

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

Department of Enforcement,

Complainant,

v.

John Lowry,
CRD No. 4336146, and

Kim Monchik,
CRD No. 2528972,

Respondents.

Disciplinary Proceeding
No. 2022075597101

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between May 2022 and October 2023, respondent John Lowry failed to timely respond to two requests made pursuant to FINRA Rule 8210 until after FINRA issued two follow-up Rule 8210 requests and initiated two expedited proceedings to compel compliance. Between June 2021 and October 2023, respondent Kim Monchik failed to timely respond to five requests made pursuant to Rule 8210 until after FINRA issued six follow-up Rule 8210 requests and initiated five expedited proceedings to compel compliance. As a result, Lowry and Monchik violated FINRA Rules 8210 and 2010.

2. From June 2021 through August 2023, Lowry failed to maintain a reasonable system for Spartan Capital Securities, LLC's (CRD No. 146251) compliance with Rule 8210, and, between May 2022 and October 2023, Lowry failed to supervise Monchik's responses to Rule 8210 requests. As a result, Lowry violated FINRA Rules 3110(a) and 2010.

RESPONDENTS AND JURISDICTION

3. Lowry entered the securities industry in 2000 and first registered with FINRA as a General Securities Representative (“GSR”) through his association with another member firm in 2001. In 2005, Lowry registered with FINRA as a General Securities Principal (“GSP”) while associated with another member firm. Lowry has been associated with Spartan since 2008. Through his association with Spartan, Lowry is registered with FINRA as a GSR, GSP, Investment Banking Representative, Investment Banking Principal, and Operations Professional. Between 2007 and 2014, Lowry was co-Chief Executive Officer (“CEO”) of Spartan and, since 2014, CEO. Since 2009, Lowry has also been an indirect owner of Spartan.

4. Monchik entered the securities industry and first registered with FINRA as a GSR and GSP through her association with another member firm in 2000. Monchik has been associated with Spartan since 2008. Through her association with Spartan, Monchik is registered with FINRA as a GSR, GSP, Securities Trader, Investment Banking Representative, Investment Banking Principal, and Operations Professional. Since 2015, Monchik has been the Chief Administrative Officer (“CAO”) of Spartan.

FACTS

2021 Funds Investigation Requests to Spartan

5. In January 2021, FINRA began investigating Spartan’s sales of membership interests in unregistered private funds (“Funds”), an outside business activity of Monchik and Lowry.

6. For the purpose of that investigation, and pursuant to FINRA Rule 8210, on June 3, 2021, FINRA sent a request (“June 3 Spartan Request”) to Spartan for information and documents regarding the Funds.

7. The June 3 Spartan Request was addressed to Monchik as CAO of Spartan, and she was responsible for responding to the June 3 Spartan Request on behalf of Spartan.

8. The June 3 Spartan Request sought articles of incorporation, due diligence files, a list of the Funds' bank and brokerage accounts, transaction information and documents, subscription agreements, investor information, and information regarding Spartan registered representatives that had participated in the Funds. The June 3 Spartan Request also requested information pertaining to Spartan's approval of Lowry's private securities transactions. The June 3 Spartan Request included 20 items.

9. Spartan's response to the June 3 Spartan Request was due by June 17, 2021.

10. The June 3 Spartan Request was served on Spartan via certified and first-class mail to Spartan's business address as reflected in the Central Registration Depository (CRD). FINRA also sent a courtesy copy of the June 3 Spartan Request via FINRA's Request Manager system.

11. On June 7, 2021, the certified mail copy of the June 3 Spartan Request was delivered to Spartan. The first-class mail copy of the June 3 Spartan Request was not returned to FINRA.

12. Spartan did not respond to the June 3 Spartan Request in any way by its deadline of June 17, 2021, nor did it receive an extension of the deadline.

13. On June 23, 2021, Spartan submitted a partial but incomplete response to the June 3 Spartan Request. Spartan failed to provide a response to seven items and failed to provide a password to access the response to one of the items provided. These items included information relating to various bank and brokerage accounts maintained for the Funds, evidence of shares purchased in connection with each series of the Funds, due diligence files for certain Funds

offerings, and information relating to Lowry's private securities transactions and outside business activities.

