ticket charge designated as a “firm commission” on trade confirmations (hereinafter “ticket charge”).

8. Based on the level of trading and commissions charged, there was little to no possibility that the Customers would profit from such trading. The churning and excessive trading in the nine accounts of the six Customers resulted in annualized turnover rates as high as 188 and annualized cost-to-equity ratios as high as 573%.
9. Beyn made the recommendations for the Customers' accounts. The overwhelming majority of the trades in the Customers' accounts were marked solicited.
10. Beyn exercised control over the Customers' accounts.
11. The Customers did not question Beyn's trading strategies and were not fully aware of the nature of trading in their accounts. The trading was executed at such a volume and pace that it was difficult for the Customers to follow the activity, despite receiving confirmations and monthly statements. The Customers were all small business owners with limited time who relied on Beyn and believed that he had their best interests at heart. They also believed that he was providing them with sound investment advice and managing their accounts in line with their intentions. Beyn abused their trust by excessively and fraudulently trading the accounts.

EXCESSIVE TRADING AND CHURNING IN THE CUSTOMERS' ACCOUNTS

Customer EK

12. Customer EK was born in [REDACTED] and was 65 years old when he opened his account with Beyn at CSC in March 2012. EK owns a construction business in Georgia.
13. EK's new account form listed "speculation" as the investment objective but EK was not familiar with that term. EK wanted to grow his account while protecting the

underlying principal. He had limited prior investment experience and no previous experience trading on margin. In fact, his account at CSC was the first time EK had ever used a full service broker. EK told Beyn that the \$350,000 he invested at CSC was his life savings and that the money had been earmarked to buy the building where EK maintains his business.

14. Between March 2012 and August 2013, Beyn executed 115 transactions in the account, generating approximately \$188,704 in commissions and fees. The annualized cost-to-equity ratio for the account was approximately 70.78% with an annualized turnover rate of approximately 18.61.
15. Beyn exercised control over EK's account. EK relied on Beyn for investment recommendations and advice. EK was unfamiliar with the securities that were being purchased and sold in his account. Beyn chose the stocks that were purchased, recommended those purchases, including the quantities of shares, and then recommended when and how much of the stock would be sold.
16. Beyn concealed the true cost of trading by executing the majority of the trades on a riskless principal basis even though he did not discuss or explain to EK what riskless principal trading was and how the cost of riskless principal trades were reflected on the trade confirmations. When acting in a principal capacity, broker-dealers generally are compensated for executing the transaction by charging a "mark-up" or "mark-down" on the market price of the security being bought or sold. On EK's confirmation statements, this compensation was reflected in the cost of the security, assessed on a per share basis.

17. Although Beyn did not explain riskless principal trades, and EK was unfamiliar with markups, Beyn executed transactions on a riskless principal basis, charging generally between 2.5% and 5% as markups, amounting to thousands of dollars per transaction. Since the markups were incorporated into the price per share on his confirmation statement, by using markups rather than commission as a percentage of the overall purchase price, Beyn masked the true costs associated with the transactions. EK did not know the total amount of the commissions being charged on each transaction, because the \$99 ticket charge, appearing in the box for “Commission” on the trade confirmations, constituted the sole commission reported back to EK.
18. Beyn also executed Exchange Traded Note (ETN) transactions in EK’s account. EK had not traded previously in ETNs and was unfamiliar with the products.
19. On or about June 29, 2012, Beyn purchased 4000 shares of VIX Short-Term Futures ETN (VXX) for a total cost of \$63,618. The account held the VXX position for a year. It was sold on or about June 13, 2013 for \$21,220, resulting in a loss to the account of approximately \$42,497. On or about August 29, 2013, Beyn purchased two leveraged ETNs, 2,900 shares of VelocityShares 3X Long Gold ETN (UGLD) and 6,500 shares of VelocityShares 3X Long Silver ETN (USLV), for a total cost of \$127,463 in EK’s account. Within a month, the positions were valued at \$96,292, resulting in unrealized losses of over \$31,000.
20. By August 2013, approximately 17 months after the account had been opened, EK’s account sustained net losses, including commissions and ticket charges, of approximately \$241,886.

