FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT, Complainant, v. TRACY RAE TURNER (CRD No. 1385745), Respondent.	Disciplinary Proceeding No. 2014040338401 Hearing Officer–MJD **DEFAULT DECISION** April 4, 2017

Respondent participated in private securities transactions without giving his firm prior written notice, in violation of NASD Rule 3040 and FINRA Rule 2010. Respondent is barred from associating with any member firm in any capacity and fined $272,879.04. He also disseminated false and misleading communications to the public about the investments and failed to get prior approval for his communications, in violation of FINRA Rules 2210 and 2010. In light of the bar, no further sanctions are imposed for these violations.

For the Complainant: Jennifer M. Sepic, Esq., and Douglas Ramsey, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: No appearance

DECISION

I. Introduction

The Department of Enforcement charges Respondent Tracy Rae Turner with participating in private securities transactions, in violation of NASD Rule 3040 and FINRA Rule 2010. The Complaint alleges that Turner sold $4.1 million in interests in saltwater disposal wells that are used in oil and gas production to 12 investors without giving his employer firm prior written notice. Enforcement also charges Turner with disseminating false and misleading communications to the public about the investments and failing to get prior approval for the communications, in violation of FINRA Rules 2210 and 2010.

For participating in the undisclosed private securities transactions, Turner is barred from associating with any FINRA member firm in any capacity and fined $272,879.04, an amount

equal to the commissions he earned from the sales. Turner is also suspended for one year from associating with any FINRA member firm in any capacity and fined $20,000 for violating FINRA's advertising rules. In light of the bar for the selling away violations, I do not impose sanctions for the advertising violations.

Enforcement served Turner with the Complaint in accordance with FINRA's Code of Procedure. Turner did not respond to the Complaint. On January 30, 2017, Enforcement filed a motion for entry of default decision, together with the Declaration of Jennifer Sepic ("Sepic Decl.") and 16 supporting exhibits (CX-1 through CX-16). Respondent did not respond to the motion. Therefore, I grant the default motion ("Default Mot.") and deem the facts alleged in the Complaint admitted pursuant to FINRA Rules 9215(f) and 9269(a).

II. Findings of Fact and Conclusions of Law

A. Respondent's Background

Turner first registered with FINRA in 1985. He was registered as a general securities representative, general securities principal, and operations professional with Colorado Financial Service Corporation from January 2011 to December 1, 2014, when the firm filed a Uniform Termination Notice for Securities Industry Registration (Form U5) to terminate his registrations.[1] Turner has remained unregistered and has not re-associated with another FINRA member firm.

B. FINRA's Jurisdiction

Although he is not currently registered with FINRA or associated with a FINRA member firm, FINRA has jurisdiction over this disciplinary proceeding under Article V, Section 4 of FINRA's By-Laws because (i) Enforcement filed the Complaint on November 3, 2016, which is within two years of Colorado Financial's termination of Turner's registration on December 1, 2014, and (ii) the Complaint charges him with misconduct committed during the time he was registered with Colorado Financial.

C. Origin of the Investigation

FINRA initiated its investigation in 2014 after conducting an onsite inspection of Turner's branch office.[2] The investigation led to the filing of the Complaint in this matter.

D. Turner Defaulted by Failing to Answer the Complaint

Enforcement served Turner with the Complaint, First Notice of Complaint, and Second Notice of Complaint in accordance with FINRA Rules 9131 and 9134. Enforcement served the Complaint and First Notice of Complaint on November 3, 2016, and the Complaint and Second Notice of Complaint on December 7, 2016. In each case, Enforcement served Turner by first-

[1] Complaint ("Compl.") ¶ 6; Default Mot. at 2; Sepic Decl. ¶ 3; CX-1, at 3, 5; CX-2.

[2] Default Mot. at 2; Sepic Decl. ¶ 4.

class certified mail addressed to his residential address recorded in FINRA's Central Registration Depository ("CRD").[3] Thus, Turner received valid constructive notice of this proceeding.[4]

Pursuant to Rule 9215, Turner's Answer was due by December 27, 2016. Turner did not file an Answer to the Complaint and Second Notice of Complaint. Thus, Turner is in default.

On December 29, 2016, I issued an Order holding Turner in default for failing to file an Answer. On January 30, 2017, Enforcement filed a motion for Entry of Default Decision ("Default Motion"). Pursuant to FINRA Rules 9215(f) and 9269(a)(2), the Default Motion is granted.[5] Accordingly, I deem the allegations in the Complaint admitted.