14. As a result, on June 25, 2021, FINRA sent a second request to Spartan, again for the purpose of its investigation and pursuant to FINRA Rule 8210 ("June 25 Spartan Request"), enclosing the June 3 Spartan Request and listing the outstanding items from the June 3 Spartan Request.

15. The June 25 Spartan Request was addressed to Monchik as CAO of Spartan, and she was responsible for responding to the June 25 Spartan Request on behalf of Spartan.

16. Spartan's response to the June 25 Spartan Request was due by July 13, 2021.

17. The June 25 Spartan Request was served on Spartan via certified and first-class mail to Spartan's business address as reflected in CRD. FINRA also sent a courtesy copy of the June 25 Spartan Request via FINRA's Gateway system.

18. On June 29, 2021, the certified mail copy of the June 25 Spartan Request was delivered to Spartan. The first-class mail copy of the June 25 Spartan Request was not returned to FINRA.

19. Spartan did not respond to the June 25 Spartan Request in any way by its deadline of July 13, 2021, nor did it receive an extension of the deadline.

20. On July 28, 2021, Spartan submitted a partial but incomplete response to the June 25 Spartan Request.

21. Spartan failed to respond in any way to one item and provided a partial but incomplete response to three other items.

22. As a result, on August 23, 2021, FINRA sent a third request to Spartan, again for the purpose of its investigation and pursuant to FINRA Rule 8210 ("August 23 Spartan

Request”), enclosing the June 3 and June 25 Spartan Requests and listing the four outstanding items from the June 3 and June 25 Spartan Requests. These items included a more detailed general ledger and payout report for persons who received compensation from activities relating to the Funds, evidence of shares purchased in connection with each series of the Funds, due diligence files for certain Funds offerings, and information relating to Lowry’s private securities transactions.

23. The August 23 Spartan Request was addressed to Monchik as CAO of Spartan, and she was responsible for responding to the August 23 Spartan Request on behalf of Spartan.

24. Spartan’s response to the August 23 Spartan Request was due by September 7, 2021.

25. The August 23 Spartan Request was served on Spartan via certified and first-class mail to Spartan’s business address as reflected in CRD. FINRA also sent a courtesy copy of the August 23 Spartan Request via FINRA’s Gateway system.

26. On August 26, 2021, the certified mail copy of the August 23 Spartan Request was delivered to Spartan. The first-class mail copy of the August 23 Spartan Request was not returned to FINRA.

27. Spartan did not respond to the August 23 Spartan Request in any way by its deadline of September 7, 2021, nor did it receive an extension of the deadline.

28. On October 4, 2021, pursuant to FINRA Rule 9552, FINRA initiated an expedited proceeding against Spartan by sending a letter notifying the firm that on October 28, 2021, Spartan would be suspended from FINRA membership for failing to provide a complete response to the June 3, June 25, and August 23 Spartan Requests (“October 4 Notice of Suspension”).

29. The October 4 Notice of Suspension was addressed to Monchik as CAO of Spartan and served on Spartan via certified and first-class mail to Spartan's business address as reflected in CRD.

30. On October 7, 2021, the certified mail copy of the October 4 Notice of Suspension was delivered to Spartan. The first-class mail copy of the October 4 Notice of Suspension was not returned to FINRA.

31. On October 27, 2021, Spartan responded to the October 4 Notice of Suspension by requesting a hearing with the Office of Hearing Officers and submitting documents in partial response to the four outstanding items in the June 3, June 25, and August 23 Spartan Requests. However, Spartan's response remained incomplete. Spartan still failed to provide a complete response to the four outstanding items. Accordingly, a hearing was scheduled to commence against Spartan on December 14, 2021.

32. Between November 27 and December 1, 2021, nearly six months after having received the June 3 Spartan Request, and two weeks prior to the hearing requested by Spartan, Spartan completed its response to the June 3, June 25, and August 23 Spartan Requests. On December 2, 2021, the expedited proceeding was dismissed.

2022 Funds Investigation Requests to Lowry

33. Five months later, for the purpose of its ongoing Funds investigation, and pursuant to FINRA Rule 8210, on May 6, 2022, FINRA requested that Lowry provide information and documents regarding the Funds ("May 6 Lowry Request"). The May 6 Lowry Request included 23 items, including new account forms and account statements for Funds brokerage and bank accounts, engagement agreements with, and financial statements prepared

by, the accounting firm retained by the Funds and its related entities, Lowry's individual tax returns, and subscription agreements and investor lists for the Funds.

