

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

Department of Enforcement,

Complainant,

v.

BrokerBank Securities, Inc.
CRD No. 130116,

And

Philip Paul Wright,
CRD No. 2453688,

Respondents.

Disciplinary Proceeding
No. 2022074278301

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between November 10, 2017 and October 28, 2019, Respondent BrokerBank Securities, Inc. (“BrokerBank”), acting through Respondent Philip Paul Wright, permitted Individual A to engage in securities business through the firm by participating in the sale of bonds and preferred shares of a single issuer (the “Securities”) to the firm’s retail customers. Wright was the firm’s majority owner, Chief Executive Officer, and sole supervising principal, and was responsible for directly supervising Individual A. Individual A was not registered with FINRA during that period and was statutorily disqualified between August 5, 2019 and October 28, 2019. As a result, BrokerBank and Wright violated NASD Rule 1031 (for conduct before October 1, 2018) and FINRA Rules 1210 (for conduct on or after October 1, 2018) and 2010 by permitting Individual A to conduct securities business through the firm without being registered;

and they violated Article III, Section 3(b) of FINRA's By-Laws and FINRA Rules 8311 and 2010 by permitting Individual A to associate with the firm and participate in the sale of the Securities while statutorily disqualified.

2. BrokerBank, acting through Wright, also paid Individual A more than \$100,000 in commissions generated from the sale of the Securities through the firm between November 10, 2017 and October 28, 2019, when Individual A was unregistered. As a result, BrokerBank and Wright violated FINRA Rules 2040 and 2010.

3. During FINRA's investigation in 2022 of all sales of the Securities through the firm, including those purchased by Individual A's customers, FINRA sent to Wright, as BrokerBank's custodian of records, three separate requests for information and documents pursuant to FINRA Rule 8210. Wright failed to respond to any of these requests and failed to produce any responsive documents or information. As a result, Wright violated FINRA Rules 8210 and 2010.

RESPONDENTS AND JURISDICTION

4. BrokerBank became a FINRA member in May 2004. Between November 10, 2017 and October 28, 2019, BrokerBank employed five registered individuals, had two branch offices, and was headquartered in Minnetonka, Minnesota.

5. On March 30, 2021, FINRA cancelled BrokerBank's membership after determining that the firm was subject to a statutory disqualification arising from a Consent Order with the state of Michigan.

6. BrokerBank remains subject to FINRA's jurisdiction pursuant to Article IV, Section 6 of FINRA's By-Laws because (1) the Complaint was filed within two years after

March 30, 2021, which was the effective date of the cancellation of the firm's membership; and (2) the Complaint charges the firm with misconduct committed while the firm was a member.

7. Wright became registered with FINRA through his association with a FINRA member firm in November 1995. In May 2004, Wright registered with FINRA through his association with BrokerBank as a General Securities Representative, General Securities Principal, and Financial Operations Principal. Wright's various registrations with FINRA terminated on March 30, 2021, when FINRA cancelled BrokerBank's FINRA registration.

8. Although Wright 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) the Complaint was filed within two years after March 30, 2021, which was the effective date of termination of Respondent's registration with BrokerBank; and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member, and with failing to respond to FINRA requests for information and documents during the two-year period after the date on which he ceased to be registered or associated with a FINRA member.

FACTS

Wright exclusively managed and controlled BrokerBank's operations, its employees and its securities business.

9. Between November 10, 2017 and October 28, 2019, Wright was BrokerBank's majority owner, Chief Executive Officer, Chief Compliance Officer, and Financial and Operations Principal. Wright was the sole supervising principal at the firm.

10. In these capacities, Wright was exclusively responsible for hiring and firing all employees and registered persons at the firm, for filing all Forms U4 and U5, and for reviewing and supervising all trading activity at BrokerBank. Wright also had exclusive control of

BrokerBank's financial dealings and bank accounts, and directed all payments on behalf of the firm, including payment of commissions to registered persons for securities transactions.

Wright allowed Individual A to participate in the sale of securities while he was disqualified and not registered with FINRA.

11. Individual A became registered with FINRA as a General Securities Representative in 1991 and was associated with multiple FINRA members between 1991 and 2017.

12. On May 16, 2017, FINRA accepted a Letter of Acceptance, Waiver and Consent ("AWC") from Individual A ("AWC No. 2016050379401") in which he consented to the entry of findings that he exercised discretion in multiple customer accounts without prior authorization from the customers or approval from his firm. Individual A was suspended from associating with a FINRA member for one month in any capacity, a suspension that spanned from June 19, 2017 to July 18, 2017.

13. On October 9, 2017, Individual A's employment with the firm with which he was then associated was terminated. On November 9, 2017, the firm filed a Uniform Termination Notice for Securities Industry Registration ("Form U5"), terminating his registration with FINRA.