E. Respondent Participated in Private Securities Transactions Without Giving Prior Written Notice to His Firm

From September 2013 to April 2014, Turner offered and sold interests in saltwater disposal well facilities ("SWDs"). Twelve investors purchased more than $4.1 million in SWD interests. Eight of the investors were customers of Colorado Financial. Cause one of the Complaint alleges that Turner did not give his firm prior written notice of his participation in the transactions, which were outside the course and scope of his employment with Colorado Financial.[6]

1. The Saltwater Disposal Well Interests

Regulations require oil producers to use SWDs for the proper disposal of saltwater by-product generated by oil drilling. Oil producers retain trucking companies to take the saltwater by-product to a SWD, which in turn charges the trucking companies fees to dispose of the saltwater. SWDs also generate revenue by capturing the residual oil left in the saltwater by-product and selling it to refineries.[7]

Turner sold interests in three SWDs located in Texas.[8] He was compensated from the proceeds of each sale through Turner Financial Group, which he wholly owned and which was paid a commission from each customer's purchase amount.

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[3] Sepic Decl. ¶¶ 6-20; CX-3 to CX-14. Enforcement also served Turner at two addresses that were slight variations of his CRD address that Enforcement found on the Internet. Sepic Decl. ¶ 6.

[4] *See, e.g., Dep't of Enforcement v. Evansen*, No. 2010023724601, 2014 FINRA Discip. LEXIS 10, at *20-21 n.21 (NAC June 3, 2014), *aff'd*, Exchange Act Release No. 75531, 2015 SEC LEXIS 3080 (July 27, 2015).

[5] Respondent is notified that he may move to set aside the default under FINRA Rule 9269(c) upon a showing of good cause.

[6] Compl. ¶¶ 1-2, 32, 42.

[7] Compl. ¶ 11.

[8] Two of Turner's investors purchased interests totaling $618,692 in a SWD called the Tom SWD. One investor (who also invested in the Tom SWD) purchased an interest in the Clark SWD for $639,521. Ten investors purchased interests in the Moreland SWD totaling more than $2.8 million. Compl. ¶¶ 29-31; Default Mot. at 6-8.

Investments in SWDs interests were structured in the following manner. Interests in the three SWDs were held by TSWR Development LLC with the intention that interests would be sold to investors to fund the operation and development of SWDs. The investments in the SWDs were managed by an affiliated company called TSWR Fund Management LLC. TSWR Development retained a third company to run the day-to-day operations of the three SWDs. The land used for a SWD was leased by the owners of the land to the operator, who in turn assigned to TSWR Development a percentage interest in each SWD lease. TSWR Development then re-sold—through a purchase and sale agreement—a portion of its assigned interests to investors whom Turner (and others) located.[9]

Investors also entered into management agreements with TSWR Fund Management. Under the terms of the management agreements, TSWR Fund Management was to "exercise sole discretion and responsibility ... to determine, supervise, undertake, operate, and manage [the SWD] on behalf of [the investor]." Investors also agreed to pay a development fee to TSWR Fund Management "for managing the development of new disposal wells on ... leasehold interest properties."[10]

2. Legal Standard

NASD Rule 3040 prohibits a registered person from participating in any manner in a private securities transaction without first providing written notice describing the proposed transaction and his role in the transaction to the firm with which he is associated. The registered person must also tell his firm if he will receive selling compensation in connection with the transaction.

FINRA's National Adjudicatory Council has set forth a three-part test for establishing a violation of Rule 3040: (1) determine that the product is a security; (2) demonstrate that the respondent participated in the transaction; and (3) show that the respondent did not provide prior written notice to his firm.[11]

a. The SWD Interests are Securities

The SWD interests are securities. They meet the definition of "investment contract"[12] set forth by the Supreme Court in *SEC v. W.J. Howey Co.*[13] In *Howey*, the Court held that to establish the existence of an investment contract, and therefore a security, there must be: (i) an

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[9] Compl. ¶¶ 1, 17-20; Default Mot. at 4-5.

[10] Compl. ¶¶ 22-23; Default Mot. at 5-6.

[11] *See Dep't of Enforcement v. De Vietien*, No. 2006007544401, 2010 FINRA Discip. LEXIS 45, at *14-29 (NAC Dec. 28, 2010).

[12] The definitions of a "security" in Section 2(a)(1) of the Securities Act of 1933, and Section 3(a)(10) of the Exchange Act of 1934, include the general term "investment contract."