34. Lowry delegated responsibility for responding to the May 6 Lowry Request to Monchik.

35. Lowry's response to the May 6 Lowry Request was due by May 20, 2022.

36. The May 6 Lowry Request was addressed to Lowry, care of his counsel, and served on Lowry's counsel via certified and first-class mail to Lowry's counsel's business address. FINRA also sent a courtesy copy of the May 6 Lowry Request via email to Lowry's counsel.

37. On May 12, 2022, the certified mail copy of the May 6 Lowry Request was delivered to counsel for Lowry. The first-class mail copy of the May 6 Lowry Request was not returned to FINRA.

38. Lowry did not respond to the May 6 Lowry Request in any way by his deadline of May 20, 2022. Instead, on May 24, 2022, Lowry requested an additional three weeks to respond, until June 13, 2022, which FINRA granted.

39. Lowry did not respond to the May 6 Lowry Request in any way by his deadline of June 13, 2022 nor did he receive an extension of this deadline.

40. As a result, on June 15, 2022, FINRA sent a second request to Lowry, again for the purpose of its investigation and pursuant to FINRA Rule 8210 ("June 15 Lowry Request"), enclosing the May 6 Lowry Request.

41. Lowry delegated responsibility for responding to the June 15 Lowry Request to Monchik.

42. Lowry's response to the June 15 Lowry Request was due by June 29, 2022.

43. The June 15 Lowry Request was addressed to Lowry, care of his counsel, and served on Lowry's counsel via certified and first-class mail to Lowry's counsel's business address. FINRA also sent a courtesy copy of the June 15 Lowry Request via email to Lowry's counsel.

44. On June 21, 2022, the certified mail copy of the June 15 Lowry Request was delivered to counsel for Lowry. The first-class mail copy of the June 15 Lowry Request was not returned to FINRA.

45. On June 29, 2022, Lowry submitted a partial but incomplete response to the June 15 Lowry Request. Lowry's response fully addressed two items, partially addressed eight items, and did not address the remaining 13 items. Lowry did not receive an extension of time to complete his response.

46. On July 14, 2022, pursuant to FINRA Rule 9552, FINRA initiated an expedited proceeding against Lowry by sending a letter notifying him that, on August 8, 2022, Lowry would be suspended for failing to provide a complete response to the May 6 and June 15 Lowry Requests ("July 14 Notice of Suspension").

47. The July 14 Notice of Suspension was addressed to Lowry, care of his counsel, and served on Lowry's counsel via certified and first-class mail to Lowry's counsel's business address. FINRA also sent a courtesy copy of the July 14 Notice of Suspension via email to Lowry's counsel.

48. On July 18, 2022, the certified mail copy of the July 14 Notice of Suspension was delivered to counsel for Lowry. The first-class mail copy of the July 14 Notice of Suspension was not returned to FINRA.

49. On August 5, 2022, Lowry responded to the July 14 Notice of Suspension by requesting a hearing with the Office of Hearing Officers. Lowry's hearing request also claimed that additional documents and information were being produced to FINRA that same day, but FINRA did not receive any such documents or information from Lowry on August 5 or during the remainder of August. OHO scheduled the hearing that Lowry requested for September 6, 2022.

50. Between September 1 and September 12, 2022, nearly four months after having received the May 6 Lowry Request, and within days of the hearing requested by Lowry, Lowry completed his response to the May 6 and June 15 Lowry Requests. On September 12, 2022, the expedited proceeding, which was continued until September 13, 2022, was dismissed.

2023 Funds Investigation Requests to Spartan

51. Four months later, for the purpose of its ongoing Funds investigation, and pursuant to FINRA Rule 8210, on January 18, 2023, FINRA requested that Spartan provide additional information and documents regarding the Funds ("January 18 Spartan Request"). The January 18 Spartan Request included ten items, including electronic communications involving Lowry, Monchik, or the Funds, brokerage account statements for Funds entities, and due diligence records relating to certain Funds offerings.

52. Monchik was responsible for responding to the January 18 Spartan Request on behalf of Spartan.

53. Spartan's response to the January 18 Spartan Request was due by February 1, 2023.

54. The January 18 Spartan Request was addressed to counsel for Spartan and served on Spartan's counsel via certified and first-class mail to his business address. FINRA also sent a courtesy copy of the January 18 Spartan Request to Spartan's counsel via email.