Customer EH

21. Customer EH was born in [REDACTED] and was 69 years old when he opened his accounts with Beyn at CSC. EH owns a construction business in Texas.
22. EH opened two accounts at CSC. He opened an individual account (“EH Individual Account”) in February 2012 and an individual retirement account (“IRA”) (“EH IRA Account”) in March 2012.
23. The EH Individual Account had an investment objective of “maximum growth,” while the EH IRA Account had an investment objective of “growth.” This is consistent with EH’s objectives of growing his investments but with reasonable investment risks consistent with the objectives. Beyn traded both of EH’s accounts on the basis that they had speculative investment objectives, aggressively trading them in a manner contrary to EH’s stated investment objectives.
24. EH transferred approximately \$1.4 million into the EH IRA Account. Beyn immediately began actively trading the account, buying and selling over one million dollars in securities within the first month alone. Between April 2012 and July 2014, Beyn executed 398 transactions in the EH IRA Account, generating approximately \$426,295 in commissions and fees. The annualized cost-to-equity ratio for the account was approximately 18.10% with an annualized turnover rate of approximately 8.25.
25. Beyn also immediately began actively trading the EH Individual Account, which EH funded by transferring approximately \$738,867 from his account at a prior member firm, buying and selling approximately \$494,119 in securities within the first two weeks. Between March 2012 and July 2014, Beyn executed 323 transactions in the

EH Individual Account, generating approximately \$261,125 in commissions and fees. The annualized cost-to-equity ratio for the account was approximately 21.28% with an annualized turnover rate of 8.41.

26. Beyn exercised control over EH's IRA and Individual Accounts. EH relied on Beyn for investment recommendations and advice. EH was unfamiliar with the securities that were being purchased and sold in his account. Beyn chose the stocks that were purchased, recommended those purchases, including the quantities of shares, and then recommended when and how much of the stock would be sold.
27. Although Beyn did not explain riskless principal trades, and EH was unfamiliar with markups, Beyn executed transactions on a riskless principal basis, charging generally between 2.5% and 5% as markups, amounting to thousands of dollars per transaction in the EH Individual Account and IRA Account.
28. Since the markups were incorporated into the price per share on his confirmation statement, by using markups rather than commission as a percentage of the overall purchase price, Beyn concealed the true cost of the transaction. EH did not know the total amount of the commissions being charged on each transaction, because the \$99 Firm commission, appearing in the box for "Commission" on the trade confirmations, constituted the sole commission reported back to EH.
29. By July 2014, approximately 28 months after the account was opened, EH's IRA Account sustained net losses, including commissions and ticket charges, of approximately \$985,000. At that point, approximately 29 months after the EH Individual Account was opened, the account sustained losses, including commissions

and ticket charges, of approximately \$576,814. The two accounts combined had net losses of approximately \$1.56 million.

Customer TP

30. Customer TP was born in [REDACTED] and was 71 years old when he opened his accounts with Beyn at CSC. With EH, TP jointly owns a construction business in Texas.
31. TP and his family opened seven accounts in total at CSC. TP opened the first two accounts in his name in March 2012 and May 2012, respectively. The first, the individual account (“TP Individual Account”) had an investment objective of “speculation,” while the second, the individual retirement account (“TP IRA Account”) had an investment objective of “growth.” Beyn began rapidly trading both accounts, aggressively trading them in a manner contrary to TP’s stated investment objectives.
32. Beyn viewed the “speculative” investment objective as allowing him free rein to engage in active and aggressive trading. In fact, a “speculative” investment objective, more properly indicates, as it did here for TP, a willingness to consider riskier and less known stocks. TP did not intend, by listing “speculation” as the investment objective that Beyn engage in the high volume of trading that occurred in the TP Individual Account.
33. TP had transferred approximately \$1.43 million into the TP IRA Account. TP instructed Beyn that the IRA Account should not drop below \$1 million. After the account was opened on March 28, 2012 and the transfer in, Beyn immediately began actively trading the account on margin. Within the first month alone, Beyn made over

\$3 million dollars in purchases and sales on margin in the account. By December 2013 – less than two years from when the account opened, the TP IRA Account value had dropped by over 50% to approximately \$645,000.