14. Individual A has not registered with FINRA since his registration was terminated on November 9, 2017. Individual A is not currently associated with any FINRA member.

15. Shortly after Individual A's employment was terminated, Individual A approached Wright and BrokerBank to explore the possibility of registering with FINRA through the firm. Individual A represented that his customers at his prior firm were interested in investing in the Securities, and BrokerBank had a history of selling those Securities to its clients.

16. Although Wright considered registering Individual A with FINRA through the firm, he decided not to do so.

17. Instead, on October 17, 2017, BrokerBank, acting through Wright, entered into a written “purchase agreement” with Individual A, which provided that Individual A would introduce and transition his former customers to BrokerBank, including those who were interested in purchasing the Securities. In exchange for introducing his customers to the firm, BrokerBank, acting through Wright, agreed to pay Individual A 90% of all commissions generated from those customers’ transactions through BrokerBank for a period of two years, and 30% of all such commissions for two years after that. A list identifying Individual A’s customers was attached to the agreement.

18. Wright executed the purchase agreement on behalf of BrokerBank.

19. After executing the purchase agreement with BrokerBank, Individual A introduced and transitioned nine customers to BrokerBank, each of whom opened accounts at the firm. Because Individual A was not registered with FINRA, Wright identified himself as the registered representative for the BrokerBank accounts opened by Individual A’s customers.

20. Although Wright was identified as the “broker of record” on these accounts, Wright never discussed the Securities with any of those customers, nor did he recommend they purchase or sell the Securities. While Wright ultimately signed subscription agreements required for the purchases of the Securities as the “broker of record,” Wright did not have any other role in the completion of subscription agreements or other documents required to complete the customers’ investments in the Securities.

21. Wright sent Individual A the account paperwork and other documents required for the customers to open accounts at BrokerBank, and to purchase the Securities. Individual A

returned that paperwork to Wright after the customers executed the documents, and Wright then approved the accounts and purchased the Securities on the customers' behalf.

22. Between November 10, 2017 and October 28, 2019, nine of the customers that Individual A introduced and transitioned to Wright and BrokerBank made 14 separate purchases of the Securities in their BrokerBank accounts, investing over \$1.8 million.

BrokerBank, through Wright, also allowed Individual A to associate with BrokerBank when he was statutorily disqualified.

23. On July 26, 2019, FINRA accepted another AWC signed from Individual A ("AWC No. 2018057366101") in which he consented to the entry of findings that he exercised discretion in multiple customer accounts without prior authorization shortly after completing his suspension in 2017 and falsified firm records. As stated in this AWC, Individual A consented to a 15-month suspension from association with a FINRA member in any capacity. Individual A was suspended from associating with a member between August 5, 2019 and November 4, 2020.

24. Pursuant to AWC No. 2018057366101, Individual A could not be associated with any FINRA member in any capacity, including clerical or ministerial functions, during the period of his suspension, and he was statutorily disqualified from conducting any securities business pursuant to Section 3(a)(39)(A) of the Securities Exchange Act of 1934.

25. BrokerBank and Wright were aware of regulatory actions involving Individual A's registration, yet they allowed Individual A to continue to associate with the firm, including by participating in the sales of the Securities to BrokerBank customers in September and October 2019.

BrokerBank, acting through Wright, paid commissions to Individual A while he was not registered with FINRA.

26. Between November 10, 2017 and October 28, 2019, customers that Individual A introduced and transitioned to BrokerBank purchased \$1,895,000 of the Securities in their accounts at BrokerBank. BrokerBank, through Wright, paid Individual A \$101,598 in compensation for these purchases in 11 separate payments. Consistent with the terms of the purchase agreement, the payments comprised 90% of the commissions generated from the transactions. Individual A was not registered with FINRA in any capacity when Wright caused BrokerBank to pay Individual A these commissions.

27. BrokerBank, through Wright, paid Individual A \$19,125 (of the \$101,598 in total compensation) as compensation from the commissions generated from Individual A's customers' purchases of the Securities made while Individual A was suspended from associating with a FINRA member.

Wright failed to respond to requests for information and documents from FINRA, issued pursuant to FINRA Rule 8210.

28. In early 2022, FINRA was conducting an investigation into the sale of the Securities to all of BrokerBank's customers, including those purchases made by Individual A's customers.

29. As part of this investigation, FINRA sent a request for documents and information pursuant to FINRA Rule 8210 ("First Request") on April 6, 2022 to Wright, who was the sole custodian for BrokerBank's books and records.