55. On January 23, 2023, the certified mail copy of the January 18 Spartan Request was delivered to counsel for Spartan. The first-class mail copy of the January 18 Spartan Request was not returned to FINRA.

56. On January 31, 2023, Spartan requested an additional two weeks to respond, until February 15, 2023, which FINRA granted. Spartan did not respond to the January 18 Spartan Request in any way by its deadline of February 15, 2023.

57. Instead, on February 15, 2023, Spartan requested an additional six days to respond, until February 21, 2023, which FINRA granted.

58. On February 16, 2023, Spartan submitted a partial but incomplete response to the January 18 Spartan Request. Spartan provided a partial response to one of ten items. Spartan did not produce any other responsive information or documents by its deadline of February 21, 2023 or receive an extension of the deadline.

59. As a result, on February 28, 2023, FINRA sent a second request, again for the purpose of its investigation and pursuant to FINRA Rule 8210 ("February 28 Spartan Request"), enclosing the January 18 Spartan Request.

60. Monchik was responsible for responding to the February 28 Spartan Request on behalf of Spartan.

61. Spartan's response to the February 28 Spartan Request was due by March 14, 2023.

62. The February 28 Spartan Request was served on Spartan's counsel via certified and first-class mail to his business address. FINRA also sent a courtesy copy of the February 28 Spartan Request to Spartan's counsel via email.

63. On March 6, 2023, the certified mail copy of the February 28 Spartan Request was delivered to counsel for Spartan. The first-class mail copy of the February 28 Spartan Request was not returned to FINRA.

64. Spartan did not respond to the February 28 Spartan Request in any way by its deadline of March 14, 2023 or receive an extension of the deadline.

65. Instead, Spartan provided partial but incomplete responses on April 10 and May 10, 2023. Spartan failed to provide complete responses to three items, including due diligence records relating to various Funds offerings and certain Funds brokerage account statements.

66. On August 1, 2023, pursuant to FINRA Rule 9552, FINRA initiated an expedited proceeding against Spartan by sending a letter notifying the firm that on August 25, 2023, Spartan would be suspended from FINRA membership for failing to provide a complete response to the January 18 and February 28 Spartan Requests ("August 1 Spartan Notice of Suspension").

67. The August 1 Spartan Notice of Suspension was served on counsel for Spartan via certified and first-class mail to his business address. FINRA also sent a courtesy copy of the August 1 Spartan Notice of Suspension to Spartan's counsel via email.

68. On August 3, 2023, the certified mail copy of the August 1 Spartan Notice of Suspension was delivered to counsel for Spartan. The first-class mail copy of the August 1 Spartan Notice of Suspension was not returned to FINRA.

69. On August 7, 2023, nearly seven months after receiving the January 18 Spartan Request, Spartan completed its response to the outstanding requests and the expedited proceeding was dismissed.

2023 Funds Investigation Requests to Lowry

70. For the purpose of its ongoing Funds investigation, and pursuant to FINRA Rule 8210, on January 18, 2023, FINRA requested that Lowry provide additional information and documents regarding the Funds (“January 18 Lowry Request”). The January 18 Lowry Request included 30 items, including documents and information relating to work product generated by the Funds entities’ accounting firm, communications and investment confirmations involving the Funds and its related entities, bank statements for accounts held by the Funds and its related entities, due diligence records and investor lists, and information for specific Funds offerings.

71. Lowry delegated responsibility for responding to the January 18 Lowry Request to Monchik.

72. Lowry’s response to the January 18 Lowry Request was due by February 1, 2023.

73. The January 18 Lowry Request was addressed to Lowry, care of his counsel, and served on Lowry’s counsel via certified and first-class mail to Lowry’s counsel’s business address. FINRA also sent a courtesy copy of the January 18 Lowry Request via email to Lowry’s counsel.

74. On January 23, 2023, the certified mail copy of the January 18 Lowry Request was delivered to Lowry’s counsel. The first-class mail copy of the January 18 Lowry Request was not returned to FINRA.

75. On January 31, 2023, Lowry requested an additional two weeks to respond, until February 15, 2023, which FINRA granted.

76. Lowry did not respond to the January 18 Lowry Request in any way by his deadline of February 15, 2023.

77. Instead, on February 15, 2023, Lowry requested an additional six days to respond, until February 21, 2023, which FINRA granted. By February 28, 2023, Lowry had submitted only a partial response to one item.