34. Between April 2012 and December 2013, Beyn executed 662 transactions in the TP IRA Account, generating approximately \$599,058 in commissions and fees. The annualized cost-to-equity ratio for the account was approximately 33.86% with an annualized turnover rate of 10.72.
35. TP deposited \$100,000 into the TP Individual Account in May 2012. Beyn immediately began actively trading the account.
36. Between May 2012 and December 2013, Beyn executed 154 transactions in the TP Individual Account, generating approximately \$80,952 in commissions and fees. The annualized cost-to-equity ratio for the account was approximately 71.5% with an annualized turnover rate of 22.43.
37. Beyn exercised control over TP's IRA and Individual Accounts. TP relied on Beyn for investment recommendations and advice. TP was unfamiliar with the securities that were being purchased and sold in his account. Beyn chose the stocks that were purchased, recommended those purchases, including the quantities of shares, and then recommended when and how much of the stock would be sold.
38. Although Beyn did not explain riskless principal trades, and TP was unfamiliar with markups, Beyn executed transactions on a riskless principal basis, charging generally between 2.5% and 5% as markups, amounting to thousands of dollars per transaction in the TP Individual Account and TP IRA Account.

39. Since the markups were incorporated into the price per share on his confirmation statement, by using markups rather than commission as a percentage of the overall purchase price, Beyn concealed the true cost of the transaction. TP did not know the total amount of the commissions being charged on each transaction, because the \$99 Firm commission, appearing in the box for “Commission” on the trade confirmations, constituted the sole commission reported back to TP.
40. As noted above, by December 2013, TP’s IRA Account sustained net losses, including commissions and ticket charges, of approximately \$786,887 and the TP Individual Account sustained losses, including commissions and ticket charges, of approximately \$66,316. The two accounts combined had net losses of approximately \$853,203.

Customer JBO

41. Customer JBO was born in [REDACTED] and was 72 years old when he opened his account with Beyn at CSC. JBO owns a business involving sales of welding equipment.
42. JBO initially opened an account at CSC with Beyn in November 2012 after receiving a cold call from CSC. JBO accepted Beyn’s recommendation to purchase 50 shares of Verifone Systems Inc. (PAY). Apart from that one account opening transaction in PAY on November 29, 2012, and JBO’s subsequent funds deposit of \$1,609 on December 4, 2012 to pay for the purchase, there was no activity in the account until April 2014. JBO had no previous investment experience, apart from investing in mutual funds. JBO suffered ongoing health issues and was often in the hospital throughout 2014. JBO added his granddaughter, SB, to the account in April 2014, in

light of his health issues. SB was 21 years at the time and had no prior investment experience.

43. In April 2014, JBO deposited an additional \$66,148 via fund deposits into the account. JBO's new account form listed "speculation" as the investment objective. His objective, which he communicated to Beyn, was to make money but prudently in an effort to make a return on his investment. Beyn immediately began actively trading the account on margin. Over the next two weeks Beyn made over \$1 million in purchases and sales on margin in the account.
44. Between April 2014 and July 2014, Beyn executed 106 transactions in the account, generating approximately \$65,802 in commissions and fees. The annualized cost-to-equity ratio for the account, during this period, was approximately 573.37% with an annualized turnover rate of 188.55.
45. Beyn exercised control over the account. JBO relied on Beyn for investment recommendations and advice. JBO was unfamiliar with the securities that were being purchased and sold in his account. Beyn chose the stocks that were purchased, recommended those purchases, including the quantities of shares, and then recommended when and how much of the stock would be sold.
46. Although Beyn did not explain riskless principal trades, and JBO was unfamiliar with markups, Beyn executed transactions on a riskless principal basis, charging generally between 2.5% and 5% as markups, amounting to thousands of dollars per transaction in JBO's account.
47. Since the markups were incorporated into the price per share on his confirmation statement, by using markups rather than commission as a percentage of the overall

purchase price, Beyn concealed the true cost of the transaction. JBO did not know the total amount of the commissions being charged on each transaction, because the \$99 Firm commission, appearing in the box for “Commission” on the trade confirmations, constituted the sole commission reported back to JBO.

48. By July 2014, the account was almost entirely depleted, with an ending balance left of approximately \$679. The net losses, including commissions and ticket charges, of approximately \$66,322 wiped out nearly 100 percent of his investment.

