

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JASON DAVID
(CRD No. 6702639),

Respondent.

Disciplinary Proceeding
No. 2017053669301

Hearing Officer—JLC

DEFAULT DECISION

October 30, 2018

Respondent is barred from associating with any FINRA member in any capacity for possessing unauthorized study materials at, and cheating on, two Series 66 examinations, in violation of NASD Rule 1080 and FINRA Rule 2010.

Appearances

For the Complainant: J. Loyd Gattis, Esq. and Andrew C. Boldt, Esq., Department of Enforcement, Financial Industry Regulatory Authority.

For the Respondent: Peter Cantwell, Esq. and Bobo Li, Esq., Cantwell & Cantwell, Chicago, Illinois.

DECISION

I. Introduction

On March 23, 2018, the Department of Enforcement filed a single-cause Complaint alleging that Respondent Jason David possessed unauthorized study materials at, and cheated on, two Series 66 qualification exams in January and February 2017, in violation of NASD Rule 1080 and FINRA Rule 2010. On April 30, 2018, David filed an Answer to the Complaint admitting that he brought his Series 66 commercial study guide (“Study Guide”) to his Series 66 exams, consulted the Study Guide during unscheduled exam breaks, and changed his answers to several questions on the exams after consulting the Study Guide.¹

David also asserted two affirmative defenses in his Answer—unclean hands and equitable estoppel. These defenses arose from David’s claims that testing center proctors either

¹ Answer (“Ans.”) ¶¶ 1, 12, 13, 17, 23, 24, 25, 29, 31, 37.

permitted, condoned, or tacitly approved his use of the Study Guide during unscheduled breaks. On July 9, 2018, Enforcement filed an unopposed motion to strike the affirmative defenses. On August 6, 2018, I granted Enforcement's motion to strike the affirmative defenses, finding that they were not valid defenses to the cause of action in the Complaint.

Neither David nor his counsel appeared at the hearing on October 9, 2018. As a result, that same day, Enforcement filed a motion seeking entry of a default decision ("Default Motion"). The Default Motion is accompanied by (1) Enforcement's pre-hearing brief; (2) the parties' stipulations; (3) 15 supporting exhibits;² (4) the declaration of Andrew Boldt, Esq.; (5) an affidavit from VD, a testing center manager employed at NCS Pearson Inc. ("Pearson") who proctored David's February 2017 Series 66 exam; (6) an affidavit from SB, a testing center administrator employed at Pearson who proctored both of David's Series 66 exams; and (7) Barbara Graham, a Director in FINRA's Testing and Continuing Education group.

For the reasons set forth below, pursuant to FINRA Rule 9269(a), I find David in default, grant Enforcement's Default Motion, and deem the allegations in the Complaint admitted.

II. Findings of Fact and Conclusions of Law

A. David's Background

From October 11, 2016, through May 30, 2017, David was associated with FINRA member National Planning Corporation.³ From November 17, 2016, to May 31, 2017, he was registered with FINRA as a General Securities Representative.⁴ David has not been registered with FINRA or associated with any FINRA member since May 31, 2017.⁵

B. FINRA's Jurisdiction

FINRA retains jurisdiction over David pursuant to Article V, Section 4(a) of FINRA's By-Laws because Enforcement filed the Complaint within two years after the effective date of termination of David's FINRA registration, and the Complaint charges David with conduct that occurred while he was registered with FINRA and associated with a FINRA member.

² Enforcement's exhibits are referenced as "CX-___."

³ Complaint ("Compl.") ¶ 3; Proposed Stipulations ("Stip.") ¶ 4.

⁴ Compl. ¶ 2; Stip. ¶ 3.

⁵ Compl. ¶ 4; Stip. ¶ 5.

C. Origin of the Investigation

FINRA initiated its investigation after receiving a referral from Pearson alleging that David had used study materials during an unscheduled break while taking his Series 66 exam in February 2017.⁶

D. David Defaulted by Failing to Appear at the Hearing

Enforcement filed a single-cause Complaint in this matter on March 23, 2018. David filed an Answer on April 30, 2018, and requested a hearing pursuant to FINRA Rule 9221. On May 17, 2018, the previous Hearing Officer issued an order scheduling the hearing for October 9 to 11, 2018, in Chicago, Illinois.⁷

On October 5, 2018, two business days before the hearing, David filed with the Office of Hearing Officers a motion to withdraw his request for a hearing and motion to quash Enforcement's Rule 8210 request compelling his appearance and testimony at the hearing. David also filed, without leave, a reply brief to Enforcement's pre-hearing brief for the Hearing Officer to consider in lieu of David's testimony at the hearing.⁸ That same day, I held a pre-hearing conference to address David's filings. At the pre-hearing conference, I denied David's motion to withdraw his request for hearing and separately ordered, pursuant to FINRA Rule 9221(b), that the hearing proceed as scheduled on October 9, 2018.⁹ I also denied David's motion to quash Enforcement's Rule 8210 request and struck David's reply brief from the record.¹⁰ Notwithstanding these rulings, David's counsel repeatedly represented at the pre-hearing conference that David would not appear at the hearing.¹¹

When the hearing commenced on October 9, 2018, neither David nor his counsel appeared for the hearing.¹² Accordingly, Enforcement moved for default at the hearing and, later that day, filed the Default Motion.