78. As a result, on February 28, 2023, FINRA sent a second request to Lowry, again for the purpose of its investigation and pursuant to FINRA Rule 8210 (“February 28 Lowry Request”), enclosing the January 18 Lowry Request.

79. Lowry delegated responsibility for responding to the February 28 Lowry Request to Monchik.

80. Lowry’s response to the February 28 Lowry Request was due by March 14, 2023.

81. The February 28 Lowry Request was addressed to Lowry, care of his counsel, and served on Lowry’s counsel via certified and first-class mail to Lowry’s counsel’s business address. FINRA also sent a courtesy copy of the February 28 Lowry Request via email to Lowry’s counsel.

82. On March 6, 2023, the certified mail copy of the February 28 Lowry Request was delivered to Lowry’s counsel. The first-class mail copy of the February 28 Lowry Request was not returned to FINRA.

83. Lowry did not respond in any way by his deadline of March 14, 2023, nor did he receive an extension of the deadline.

84. On March 16 and April 12, 2023, Lowry submitted partial but incomplete responses to the February 28 Lowry Request. Lowry’s responses fully addressed ten items, partially addressed 12 items, and did not address the remaining eight items.

85. On August 1, 2023, pursuant to FINRA Rule 9552, FINRA initiated an expedited proceeding against Lowry, sending a letter notifying him that, on August 25, 2023, Lowry would be suspended for failing to provide a complete response to the January 18 and February 28 Lowry Requests (“August 1 Lowry Notice of Suspension”).

86. The August 1 Lowry Notice of Suspension listed each request item that remained outstanding.

87. The August 1 Lowry Notice of Suspension was addressed to Lowry, care of his counsel, and served on Lowry’s counsel via certified and first-class mail to Lowry’s counsel’s business address. FINRA also sent a courtesy copy of the August 1 Lowry Notice of Suspension via email to Lowry’s counsel.

88. On August 3, 2023, the certified mail copy of the August 1 Lowry Notice of Suspension was delivered to Lowry’s counsel. The first-class mail copy of the August 1 Lowry Notice of Suspension was not returned to FINRA.

89. On August 24, 2023, Lowry responded to the August 1 Lowry Notice of Suspension by requesting a hearing with the Office of Hearing Officers. OHO scheduled the hearing for September 22, 2023, and subsequently rescheduled for October 18, 2023.

90. Between September 9 and October 13, 2023, eight months after having received the January 18 Lowry Request, and within days of the hearing requested by Lowry, Lowry made eight supplemental productions and completed his response to the January 18 and February 28 Lowry Requests and the expedited proceeding was dismissed.

Net Capital Examination Requests to Spartan

91. In connection with an examination regarding Spartan’s calculation of net capital, and pursuant to FINRA Rule 8210, on February 2, 2022, FINRA requested that Spartan provide

information and documents regarding its net capital calculations, payment of non-cash compensation, certain securities positions and withdrawals from the firm, and Spartan's holding company ("February 2 Spartan Request"). The February 2 Spartan Request included six items.

92. The February 2 Spartan Request was addressed to Monchik as CAO of Spartan, and she was responsible for responding to the February 2 Spartan Request on behalf of Spartan.

93. Spartan's response to the February 2 Spartan Request was due by February 16, 2022.

94. The February 2 Spartan Request was served on Spartan via certified and first-class mail to Spartan's business address as reflected in CRD. FINRA also sent a courtesy copy of the February 2 Spartan Request via FINRA's Gateway system.

95. On February 5, 2022, the certified mail copy of the February 2 Spartan Request was delivered to Spartan. The first-class mail copy of the February 2 Spartan Request was not returned to FINRA.

96. Spartan did not respond to the February 2 Spartan Request in any way by its deadline of February 16, 2022. Instead, on February 16, 2022, Spartan, through Monchik, requested a two-week extension to respond, until March 2, 2022, which FINRA granted.

97. Spartan did not respond in any way to the February 2 Spartan Request by Spartan's deadline of March 2, 2022, nor did Spartan receive an extension of the deadline.

98. On March 3, 2022, FINRA sent a second request to Spartan, again for the purpose of its investigation and pursuant to FINRA Rule 8210, enclosing the February 2 Spartan Request and requiring Spartan's complete response by March 17, 2022 ("March 3 Spartan Request").