[13] 328 U.S. 293, 299 (1946).

investment of money; (ii) in a common enterprise; (iii) with the expectation of profits: (iv) to come solely from the efforts of a third party.[14]

The first prong of the *Howey* test is met because the 12 customers invested $4.1 million in SWD interests with the expectation of earning a return of 25.4% per year on their money from monthly distributions. The second prong—investing in a common enterprise—is satisfied because TSWR Development and TSWR Fund Management were managing the SWDs in which the investors bought interests. Both TSWR entities needed the investors' funds to operate the SWDs. They also were paid fees by the investors for their efforts managing the SWDs. In turn, the investors needed the TSWR entities and the operator to successfully run the SWDs.[15]

The third and fourth prongs are satisfied because the investors were led to expect profits solely from the TSWR entities' effort. The investors had no role in operating or managing the SWDs. The investors were motived by the opportunity to make money as a result of the TSWR entities operating the SWDs. Operating a SWD requires expertise that only the TSWR entities and the operator possessed. Furthermore, the investors exercised no control over the use of the funds they gave to TSWR Development, and were therefore completely dependent on the decisions of others for the successful operation of the SWDs.[16]

By applying the *Howey* test, I conclude that the SWD interests were securities.

b. Turner Participated in the Transactions

The reach of NASD Rule 3040 is broad. It includes not only the activities of selling the security but also the participation "in any manner" in the transaction.[17] According to the Complaint, Turner introduced investors to TSWR Development, recommended that they invest in SWD interests, gave investors information about the SWD interests, and helped them complete necessary paperwork to make an investment.[18] Turner solicited the investors while he was associated with Colorado Financial. He received commissions ranging from 3.5 percent to 7 percent for his sales.

Turner participated in the transactions by soliciting and offering the sale of interests in the SWDs and receiving compensation for doing so.

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[14] 328 U.S. at 298-299 (an investment contract "means a contract, transaction or scheme whereby a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third party").

[15] Default Mot. at 13-14.

[16] Default Mot. at 14-15.

[17] *See Stephen J. Gluckman*, 54 S.E.C. 175, 183 (1999)

[18] Compl. ¶¶ 8-10, 12-13, 15, 37; Default Mot. at 6, 17-18.

c. Turner Did Not Provide Written Notice to Colorado Financial

NASD Rule 3040(b) provides that, before participating in any private securities transaction, "an associated person shall provide written notice to the member with which he is associated describing in detail the proposed transaction and the person's proposed role therein and stating whether he has received or may receive selling compensation." Turner did not give Colorado Financial prior written notice that he was soliciting investors in SWDs.[19]

Accordingly, the allegations of the Complaint are sufficient to establish for the purposes of this default decision that Turner violated NASD Rule 3040 and FINRA Rule 2010[20] by participating in private securities transactions without providing his firm with prior written notice.

F. Turner's Public Communications Did Not Provide a Sound Basis for Evaluating the SWD Investments and Made Promissory and Unwarranted Statements and Claims

In September 2013, to market the sale of interests in the SWD in Midland, Texas, Turner created and made publicly available online a document he called an "Offering Memorandum." In the Offering Memorandum, Turner described an investment offering a "20% direct working investment in a new state-of-the-art Saltwater Disposal Facility in an undisclosed location near Midland, Texas, for $3,000,000." The Offering Memorandum touted a "25.4% cash-on-cash return" and described the investment as "an outstanding opportunity for a 1031 exchange investor seeking a high level of recurring income from a non-leveraged investment."[21]

Turner also posted a message online that accompanied the Offering Memorandum. The message essentially repeated some of the claims made in the Offering Memorandum. Turner's post advertised to potential investors a "rare opportunity to acquire a $3 million direct working interest in a saltwater disposal facility." Turner repeated that the investment "provides a 25.4% cash-on-cash return," adding that it is "ideal" for investors "seeking a high level of current income."[22]

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[19] Compl. ¶¶ 27, 42; Default Mot. at 18.

[20] FINRA Rule 2010 requires that FINRA members, in the conduct of their business, observe high standards of commercial honor and just and equitable principles of trade. A violation of any FINRA rule is also a violation of FINRA Rule 2010. *Dep't of Enforcement v. Fox Fin. Mgmt. Corp.*, No. 2012030724101, 2017 FINRA Discip. LEXIS 3, at *15-16 n.15 (NAC Jan. 6, 2017) (a violation of NASD Rule 3040 also constitutes a violation of FINRA Rule 2010).