Customer WR

49. Customer WR was 61 years old when he opened his initial account at CSC (“6671 Account”) in June 2013. After having had a bad trading experience at a prior firm, WR was looking for a more conservative approach for his investments and told Beyn he wanted stable stocks that he would hold for the long term.
50. The account had a starting balance of approximately \$60,299. Beyn immediately began actively trading the account on margin. During the first month the 6671 Account was open, Beyn made approximately \$475,000 in purchases and sales on margin.
51. Between the account opening in June 2013 and September 2013, Beyn executed 94 transactions in the 6671 Account, generating approximately \$46,200 in commissions and fees. In October 2013, WR withdrew the remaining balance of \$48,326 from the account. The annualized cost-to-equity ratio for the 6671 Account was approximately 182.66% with an annualized turnover rate of 52.7.
52. In April 2014, WR opened another account with Beyn (“4262 Account”). WR repeated to Beyn that he wanted stability.

53. Upon opening the 4262 Account, WR transferred in \$39,617 to the account. Beyn immediately began actively trading the 4262 Account on margin. During the first month the 4262 Account was open, Beyn made approximately \$656,808 in purchases and sales on margin. By the end of the second month, the balance had dropped by over 66% to \$13,127. WR deposited an additional \$64,500 into the 4262 Account on June 12, 2014. Beyn continued to actively trade the account. On July 11, 2014, WR withdrew the remaining balance of \$51,212 from the 4262 Account.
54. Between April 2014 and July 2014, Beyn executed 88 transactions in the 4262 Account, generating approximately \$48,836 in commissions and fees in the account. The annualized cost-to-equity ratio for the account was approximately 546.28% with an annualized turnover rate of 177.87.
55. Beyn exercised control over the 6671 and 4262 Accounts. WR relied on Beyn for investment recommendations and advice. WR was unfamiliar with the securities that were being purchased and sold in his account. Beyn chose the stocks that were purchased, recommended those purchases, including the quantities of shares, and then recommended when and how much of the stock would be sold.
56. By September 2013, the 6671 Account sustained net losses, including commissions and ticket charges, of approximately \$86,870. By July 2014, the 4262 Account sustained net losses, including commissions and ticket charges, of approximately \$52,721. In all, between the two accounts, WR sustained total net losses, including commissions and ticket charges, of approximately \$139,591.

Customer BM

57. Customer BM was born in [REDACTED] and was 61 years old when he opened his account with Beyn at CSC. BM owns a business involving airline parts.
58. BM opened the account in January 2015 as a Simplified Employee Pension (SEP) IRA with an investment objective of “maximum growth.”
59. Beyn immediately began actively trading the account. Within the first month of trading, Beyn had purchased and sold approximately \$464,509 in securities on margin in the account.
60. Between January 2015 and May 2015, Beyn executed 80 transactions in the account, generating approximately \$52,644 in commissions and fees. The annualized cost-to-equity ratio for the account was approximately 70.86% with an annualized turnover rate of approximately 23.29.
61. Beyn exercised control over BM’s account. BM relied on Beyn for investment recommendations and advice. BM was unfamiliar with the securities that were being purchased and sold in his account. Beyn chose the stocks that were purchased, recommended those purchases, including the quantities of shares, and then recommended when and how much of the stock would be sold.
62. Although Beyn did not explain riskless principal trades, and BM was unfamiliar with markups, Beyn executed transactions on a riskless principal basis, charging generally between 2.5% and 5% as markups, amounting to thousands of dollars per transaction.
63. Since the markups were incorporated into the price per share on his confirmation statement, by using markups rather than commission as a percentage of the overall purchase price, Beyn concealed the true cost of the transaction. BM did not know the

total amount of the commissions being charged on each transaction, because the \$99 Firm commission, appearing in the box for “Commission” on the trade confirmations, constituted the sole commission reported back to BM.

64. In early May, BM realized the amount in commissions Beyn was charging to the account and contacted CSC to complain. Despite being told that someone would look into it and contact him, no one from CSC called BM back regarding his complaint. He began the process to transfer his account out of CSC in May 2015.
65. By May 2015, BM’s account sustained net losses, including commissions and ticket charges, approximating \$65,362.