99. The March 3 Spartan Request was addressed to Monchik as CAO of Spartan, and she was responsible for responding to the February 2 Spartan Request on behalf of Spartan.

100. The March 3 Spartan Request was served on Spartan via certified and first-class mail to Spartan's business address as reflected in CRD. FINRA also sent a courtesy copy of the March 3 Spartan Request via FINRA's Gateway system.

101. On March 8, 2022, the certified mail copy of the March 3 Spartan Request was delivered to Spartan. The first-class mail copy of the March 3 Spartan Request was not returned to FINRA.

102. On March 16, 2022, Spartan, through Monchik, requested a brief extension to respond, which FINRA granted, extending the deadline to March 23, 2022.

103. Spartan did not respond to the March 3 Spartan Request in any way by the firm's deadline of March 23, 2022. Instead, on April 4, 2022, Spartan, through Monchik, requested another extension to respond, to April 14, 2022, which FINRA granted.

104. Spartan did not respond to the March 3 Spartan Request in any way by the firm's deadline of April 14, 2022, nor did Spartan receive an extension of the deadline.

105. On June 14, 2022, pursuant to FINRA Rule 9552, FINRA initiated an expedited proceeding against Spartan by sending a letter notifying the firm that on July 8, 2022, Spartan would be suspended from FINRA membership for failing to provide a response to the February 2 and March 3 Spartan Requests ("June 14 Notice of Suspension").

106. The June 14 Notice of Suspension was addressed to Monchik as CAO of Spartan and served on Spartan via certified and first-class mail to Spartan's business address as reflected in CRD.

107. On June 17, 2022, the certified mail copy of the June 14 Notice of Suspension was delivered to Spartan. The first-class mail copy of the June 14 Notice of Suspension was not returned to FINRA.

108. On July 7, 2022, Spartan responded to the June 14 Notice of Suspension by requesting a hearing with the Office of Hearing Officers and submitting documents and information in response to certain items in the February 2 and March 3 Spartan Requests. However, Spartan's response remained incomplete. Spartan still failed to provide a complete response to two items.

109. OHO scheduled the hearing for August 5, 2022, which was later continued to August 18, 2022.

110. On August 8, 2022, more than six months after having received the February 2 Spartan Request, and 10 days prior to the August 18 hearing, Spartan completed its response to the February 2 and March 3 Spartan Requests and the expedited proceeding was dismissed.

Supervision of Rule 8210 Compliance

111. From June 2021 to August 2023, Lowry delegated his responsibility for supervising Spartan's system for complying with Rule 8210—including the June 3 Spartan Request, the June 25 Spartan Request, the August 23 Spartan Request, the January 18 Spartan Request, the February 28 Spartan Request, the February 2 Spartan Request, and the March 3 Spartan Request (collectively, "the Spartan Requests")—to Monchik.

112. Under Monchik's supervision, from June 2021 to August 2023 Spartan did not have an effective system for tracking deadlines for Rule 8210 requests, identifying and collecting information and documents, and submitting responses; further, Spartan's department that handled Rule 8210 requests was understaffed and lacked adequate training to ensure timely responses.

113. Between May 2022 and October 2023, Lowry delegated his responsibility for responding to the May 6 Lowry Request, the June 15 Lowry Request, the January 18 Lowry Request, and the February 28 Lowry Request (collectively, “the Lowry Requests”) to Monchik.

114. After delegating those responsibilities, Lowry did not oversee Spartan’s responses to the Spartan Requests unless FINRA initiated an expedited proceeding, and even then he did nothing more than directing Spartan’s staff to prioritize overdue responses. Lowry did not monitor Monchik’s progress, give her direction, or otherwise oversee her work on the Lowry Requests.

115. Despite knowing about three expedited proceedings against Spartan in two years, as well as two expedited proceedings against him individually, Lowry did not investigate Spartan’s and Monchik’s failures to timely respond to the Spartan Requests and Monchik’s failures to timely respond to the Lowry Requests, nor follow up on the results of that investigation. Lowry did not increase his supervision of Rule 8210 compliance, provide additional or different resources, or withdraw his delegations of responsibility. Nor did Lowry ensure that someone else took those steps.

