

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

Department of Enforcement,

Complainant,

v.

Charles Scott Burford
CRD No. 1658201,

Respondent.

Disciplinary Proceeding
No. 2019064656601

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Charles Scott Burford, a former registered representative with Hilltop Securities Independent Network, Inc. (Hilltop, now known as Momentum Independent Network, Inc.), failed to timely inform Hilltop that one of his customers (the Customer), a first cousin of Burford's wife, had passed away during October 2016. Burford knew that Hilltop's procedures required that he inform the firm of the Customer's death and treat the Customer's accounts as frozen until legal matters involving the accounts were determined. Instead of following Hilltop's procedures, from October 2016 to January 2019, Burford accepted instructions to effectuate transactions in one of the Customer's accounts from PR, the Customer's widow. PR, however, did not have any authority to direct activity in that account after the Customer's death. Nevertheless, at PR's direction, Burford executed nine securities sales totaling \$129,972.03 in the Customer's account and facilitated eight automated clearing house (ACH) disbursements to

PR from the Customer's account totaling \$84,669.87. In effecting these unauthorized trades and withdrawals, Burford violated FINRA Rule 2010.

RESPONDENT AND JURISDICTION

2. Burford first registered with FINRA in 1990, among other things, as a General Securities Representative (GS) and General Securities Principal (GP).

3. In 1995, Burford associated with FINRA member Hilltop and registered with FINRA, among other things, as a GS and GP. On November 19, 2019, Hilltop filed a Uniform Termination Notice of Securities Industry Registration (Form U5) on Burford's behalf disclosing that it had terminated his association with the firm as of November 1, 2019, due to his failure to follow firm policy regarding the death of a customer. Burford has not associated with a FINRA member since that date.

4. Although Burford is no longer registered or associated 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) this Complaint was filed within two years after November 19, 2019, which was the effective date of termination of Burford's registration with Hilltop; and (2) the Complaint charges Burford with misconduct committed while he was registered or associated with a FINRA member.

FACTS

Burford failed to timely notify Hilltop of the Customer's death

5. In 2013, Burford became the registered representative for two accounts that the Customer opened with Hilltop, an individual brokerage account for which the Customer did not

name a beneficiary (the Individual Account) and a beneficiary IRA brokerage account for which the Customer named PR as the beneficiary (the IRA Account).

6. The Customer passed away on October 6, 2016. Burford learned of the Customer's death contemporaneously.

7. At all relevant times, Hilltop's written supervisory procedures required that upon the death of a customer, the registered representative:

- a. immediately notify the firm of the customer's death by informing Hilltop's broker/client services department;
- b. cancel all open orders; and
- c. consider assets in the deceased customer's account(s) to be "frozen," i.e., accept no orders and authorize no transfer or disbursement of securities or funds from the account, until legal distribution of the assets had been determined and necessary legal or other documents were received by the firm.

8. Burford was aware of these procedures at all relevant times.

9. Burford did not inform anyone at Hilltop that the Customer had died until December 21, 2017—over 14 months after his death.

Burford effected transactions in the Individual Account based on PR's unauthorized instructions

10. From October 21, 2016 through December 19, 2017, based on instructions from PR, Burford executed five securities sales totaling \$70,176.12 in the Individual Account and facilitated three one-time ACH disbursements from that account to PR totaling \$55,000. These transactions are identified on Exhibits A and B, copies of which are annexed hereto and incorporated herein by reference.

11. PR lacked authority to provide instructions for the Individual Account.

12. The Customer had not named PR as a beneficiary for the Individual Account.

13. Additionally, though eight days prior to his death the Customer signed a Trading Authorization Agreement authorizing PR to direct trades in the Individual Account, PR's authority under the Agreement did not permit PR to direct the transfer of funds from the Individual Account. Moreover, Burford knew that the Trading Authorization Agreement terminated by law upon the Customer's death.

14. Finally, PR informed Burford shortly after the Customer's death, and on several occasions thereafter, that the probate process for the Customer's will, which named PR as the executor and primary beneficiary, was ongoing and incomplete.

15. On December 21, 2017, for the first time, the firm received the Customer's death certificate. On or around that date, Burford instructed his assistant to take steps to journal assets from the IRA Account, for which PR was the named beneficiary, to a new account for PR. When Burford's assistant initiated the request to open the new account for PR, she provided the death certificate to the firm's new accounts department.

16. However, no one, including Burford, informed Hilltop that the Customer's Individual Account remained open and active, including that Burford had effected transactions in that account based on PR's instructions after the Customer's death.

17. Burford continued to effect transactions in the Individual Account based on PR's instructions from December 2017 to January 2019.

18. Specifically, during this time period, Burford executed four additional securities sales totaling \$59,795.91 and facilitated five one-time ACH disbursements from the Individual Account to PR totaling \$29,669.87. *See Exs. A & B.*

The Customer's daughter complains to Burford about PR's activities in the Individual Account and Burford informs Hilltop of his actions

19. In or around January 2019, Burford learned that the Customer's daughter planned to challenge the validity of the Customer's will, which named PR as the primary beneficiary and executor of the Customer's estate.

