

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

Department of Enforcement,

Complainant,

v.

Steven A. Horwitz (CRD No. 710899),

Respondent.

Disciplinary Proceeding  
No. 2016050312401

Hearing Officer: RES

**ORDER ACCEPTING OFFER OF  
SETTLEMENT**

Date: July 24, 2018

**INTRODUCTION**

Disciplinary Proceeding No. 2016050312401 was filed on January 5, 2018, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Steven A. Horwitz submitted an Offer of Settlement (Offer) to Complainant dated July 16, 2018. 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**

Horwitz entered the securities industry in 1980. He was registered with Citigroup Global Markets, Inc. from 1993 until 2009, when that firm merged with Morgan Stanley Smith Barney, Inc. Horwitz was registered with the post-merger company until the firm terminated his registration in March 2011. Horwitz was registered with Westminster Financial Securities, Inc. from March 2011 to June 2016.

Although Horwitz is no longer registered 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 effective date of termination of Horwitz's registration with a FINRA member firm, and (2) the Complaint charges him with misconduct committed while he was registered with a FINRA member.

### **FINDINGS AND CONCLUSIONS**

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

#### **SUMMARY**

1. While registered with Westminster Financial Securities, Inc. ("Westminster" or "the Firm"), Respondent Steven A. Horwitz failed to amend his Uniform Application for Securities Industry Registration ("Form U4") to disclose his May 2012 indictment and May 2016 conviction on three felony charges. After his conviction and while subject to statutory disqualification, Horwitz also remained associated with the Firm. By reason of the foregoing,

Horwitz violated FINRA By-Laws Article III, Section 3(b) and willfully violated FINRA By-Laws Article V, Section 2(c) and FINRA Rules 1122 and 2010.

#### **STATEMENT OF FACTS**

2. On May 3, 2012, while Horwitz was registered with Westminster, a grand jury in Middlesex Superior Court in Massachusetts indicted Horwitz on five charges, three of which were felonies under Massachusetts law—willfully misleading a police officer, intimidation of a witness, and willfully misleading a judge (“the Middlesex Action”).

3. Horwitz did not disclose his indictment in the Middlesex Action to Westminster or FINRA.

4. On May 12, 2016, the court in the Middlesex Action found Horwitz guilty of all charges against him in a bench trial and ordered him to be taken into custody immediately pending sentencing.

5. Horwitz did not disclose his conviction to the Firm. Instead, on May 16, 2016, while incarcerated, Horwitz emailed his assistant at the Firm, “I am out of town, deeply enmeshed in a family crisis.”

6. On May 17, 2016, while incarcerated, Horwitz again emailed his assistant at the Firm, this time falsely stating that he was in the hospital.

7. On May 31, 2016, the Middlesex Superior Court sentenced Horwitz to incarceration for six months.

8. Horwitz’s counsel informed the Firm about Horwitz’s sentencing on May 31, 2016, and the Firm terminated Horwitz’s registration on June 7, 2016.

**FIRST CAUSE OF ACTION**  
**(Willful Failure to Amend Form U4 to Disclose a Felony Indictment – Article V, Section 2(c) of FINRA’s By-Laws and FINRA Rules 1122 and 2010)**

9. Section 2(c) of Article V of FINRA’s By-Laws provides in relevant part that, “Every application for registration filed with the Corporation shall be kept current at all times by supplementary amendments . . . Such amendment to the application shall be filed with the Corporation not later than 30 days after learning of the facts or circumstances giving rise to the amendment.”

10. FINRA Rule 1122 provides that no person associated with a member firm shall file with FINRA information with respect to registration that is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or fail to correct such filing after notice thereof.

11. FINRA Rule 2010 provides that a registered representative, in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade.

12. A registered representative’s indictment for a felony is a material fact that must be disclosed by a Form U4 amendment.

13. In particular, Question 14A(1)(b) on the Form U4 asks the applicant in relevant part whether he or she has ever been charged with any felony.

14. A grand jury indicted Horwitz on three felony charges on May 3, 2012.

15. Horwitz did not disclose the indictment to his Firm or cause a Form U4 amendment reporting the indictment to be filed.

16. To the contrary, on August 10, 2015, he amended his Form U4 but failed to make the required disclosure in response to Question 14A(1)(b) to disclose the 2012 indictment.

17. Horwitz was aware of the requirements for disclosing felony charges and willfully failed to disclose the indictment.

18. Horwitz's failure to disclose his indictment caused his application for registration to be incomplete and misleading.

19. By virtue of his failure to disclose the felony indictment, Horwitz willfully violated Article V, Section 2(c) of FINRA's By-Laws and FINRA Rules 1122 and 2010.

**SECOND CAUSE OF ACTION  
(Willful Failure to Amend Form U4 to Disclose a Felony Conviction — FINRA By-Laws  
Article V, Section 2(c) and FINRA Rule 2010)**

20. Pursuant to Section 3(a)(39) of the Exchange Act, 15 U.S.C. § 78c(a)(39), a person convicted of a felony is subject to statutory disqualification from registration for 10 years.

21. On May 12, 2016, Horwitz became statutorily disqualified by virtue of his conviction on three felony counts by the Middlesex Superior Court.

22. Article V, Section 2(c) of FINRA's By-Laws provides that every application for registration must be kept current at all times by supplementary amendments.

23. Article V, Section 2(c) of FINRA's By-Laws further provides any amendment that "involves a statutory disqualification . . . shall be filed not later than ten days after such disqualification occurs."

24. Question 14A(1)(a) on the Form U4 further asks the applicant in relevant part whether he or she has ever "been convicted of or pled guilty to . . . any felony."

25. Horwitz did not cause an amendment to his Form U4 disclosing his felony conviction to be filed within 10 days of his conviction, *i.e.*, by May 22, 2016.

26. Horwitz was aware of the requirements for disclosing felony convictions and willfully failed to disclose the conviction.

27. By virtue of the foregoing conduct, Horwitz willfully violated Article V, Section 2(c) of FINRA's By-Laws and FINRA Rule 2010.

**THIRD CAUSE OF ACTION  
(Continuing to Associate After Statutory Disqualification — FINRA By-Laws Article III,  
Section 3(b) and FINRA Rule 2010)**

28. Article III, Section 3(b) of FINRA's By-Laws provides that no person shall continue be associated with a member firm if the person becomes subject to statutory disqualification.

29. Horwitz became subject to statutory disqualification on May 12, 2016, the date of his felony conviction.

30. Horwitz did not resign from Westminster or dissociate himself from the Firm.

31. Horwitz continued to be registered with Westminster from May 12, 2016 to June 7, 2016.

32. Horwitz thereby violated Article III, Section 3(b) of FINRA's By-Laws and FINRA Rule 2010 by remaining registered with Westminster between May 12, 2016 and June 7, 2016 when he was subject to statutory disqualification.

Based on the foregoing, Respondent willfully failed to state a material fact on a Form U4 in violation of FINRA By-Laws Article V, Section 2(c) and FINRA Rules 1122 and 2010 and violated FINRA By-Laws Article III, Section 3(b).

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 barred from association in any capacity with a FINRA member. The sanction imposed herein shall be effective on a date set by FINRA staff. The bar 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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