FIRST CAUSE OF ACTION
Failure to Timely Provide Information and Documents—Monchik
(FINRA Rules 8210 and 2010)

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

117. FINRA Rule 8210(a)(1) provides that, for the purpose of an investigation, complaint, examination, or proceeding, FINRA staff may require a member or person associated with a member to “provide information orally, in writing, or electronically (if the requested

information is, or is required to be, maintained in electronic form) ... with respect to any matter involved in the investigation, complaint, examination, or proceeding.”

118. Rule 8210(a)(2) provides that FINRA staff may “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.”

119. Rule 8210(c) provides that “[n]o member or person shall fail to provide information ... pursuant to this Rule.”

120. Untimely responses to requests for information and documents issued pursuant to FINRA Rule 8210 are a violation of FINRA Rule 8210.

121. A violation of FINRA Rule 8210 also constitutes a violation of FINRA Rule 2010, which requires member firms and associated persons to “observe high standards of commercial honor and just and equitable principles of trade” in the conduct of their business.

122. Monchik failed to timely respond to the June 3 Spartan Request, the June 25 Spartan Request, the August 23 Spartan Request, the January 18 Spartan Request, and the February 28 Spartan Request seeking information and documents about the Funds, pursuant to FINRA Rule 8210.

123. Monchik also failed to timely respond to the February 2 Spartan Request and the March 3 Spartan Request seeking information and documents relating to Spartan’s net capital calculations, pursuant to FINRA Rule 8210.

124. FINRA was required to exert a significant amount of regulatory pressure to obtain information and documents that were important to its ongoing investigation into Spartan’s and its registered representatives’ dealings with the Funds, and to its ongoing examination of Spartan’s

net capital computation. By virtue of the foregoing, Monchik violated FINRA Rules 8210 and 2010.

SECOND CAUSE OF ACTION
Failure to Timely Provide Information and Documents—Lowry and Monchik
(FINRA Rules 8210 and 2010)

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

126. Lowry and Monchik failed to timely respond to the May 6 Lowry Request, the June 15 Lowry Request, the January 18 Lowry Request, and the February 28 Lowry Request, seeking information and documents regarding the Funds pursuant to Rule 8210.

127. FINRA was required to exert a significant amount of regulatory pressure to obtain information and documents that were important to its ongoing investigation into Spartan's and its registered representatives' dealings with the Funds.

128. By virtue of the foregoing, Lowry and Monchik violated FINRA Rules 8210 and 2010.

THIRD CAUSE OF ACTION
Failure to Supervise and Maintain a Reasonable Supervisory System—Lowry
(FINRA Rules 3110 and 2010)

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

130. Rule 3110(a) requires that member firms "establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules. Final responsibility for proper supervision shall rest with the member."

131. Proper and effective supervision is a critical component of broker-dealer operations and is fundamental to ensuring compliance with FINRA rules.

132. A violation of FINRA Rule 3110 also constitutes a violation of FINRA Rule 2010.

133. A member firm's senior executives are responsible for supervising the firm's compliance with applicable rules and regulations unless and until they reasonably delegate a particular function to another person in the firm and neither know nor have reason to know that the person is not properly performing the delegated duty.

134. When executives delegate a duty, they retain the obligation to ensure that the delegated authority is being properly exercised. If executives learn of red flags suggesting that misconduct may be occurring, they must investigate and follow up on the results of the investigation as necessary, such as by increasing supervision or placing limits on the subordinate's activities, or ensuring that someone else takes those steps.

135. After delegating his responsibility for supervising Spartan's compliance with Rule 8210 and his responsibility for the Lowry Requests to Monchik, Lowry did not review his delegations of authority to ensure that they were being properly exercised.

136. Lowry failed to intervene and take corrective measures as necessary after learning of red flags—namely, three expedited proceedings arising from the Spartan Requests and two expedited proceedings arising from the Lowry Requests—suggesting that Monchik was not carrying out her delegated authorities.

137. As a result, Lowry did not take reasonable steps to maintain a system for Spartan's Rule 8210 compliance that was reasonably designed to ensure timely responses to the Spartan Requests.

138. Lowry did not reasonably supervise Monchik to ensure timely responses to the Lowry Requests.

139. By virtue of the foregoing, Lowry violated FINRA Rules 3110 and 2010.

RELIEF REQUESTED

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

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

Date: November 8, 2024



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