[21] Compl. ¶¶ 8, 10, 12; Default Mot. at 2-3. Under Internal Revenue Code Section 1031(a)(1), a properly structured exchange allows an investor to sell a property, reinvest the proceeds in a new property, and defer all capital gains taxes.

[22] Compl. ¶ 13.

Neither the Offering Memorandum nor Turner's message was reviewed and approved by Colorado Financial before Turner posted them online.[23]

FINRA Rule 2210 governs FINRA member communications with the public and includes content standards that apply to all member communications, as well as specific standards that apply to retail communications with the investing public. The Offering Memorandum and message that Turner posted online fall within the Rule's definition of "communications" and "retail communications."[24]

Enforcement alleges that Turner violated FINRA Rules 2210(d)(1)(A) and (B) and 2010. Rule 2210(d)(1)(A) requires that FINRA members and their associate brokers' communications with the public be based on principles of fair dealing and good faith, must be fair and balanced, and must provide a sound basis for evaluating the facts in regard to any particular security.[25] Rule 2210(d)(1)(B) prohibits FINRA members and their associated brokers from making false, exaggerated, unwarranted, promissory or misleading statements or claims in any communications with the public.[26]

Here, Turner included false and misleading statements in the Offering Memorandum he posted online and made available to the public. The Offering Memorandum and the statements he made in his accompanying message were not fair and balanced and did not provide a sound basis for evaluating an investment in a SWD. Turner's statements were therefore misleading. Turner also made unwarranted predictions about the returns investors could expect from investing their money in SWD interests. Turner recommended that investors purchase interests in the SWDs because he predicted they would provide "cash flow of 25.4%" and a "25.4% cash-on-cash return." He further described the investments as an "outstanding opportunity" for investors "seeking a high level" of income.[27] Turner lacked a foundation for his predictions.

I find that Turner violated FINRA Rules 2210(d)(1)(A) and (B) and 2010.

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[23] Compl. ¶¶ 9, 14; Default Mot. at 3.

[24] *See* FINRA Rule 2210(a)(1), (5), and (6). Rule 2210(a)(1) states that "communications" consist of "correspondence, retail communications and institutional communications." Rule 2210(a)(5) defines "retail communications" as "any written (including electronic) communication that is distributed or made available to more than 25 retail investors within any 30 calendar-day period." Rule 2210(a)(6) defines "retail investor" as "any person other than an institutional investor, regardless of whether the person has an account with a member."

[25] FINRA Rule 2210(d)(1)(A). The Rule also states, "No member may omit any material fact or qualification if the omission, in light of the context of the material presented, would cause the communications to be misleading."

[26] FINRA Rule 2210(d)(l)(B). The Rule also obligates members not to "publish, circulate or distribute any communication that the member knows or has reason to know contains any untrue statement of a material fact or is otherwise false or misleading."

[27] Compl. ¶¶ 12-13, 52-55; Default Mot. at 2-3.

G. Turner Failed to Get Approval for His Public Communications

Cause three of the Complaint charges Turner with disseminating the Offering Memorandum and his online message to the public without getting prior approval, in violation of FINRA Rules 2210(b)(1)(A) and 2010. The Rule requires that a registered principal of a firm must approve retail communications before the earlier of its use or filing with FINRA's Advertising Regulation Department. Turner's Offering Memorandum and his online message were not approved by a Colorado Financial principal before he used them or before they were filed with FINRA.[28]

Accordingly, I find that Turner violated FINRA Rules 2210(b)(1)(A) and 2010.

III. Sanctions

A. Turner's Participation in Private Securities Transactions (Cause One)

The purpose of NASD Rule 3040 is to ensure that FINRA members can adequately supervise the suitability and due diligence responsibilities of their registered persons.[29] The Rule also serves to "protect employers against investor claims arising from an associated person's private transactions and to prevent customers from being misled as to the employing firms' sponsorship of their associated person's transactions."[30] Turner's misconduct enabled him to circumvent his firm's supervisory procedures.