30. Among other information, the First Request sought information and documents related to: 1) the quantity and principal amount invested in the Securities by BrokerBank customers; 2) the suitability of the Securities purchased by BrokerBank's customers, including Individual A's customers; 3) compensation paid by BrokerBank, acting through Wright, to any

individuals in connection with the sale of the Securities; 4) Wright's supervision of the suitability of investments in the Securities by BrokerBank's customers; 5) whether the firm, through Wright, conducted reasonable due diligence into the Securities prior to selling them to BrokerBank's customers; and 6) whether BrokerBank's written supervisory procedures were reasonably designed to comply with the Firm's obligations under FINRA rules and the federal securities laws.

31. FINRA sent the First Request to Wright by first class and certified mail, return receipt requested, at his last known residential address as reflected in the Central Registration Depository ("CRD Address"). FINRA also sent the First Request to Wright via its electronic compliance portal, FINRA Gateway.

32. On April 11, 2022, Wright signed a receipt for the certified mailing. The first-class mailing was not returned.

33. The First Request required Wright to provide the requested information and documents by April 20, 2022. Wright failed to respond to the First Request by the deadline or request an extension of the deadline.

34. On May 9, 2022, FINRA sent Wright a second request for information and documents pursuant to FINRA Rule 8210 ("Second Request"), seeking the same information detailed in the First Request and enclosing a copy of that earlier request letter.

35. FINRA sent the Second Request to Wright via first class and certified mail, return receipt requested, to Wright's CRD Address. FINRA also sent the Second Request to Wright through the FINRA Gateway.

36. The first-class mailing of the Second Request was not returned to FINRA, and a return receipt for the certified mailing was signed by someone other than Wright on June 21, 2022, after the due date for the response.

37. The Second Request required Wright to provide the requested information and documents by May 23, 2022. Wright failed to respond to the Second Request by the deadline or request an extension of the deadline.

38. After receiving no response to the Second Request, FINRA sent a third request (“Third Request”) pursuant to FINRA Rule 8210 on June 3, 2022.

39. FINRA sent the Third Request to Wright via first class mail, certified mail, return receipt requested, and Federal Express to Wright’s CRD address.

40. The first class and certified mailings were not returned, and the Federal Express tracking system indicates that the Third Request was delivered to Wright’s CRD address and was signed for by “P. Wright” on June 7, 2022.

41. The Third Request sought the same documents and information as the First and Second Requests, and included copies of both prior request letters.

42. The Third Request required Wright to provide the requested information and documents by June 17, 2022. Wright failed to respond to the Third request by the deadline or request an extension of the deadline.

FIRST CAUSE OF ACTION
Permitting An Unregistered Person to Act in a Registered Capacity
(Violations of NASD Rule 1031 and FINRA Rules 1210 and 2010 by BrokerBank and Wright)

43. The Department of Enforcement realleges and incorporates by reference all prior paragraphs.

44. FINRA Rule 1210 (and formerly NASD Rule 1031) requires that any person engaged in the securities business of a member be registered with FINRA as a representative or principal in each category of registration appropriate with his or her functions and responsibilities.

45. FINRA Rule 2010 requires a FINRA member firm and its associated persons to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business.

46. A violation of NASD Rule 1031 or FINRA Rule 1210 is also a violation of FINRA Rule 2010.

47. Between November 10, 2017 and October 28, 2019, while not registered with FINRA in any capacity, Individual A engaged in securities business by and through BrokerBank, and he was permitted to do so by BrokerBank and Wright. Individual A performed the functions of a General Securities Representative by, among other things, communicating with the public regarding the Securities, completing account paperwork, subscription agreements and other documents required to effectuate the purchases of the Securities, and receiving compensation for, and in connection with, transactions in the Securities for BrokerBank's customers.

48. Between November 10, 2017 and October 28, 2019, BrokerBank, acting through Wright, failed to register Individual A with FINRA in any capacity, including in the capacity of a General Securities Representative.

49. Between November 10, 2017 and October 28, 2019, BrokerBank and Wright permitted Individual A to engage in securities business by and through BrokerBank, without Individual A being appropriately registered with FINRA.

50. As a result, BrokerBank and Wright each violated NASD Rule 1031 (for conduct before October 1, 2018) and FINRA Rules 1210 (for conduct on or after October 1, 2018) and 2010.

SECOND CAUSE OF ACTION
Permitting Disqualified Person to Associate with Firm
(Violations of Article III, Section 3(b) of FINRA's By-Laws and FINRA Rules 8311 and 2010 by BrokerBank and Wright)

51. The Department of Enforcement realleges and incorporates by reference all prior paragraphs.

52. Article III, Section 3(b) of FINRA's By-Laws provides that no person shall become associated or continue to be associated with a FINRA member if the person becomes subject to disqualification. Article III, Section 4 of FINRA's By-Laws provides that a person is subject to a "disqualification" if such person is subject to a "statutory disqualification" as defined in Section 3(a)(39) of the Securities Exchange Act of 1934.

