

FINRA Podcast

January 2016 Quarterly Disciplinary Review

JT Hello and welcome. I'm Jante Turner.

MR And I'm Mike Rote.

JT In this podcast, we focus on cases from FINRA's January 2016 Quarterly Disciplinary Review. These cases highlight conduct that violates FINRA rules and may lead to disciplinary action. Each quarter we post a new set on our website.

MR One case involves a registered representative who failed to disclose two outside business activities. The first one was a 401(k) advisory business. FINRA rules require representatives to notify their firm in writing before starting an outside business activity. But the registered representative did not seek his firm's approval until after he had already begun participating in that business. The firm denied his request, and despite the firm's disapproval, he continued to do some of the advisory work.

JT In the registered representative's second outside business activity, he served on the board of directors for a college alumni club and worked as its webmaster. Just like the first one, he waited until after he had already been engaged in the outside activity to notify his firm and request its permission. The firm told him there were certain steps he needed to take to get its approval, but he never took those steps and he continued his activities with the alumni club anyway. His involvement in both outside business activities without his firm's approval violated FINRA's Outside Business Activities and Ethical Standards

rules. As a result, FINRA suspended him in all capacities for sixty calendar days and fined him \$5,000.

MR The next case involves a registered representative who committed multiple violations including accepting powers of attorney without his firm's approval, accepting gifts from customers, and borrowing customer funds. In January 2013, her elderly relatives appointed her as an agent under two powers of attorney. These relatives were not considered immediate family members as the firm's policies defined the term. In such situations, the firm required its registered representatives to get its approval before accepting such an appointment. But, the registered representative did not get the firm's prior approval, which violated FINRA's Ethical Standards rule.

JT That April, while acting as agent under the relative's powers of attorney, she issued a \$26,000 check as a gift to herself, which she deposited into her own bank account and used to pay personal expenses. While her relatives authorized the gift, the amount exceeded the written authority of the powers of attorney and the amount was well above the \$100 limit on gifts representatives could accept from customers without prior firm approval. Once the firm discovered the gift, it asked her to return it, and she complied. But, by accepting the gift in the first place, she violated the Ethical Standards rule.

MR A few months later under the same powers of attorney, she issued a \$12,000 check from the relatives account as a personal loan to herself. The loan lacked interest or payment terms, except that it had to be repaid on demand. Just like with the previously mentioned gift, she deposited the money into her own bank account and used it to pay personal expenses. She repaid the loan two months later. Since the relatives were customers, she

was required to get the firm's approval before accepting the loan, but she had not done so. By not following the firm's policies, she violated the Ethical Standards rule. She also acted in violation of FINRA's rule prohibiting the borrowing from, or lending to, customers.

JT And that's not all. The month before she repaid the loan, the firm's staff questioned her about the gifts and the loan. She told the firm the funds were used to pay for the relative's hospital and ambulance bills. But her statements were false because she had used the money to pay personal expenses. And she specifically said she deposited the \$26,000 gift into her personal account for safekeeping in case her relatives needed the funds back. But since she had used those funds to pay her own personal expenses, this statement was also false. Her misrepresentations to her firm were another violation of the Ethical Standards rule.

MR And during this same time period, she executed 10 securities trades in the relative's account without first contacting them. The firm's policy stated that representatives could exercise discretion in customer accounts only if they had received the firm's preapproval. When she executed the 10 trades, the firm had not approved the powers of attorney or accepted the accounts as discretionary. So, the improper exercise of discretion violated the Discretionary Accounts and Ethical Standards rules. For all of these violations, FINRA suspended her in all capacities for 2 years and fined her \$40,000.

JT Now let's turn to another case. In this one, an investment company products and variable contracts representative participated in undisclosed private securities transactions. For a year and a half beginning July 2012, while he was associated with the firm, he

recommended that two customers invest in a private investment venture which his wife managed. The venture focused on alternative investments and startup companies that were relatively illiquid and had a high minimum investment. The customer subsequently invested about \$60,000 with his wife, but he had not notified his firm or received its written approval before soliciting customers to invest in his wife's private investment venture. FINRA found he violated the Private Securities Transactions and Ethical Standards rules. As a result, FINRA suspended him from associating with any firm in any capacity for 3 months and fined him \$10,000.

MR Let's look at one more case from the January 2016 edition of the Disciplinary Review. This one involves a registered representative who instructed customers to pre-sign forms, completed those forms himself, and submitted them to his firm. In December of 2009, he instructed a customer to sign and date a blank customer account transfer form that authorized the firm to transfer assets from a financial institution to the firm. He then completed the forms himself, and submitted them to his firm for processing. Six months later, he instructed a customer to sign and date a partially completed investment switch letter which authorized the firm to exchange one investment product for another one. He then completed the form himself, adding an explanation for why the customer wanted to exchange investment products, among other details. He then submitted the form to his firm for processing. Later that year, he instructed another customer to sign a blank investment switch form, and, once again, he completed it himself and then submitted it to the firm for processing.

JT The forms implied that the customers had reviewed and approved all the information on the forms prior to affixing their signatures to them. But, this wasn't true since the forms

were either blank or partially completed when the customer signed them, and he completed them afterwards. His actions violated the Ethical Standards rule. FINRA consequently suspended him from associating with any firm in any capacity for 30 calendar days and fined him \$5,000.

MR We've covered several cases from the January 2016 Disciplinary Review, but the report includes many more cases, like one where a research analyst committed several violations related to research reports, another, where a registered representative of record was misrepresented on customer accounts, and another where an investment company invariable contracts product representative falsified his insurance coverage, just to name a few. You can read the full report and past editions by visiting FINRA.org/disciplinaryreview.

JT We hope you have found this podcast helpful for keeping up with some of FINRA's disciplinary actions. If so, share it with your colleagues.

MR And finally, for all of us at FINRA, thanks for listening.