FIRST CAUSE OF ACTION
Churning
(Violations of Section 10(b) of the Securities and Exchange Act of 1934,
Exchange Act Rule 10b-5, and FINRA Rules 2020 and 2010)

66. The Department re-alleges and incorporates by reference paragraphs 1 through 65 above.
67. Section 10(b) of the Exchange act prohibits the use of any “manipulative or deceptive device or contrivance” in connection with the purchase or sale of a security.
68. Rule 10b-5, promulgated thereunder, provides that:
- a. It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails or of any facility of any national securities exchange,
 - b. To employ any device, scheme, or artifice to defraud,
 - c. To make any untrue statement of material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading, or

- d. To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of a security.
69. FINRA Rule 2020 prohibits the same misconduct as Section 10(b) of the Exchange Act and Rule 10b-5.
70. Beyn, with *scienter*, engaged in a manipulative, deceptive and fraudulent scheme by churning the Customers' accounts. He acted with intent to defraud and/or with reckless disregard of the Customers' interests by seeking to maximize his own remuneration in disregard of the interests of the Customers.
71. The acts and transactions at issue were accomplished by the use of the means of the instrumentalities of interstate commerce and through the mail and involved securities transactions on a national securities exchange.
72. As a result of the foregoing conduct, Respondent Beyn willfully violated Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder, and FINRA Rules 2020 and 2010.

SECOND CAUSE OF ACTION
Excessive Trading (Quantitative Suitability)
(Violations of NASD Conduct Rule 2310, and FINRA Rules 2111 and 2010)

73. The Department re-alleges and incorporates by reference paragraphs 1 through 72 above.
74. NASD Conduct Rule 2310 requires that, "[i]n recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer" in light of the customer's financial needs and objectives. IM-2310-2 further prohibits "excessive

activity” and “overtrading” that is not “related to the objectives and the financial situation of the customer involved.”

75. FINRA Rule 2111, which replaced NASD Conduct Rule 2310 on July 9, 2012, also requires that “an associated person must have a reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer” in light of the customer's investment objective and financial situation. Furthermore, an associated person who has actual or de facto control over a customer account is required to have a reasonable basis for believing that a series of recommended transactions, even if suitable when viewed in isolation, are not excessive and unsuitable for the customer when taken together in light of the customer's investment profile.
76. FINRA Rule 2010 provides that an associated person, “in the conduct of [his] business, shall observe high standards of commercial honor and just and equitable principles of trade.”
77. Beyn exercised control over the accounts held by the Customers.
78. The trading in the accounts of the Customers was excessive, as evidenced by the high turnover rates and cost-to-equity ratios, and inconsistent with the Customers’ investment objectives and financial situations. Beyn did not have reasonable grounds or a reasonable basis to believe that the recommended transactions were suitable for the Customers in light of their investment objectives and financial situations.
79. As a result of the foregoing conduct, Respondent Beyn violated NASD Conduct Rule 2310 and FINRA Rule 2010 (for conduct occurring before July 9, 2012) and FINRA Rules 2111 and 2010 (for conduct occurring on or after July 9, 2012).

THIRD CAUSE OF ACTION
Unsuitable Recommendations (Qualitative Suitability)
(Violations of NASD Conduct Rule 2310 and FINRA Rules 2111 and 2010)

80. The Department re-alleges and incorporates by reference paragraphs 1 through 79 above.
81. NASD Conduct Rule 2310 requires that a registered representative have “reasonable grounds” for believing that a recommendation is suitable for a customer based upon the customer’s disclosed security holdings and financial situation and needs. The rule also requires a broker to educate clients about the risks associated with any recommendations. Before a broker recommends a risky or speculative investment, he must not only be satisfied that the investments are appropriate for the particular customer, but he must also be satisfied that the customer understands and is willing to assume those risks. FINRA Rule 2111 similarly requires that an associated person have a “reasonable basis to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer” in light of the customer’s investment objective and financial situation.
82. Beyn recommended ETN transactions to EK. His recommendations lacked reasonable grounds for believing that these risky and speculative securities were suitable for EK and that EK understood and was willing to assume the risks particular to these securities.
83. As a result, Beyn violated NASD Conduct Rule 2310 and FINRA Rule 2010 (for conduct before July 9, 2012) and FINRA Rules 2111 and 2010 (for conduct on or after July 9, 2012).

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 willfully violated Section 10(b) of the Exchange Act.

FINRA DEPARTMENT OF ENFORCEMENT

Date: March 16, 2016



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