53. Section 3(a)(39) of the Securities Exchange Act of 1934 provides that a person is subject to a statutory disqualification if, among other reasons, the person has been suspended from associating with a member of a self-regulatory organization.

54. FINRA Rule 8311 provides if a person is subject to a suspension, a FINRA member shall not allow such person to be associated with it "in any capacity that is inconsistent with the sanction imposed or disqualified status, including a clerical or ministerial capacity."

55. A violation of Article III, Section 3(b) of FINRA's By-Laws or FINRA Rule 8311 is also a violation of FINRA Rule 2010.

56. Individual A was suspended from associating with a FINRA member in any capacity as a result of AWC No. 2018057366101 between August 5, 2019 and November 20, 2020. Accordingly, he was statutorily disqualified during that period.¹

57. Between August 5, 2019 and October 28, 2019, BrokerBank and Wright permitted and enabled Individual A to improperly associate with BrokerBank and engage in securities business by and through BrokerBank, as alleged above, despite his disqualified status.

58. As a result, BrokerBank and Wright each violated Article III, Section 3(b) of FINRA's By-Laws and FINRA Rules 8311 and 2010.

THIRD CAUSE OF ACTION
Sharing Commissions with an Unregistered Person
(Violations of FINRA Rules 2040 and 2010 by BrokerBank and Wright)

59. The Department of Enforcement realleges and incorporates by reference all prior paragraphs.

60. FINRA Rule 2040(a)(1) states that “[n]o member or associated person shall, directly or indirectly, pay any compensation, fees, concessions, discounts, commissions or other allowances to . . . any person that is not registered as a broker-dealer under Section 15(a) of the Exchange Act but, by reason of receipt of any such payments and the activities related thereto, is required to be so registered under applicable federal securities laws and SEA rules and regulations.”

61. A violation of FINRA Rule 2040 is also a violation of FINRA Rule 2010.

62. Between November 10, 2017 and October 28, 2019, BrokerBank, acting through Wright, paid Individual A compensation derived from commissions generated by his customers’

¹ See 15 U.S.C. § 78c(a)(39)(A).

purchases of the Securities through BrokerBank, while Individual A was not registered with FINRA.

63. As a result, BrokerBank and Wright each violated FINRA Rules 2040 and 2010.

FOURTH CAUSE OF ACTION
Failure to Provide Information and Documents
(Violations of FINRA Rules 8210 and 2010 by Wright)

64. The Department of Enforcement realleges and incorporates by reference all prior paragraphs.

65. FINRA Rule 8210(a)(1) requires “a member, person associated with a member, or any other person subject to FINRA’s jurisdiction to provide information orally, in writing, or electronically . . . with respect to any matter involved in the investigation, complaint, examination, or proceeding.”

66. FINRA Rule 8210(a)(2) requires a member or associated person to allow FINRA staff to “inspect and copy the books, records, and accounts of such member or person with respect to any matter involved in the investigation, complaint, examination, or proceeding that is in such member’s or person’s possession, custody or control.”

67. FINRA Rule 8210(c) similarly provides that “[n]o member or person shall fail to provide information . . . or to permit an inspection and copying of books, records or accounts pursuant to this Rule.”

68. A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010.

69. While subject to FINRA’s jurisdiction, Wright failed to provide information and documents FINRA requested pursuant to FINRA Rule 8210 on three separate occasions.

70. FINRA’s requests sought information and documents that were material to FINRA’s investigation into BrokerBank’s sales of the Securities to all of its clients, including the

purchases made by Individual A's customers. Specifically, the information and documents FINRA requested were necessary to adequately investigate, among other things: a) the quantity and principal amount invested in the Securities by BrokerBank customers; b) the suitability of the Securities purchased by BrokerBank's customers, including Individual A's customers; c) compensation paid by BrokerBank, acting through Wright, to any individuals in connection with the sale of the Securities; d) Wright's supervision of the suitability of investments in the Securities by BrokerBank's customers; e) whether the firm, through Wright, conducted reasonable due diligence into the Securities prior to selling them to BrokerBank's customers; and f) whether BrokerBank's written supervisory procedures were reasonably designed to comply with the Firm's obligations under FINRA rules and the federal securities laws.

71. Wright's failure to provide the requested information and documents impeded FINRA's investigation.

72. By failing to provide information and documents in response to FINRA's Rule 8210 Requests sent to Wright on April 6, 2022, May 9, 2022, and June 3, 2022, Wright violated FINRA Rules 8210 and 2010.

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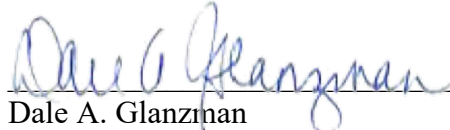
RELIEF REQUESTED

WHEREFORE, the Department of Enforcement respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondents 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. and order that Respondents bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: March 20, 2023


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