20. Subsequently, on January 11, 2019, Burford requested for the first time that Hilltop freeze the Individual Account. In connection with that request, Burford provided the Customer's death certificate to the firm's new accounts department.

21. On May 13, 2019, Burford received an email from the attorney for the Customer's daughter complaining that the Individual Account had passed to PR without a beneficiary designation or legal determination of distribution.

22. During June 2019, the Customer's daughter petitioned the probate court for a temporary restraining order, requesting that the court enjoin PR from spending, transferring, or otherwise disposing of the Customer's property.

23. On October 11, 2019, after receiving additional correspondence from the Customer's daughter, Burford notified his supervisor that he had accepted instructions from PR for the Individual Account after the Customer's death.

24. After an investigation, the firm determined that trades had been executed and withdrawals processed in the Customer's account after the Customer's death in violation of firm policy. As a result of Burford's conduct, the firm terminated Burford's association as of November 1, 2019.

25. On February 18, 2020, as part of a publicly-filed settlement agreement, PR agreed, among other things, that the Customer's daughter would serve as the executor of the

Customer's estate and that the Individual Account would be distributed to the Customer's daughter, rather than to PR.

CAUSE OF ACTION
Unauthorized Trading and Withdrawals (Rule 2010)

26. The Department of Enforcement realleges and incorporates by reference all preceding paragraphs.

27. FINRA Rule 2010 requires registered representatives, in the conduct of their business, to observe high standards of commercial honor and just and equitable principles of trade.

28. A trade or withdrawal is unauthorized when a registered representative effects one or more such transactions in a customer's non-discretionary account without first obtaining the customer's authorization or consent or the authorization or consent of an authorized party. Making unauthorized trades in or facilitating unauthorized withdrawals from a customer's account is a breach of the duty to observe high standards of commercial honor and just and equitable principles of trade and, thus, a violation of FINRA Rule 2010.

29. The Customer's Individual Account was a non-discretionary account.

30. Burford executed nine sale transactions liquidating a total of \$129,972.03 in the Individual Account after the Customer's death without the Customer's authorization or consent or the authorization or consent of an authorized party. PR did not have authority to provide instructions to Burford to consent to or authorize any of these nine transactions.

31. Additionally, Burford facilitated eight ACH withdrawals causing \$84,669.87 to be withdrawn from the Individual Account and paid to PR after the Customer's death without the Customer's authorization or consent or the authorization or consent of an authorized party. PR

did not have authority to consent or authorize any of these transactions in the Customer's Individual Account.

32. By reason of the foregoing, Burford violated FINRA Rule 2010.

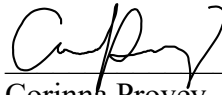
RELIEF REQUESTED

WHEREFORE, the Department of Enforcement 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; and
- C. order that Respondent bears such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: September 22, 2021



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Exhibit A

Unauthorized Trades in Customer's Individual Account

Date	Transaction Type	Symbol	Description	Quantity	Price	Amount
10/21/2016	Sell	EVV	EATON VANCE LIMITED DURATION INCOME FUND	-814	13.4227	-10,714.56
10/21/2016	Sell	NI	NISOURCE INC	-913	22.695	-20,397.82
9/25/2017	Sell	EXG	EATON VANCE TAX-MANAGED GLOBAL DIVERSIFIED EQUITY INCOME FD	-1,650.00	9.2714	-15,133.98
11/10/2017	Sell	NXRT	NEXPOINT RESIDENTIAL TRUST INC	-550	27.03	-14,628.29
12/19/2017	Sell	EXG	EATON VANCE TAX-MANAGED GLOBAL DIVERSIFIED EQUITY INCOME FD	-1,000.00	9.42	-9,301.47
2/13/2018	Sell	EXG	EATON VANCE TAX-MANAGED GLOBAL DIVERSIFIED EQUITY INCOME FD	-2,000.00	9.0301	-17,696.38
2/13/2018	Sell	EXG	EATON VANCE TAX-MANAGED GLOBAL DIVERSIFIED EQUITY INCOME FD	-500	9.0201	-4,370.39
6/1/2018	Sell	EXG	EATON VANCE TAX-MANAGED GLOBAL DIVERSIFIED EQUITY INCOME FD	-3,000.00	9.3401	-27,634.09
11/27/2018	Sell	AEE	AMEREN CORPORATION	-149	68.5945	-10,095.05
Total						-129,972.03

Exhibit B

Unauthorized Withdrawals from the Customer's Individual Account

Date	Amount	Withdrawal Type
10/26/2016	\$35,000.00	One-time ACH Disbursement
12/13/2016	\$5,000.00	One-time ACH Disbursement
9/27/2017	\$15,000.00	One-time ACH Disbursement
1/3/2018	\$1,000.00	One-time ACH Disbursement
2/15/2018	\$10,000.00	One-time ACH Disbursement
6/5/2018	\$10,000.00	One-time ACH Disbursement
6/5/2018	\$1,169.87	One-time ACH Disbursement
11/29/2018	\$7,500.00	One-time ACH Disbursement
Total	\$84,669.87	