For participating in private securities transactions without providing written notice to a firm, FINRA's Sanction Guidelines ("Guidelines") recommend a fine of $5,000 to $73,000.[31] In determining a term of suspension or a bar, the Guidelines require that a factfinder first "assess the extent of the selling away, including the dollar amount of sales, the number of customers and the length of time over which the selling away occurred."[32] For sales exceeding $1 million, the Guidelines recommend that adjudicators consider a suspension of 12 months or longer and a bar. Adjudicators should also order disgorgement.[33]

Adjudicators are directed to consider 13 Principal Considerations in assessing sanctions for participating in undisclosed private securities transactions.[34] The relevant Principal Considerations include: (i) the dollar volume of sales; (ii) the number of customers; (iii) the

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[28] Compl. ¶¶ 9, 14, 59; Default Mot. at 19-20.

[29] *See Dep't of Enforcement v. Carcaterra*, No. C10000165, 2001 NASD Discip. LEXIS 39, at *8 (NAC Dec. 13, 2001).

[30] *Id.* at *8-9.

[31] FINRA Sanction Guidelines at 14 (2016), http://www.finra.org/industry/sanction-guidelines.

[32] Guidelines at 14.

[33] Guidelines at 14 n.1.

[34] Guidelines at 14-15.

length of time over which the selling away activity occurred; (iv) whether the respondent sold away to customers of his employing firm; and (v) whether the respondent participated in the sale by referring customers or selling the product directly to customers.

Here, Turner sold over $4.1 million in SWD interests to twelve investors, eight of whom were Colorado Financial customers, over an eight-month period. Turner sold the SWD interests directly to his customers, for which he was compensated. Moreover, Turner advertised the offer and sale of the SWD interests by posting misleading communications about the investments, and their promised returns, online. The appropriate remedial sanction for Turner's misconduct is a bar. I find that there are no mitigating factors warranting a lesser sanction.[35]

The Guidelines recommend that adjudicators consider a respondent's ill-gotten gain when determining an appropriate remedy for a violation of Rule 3040. Disgorgement may be appropriate where "the record demonstrates that the respondent obtained financial benefit from his or her misconduct."[36] "Disgorgement seeks to prevent a respondent's unjust enrichment, and it is an appropriate remedy where, as here, a respondent has profited from his undisclosed outside business activities."[37] Accordingly, I also order that Turner disgorge the financial benefit from his misconduct as a fine in the amount of $272,879.04 (plus interest from March 5, 2014 until paid),[38] which is the amount of commissions he was paid by for his sales to the 12 customers.[39]

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[35] The Complaint does not allege that customers lost money on their SWD investments. The absence of customer harm is not mitigating. "The absence of ... customer harm is not mitigating, as our public interest analysis focus[es] ... on the welfare of investors generally." *Edward S. Brokaw*, Exchange Act Release No. 70883, 2013 SEC LEXIS 3583, at *68 (Nov. 15, 2013) (internal quotation omitted). *See also Coastline Fin., Inc.*, 54 S.E.C. 388, 396 (Oct. 7, 1999) (rejecting absence of customer harm as a mitigating factor in determining sanctions).

[36] Guidelines at 4-5 (General Principles Applicable to All Sanction Determinations, No. 6).

[37] *Dep't of Enforcement v. Weinstock*, No. 2010022601501, 2016 FINRA Discip. LEXIS 34, *52-53 (NAC July 21, 2016)) (citing *Dep't of Mkt. Regulation v. Shaughnessy*, No. CMS950087, 1997 NASD Discip. LEXIS 39, *28 (NBCC May 27, 1997)).

[38] Turner last sold an interest in a SWD on March 5, 2014. Compl. ¶ 31; Default Mot. at 8; Sepic Decl. ¶ 22; CX-16. Prejudgment interest is a matter of discretion for an adjudicator. Where a violator has enjoyed access to funds over time as a result of his wrongdoing, requiring the violator to pay prejudgment interest is consistent with the equitable purpose of disgorgement. *SEC v. Hughes Capital Corp.*, 917 F. Supp. 1080, 1089-90 (D.N.J. 1996), *aff'd*, 124 F.3d 449 (3rd Cir. 1997).

[39] "Disgorgement is appropriate in all sales practice cases, even where an individual is barred, if, among other things, 'the respondent has retained ill-gotten gains.'" *Dep't of Enforcement v. Murphy*, No. 2005003610701, 2011 FINRA Discip. LEXIS 42, at *116 (NAC Oct. 20, 2011) (citing Guidelines at 10). *See Dep't of Enforcement v. Davidofsky*, No. 2008015934801, 2013 FINRA Discip. LEXIS 7, at *41-44 (NAC Apr. 26, 2013) (affirming Hearing Panel's order barring respondent and imposing a fine as disgorgement representing the amount of respondent's ill-gotten gains).

B. Turner's Advertising Violations (Causes Two and Three)

Causes two charges Turner with violating FINRA Rule 2210(d) for disseminating false and misleading communications to the public. The Guidelines recommend a fine between $1,000 and $29,000 for the inadvertent use of misleading communications and a suspension in any or all capacities of up to 60 days. For the intentional or reckless use of misleading communications, the Guidelines recommend a fine between $10,000 and $146,000 and suspending an individual in any or all capacities for up to two years. In cases involving numerous acts of intentional or reckless misconduct over an extended period of time, adjudicators should consider barring the responsible individual.[40] The principal consideration in the Guidelines is "[w]hether violative communications with the public were circulated widely."[41] Based on the allegations in the Complaint and the Default Motion, I consider Turner's actions to have been made intentionally.

Cause three charges Turner with violating FINRA Rule 2210(b) by failing to get prior approval for his public communications. The Guidelines recommend a fine between $1,000 and $22,000 and suspending the responsible individual in any or all capacities for up to five business days.[42] The principal considerations are whether the failure was inadvertent, whether the communications with the public were circulated widely without having been filed with FINRA's Advertising Regulation Department, and whether an individual respondent failed to notify a supervisor of a communication with the public.

Turner's two advertising violations are related. Accordingly, a unitary sanction for the violations alleged in causes two and three is appropriate.[43] Here, Turner's communications about the Moreland SWD were available online and could be viewed by many persons. He sold over $2.8 million in interests in the Moreland SWD to 10 investors. He failed to get approval for his communications which facilitated his private securities transactions. An appropriate remedial sanction is a one-year suspension from associating with a FINRA member firm in all capacities and a $25,000 fine.

In light of the bar imposed for his participation in private securities transactions in violation of NASD Rule 3040, I do not impose additional sanctions for Turner's improper communications with the public and his failure to get approval before he circulated them.

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[40] Guidelines at 78-79.

[41] Guidelines at 78.

[42] Guidelines at 77, n.2.

[43] *Dep't of Enforcement v. Mielke*, No. 2009019837302, 2014 FINRA Discip. LEXIS 24, at *55 (NAC July 18, 2014) (citing *Dep't of Enforcement v. Fox & Co. Inv., Inc.*, No. C3A030017, 2005 NASD Discip. LEXIS 5, at *37 (NAC Feb. 24, 2005) (finding that "where multiple, related violations arise as a result of a single underlying problem, a single set of sanctions may be more appropriate to achieve NASD's remedial goals"), *aff'd*, 58 S.E.C. 873, 894 (2005)).

IV. Order

Tracy Rae Turner violated NASD Rule 3040 and FINRA Rule 2010 by failing to give prior written notice to, and receive prior written permission from, his employer before participating in private securities transactions, as alleged in cause one. For this misconduct, Turner is barred from associating with any FINRA member firm in any capacity. He is also fined $272,879.04, plus interest from March 5, 2014,[44] representing the amount of commissions he was paid for selling interests in SWDs to 12 customers.

Turner also violated FINRA Rules 2210(d)(1)(A) and (B), as alleged in cause two, by failing to provide a sound basis for evaluating investments in SWD interests and making false, exaggerated, unwarranted, promissory or misleading statements in his communications with the public. He also violated FINRA Rule 2210(b) and FINRA Rule 2010, as alleged in cause three, by failing to ensure that a firm principal approved his communications with the public. Turner's violations of FINRA's advertising Rule warrant a one-year suspension from associating with any FINRA member firm in any capacity and a fine of $25,000. In light of the bar for participating in private securities transaction without notice to his firm, I do not impose these sanctions.

The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA. The fine shall be due on a date set by FINRA, but not sooner than 30 days after this decision becomes FINRA's final disciplinary action in this proceeding.

Michael J. Dixon
Hearing Officer

Copies to: Tracy Rae Turner (via overnight courier and first-class mail)
Jennifer M. Sepic, Esq. (via email)
Douglas Ramsey, Esq. (via email)
Christopher Perrin, Esq. (via email)
Jeffrey Pariser, Esq. (via email)

[44] The prejudgment interest rate shall be the rate established for the underpayment of income taxes in Section 6621 of the Internal Revenue Code, 26 U.S.C. § 6621(a)(2), the same rate that is used for calculating interest on restitution awards. Guidelines at 11.