FINRA Rule 9262(a)(1) provides that "[t]he Hearing Officer may issue a default decision against ... a Party that fails to appear [at] any hearing that a Party is required to attend under the Rule 9200 Series of which the Party has due notice."

⁶ Declaration of Andrew Boldt, Esq. ("Boldt Decl.") ¶ 3.

⁷ Case Management and Scheduling Order (May 17, 2018) ("CMSO").

⁸ See Jason David's Reply to the Department of Enforcement's Prehearing Brief (Oct. 4, 2018); Pre-Hearing Conference Transcript (Oct. 5, 2018) ("PHC Tr.") 8-9.

⁹ PHC Tr. 29-32.

¹⁰ Order Rejecting Respondent's Reply Brief (Oct. 10, 2018); PHC Tr. 40.

¹¹ PHC Tr. 8, 17, 51, 56, 61-62, 65-66.

¹² Hearing Transcript (Oct. 9, 2018) 1-9.

David was required to attend the hearing because a hearing was ordered in a disciplinary proceeding brought against him under the Rule 9200 Series. David was also required to attend the hearing because Enforcement served a Rule 8210 request compelling his appearance and testimony at the hearing.¹³ David knew that he could be held in default if he failed to appear at the hearing.¹⁴ Moreover, David had due notice of the hearing. The hearing date and location were determined by agreement of the parties, and David was notified of the hearing on at least three occasions.¹⁵

To date, David has not filed a response to the Default Motion. Accordingly, pursuant to FINRA Rule 9269(a), I grant the Default Motion,¹⁶ and deem the allegations in the Complaint admitted.

E. David Possessed Unauthorized Study Materials at, and Cheated on, Two Series 66 Exams

Enforcement alleges that Respondent possessed unauthorized study materials and used those materials to cheat on his Series 66 exams in January and February 2017.

The Series 66 exam is designed to qualify candidates to serve as securities agents and investment advisor representatives.¹⁷ The exam is comprised of 100 multiple-choice questions and ten unscored questions.¹⁸ To pass, candidates must answer 73 of the scored questions correctly (i.e., score 73%).¹⁹ Candidates are allowed 2.5 hours to complete the exam.²⁰

1. January 2017 Exam

In December 2016, David scheduled an appointment to take the Series 66 exam on January 24, 2017, at Pearson located in Chicago, Illinois.²¹ On December 15, 2016, David received an email from Pearson confirming his exam appointment.²² Pearson's email advised David that "FINRA requires that all candidates attest to [FINRA's] Rules of Conduct, which prohibit assistance on a test, the use of study materials and misconduct, at any time during a

¹³ Boldt Decl. ¶ 4.

¹⁴ PHC Tr. 52-53, 56.

¹⁵ CMSO at 1; Joint Proposed Scheduling Order (May 15, 2018); Notice of Hearing (Aug. 13, 2018); PHC Tr. 30, 55, 72.

¹⁶ Respondent may move to set aside the default under FINRA Rule 9269(c) upon a showing of good cause.

¹⁷ Stip. ¶ 7.

¹⁸ Stip. ¶ 8.

¹⁹ Stip. ¶ 8.

²⁰ Stip. ¶ 8.

²¹ Compl. ¶ 9; Stip. ¶ 12.

²² Compl. ¶ 10; Stip. ¶¶ 13, 30; CX-11.

testing event.”²³ Pearson’s email also included a link to FINRA’s website to access the complete Rules of Conduct for qualification examinations.²⁴

On January 24, 2017, David arrived at Pearson to take his Series 66 exam.²⁵ Upon arrival, David was given the “FINRA Candidate Rules Agreement,” which advised him:

While you are taking an unscheduled break, you are NOT permitted to access personal items other than medication required at a specific time unless you receive prior permission. Unless specifically permitted by FINRA, you MUST receive permission from the [test administrator] PRIOR to accessing personal items that have been stored, including but not limited to ... notes and study guides.²⁶

David brought the Study Guide with him to the testing center and placed it in a locker in the testing center’s lobby.²⁷ The Study Guide contained nearly 200 pages of study material directly related to the content of the Series 66 exam.²⁸ After placing the Study Guide in a locker, David entered the testing room and was seated at a computer terminal.²⁹

Before the exam began, proctor SB advised David and the other exam-takers that unscheduled breaks were for water and restroom purposes only and that exam-takers were not permitted to access their lockers during unscheduled breaks.³⁰ Also, before the exam began, David was electronically presented with Rules of Conduct for the exam.³¹ The Rules of Conduct stated, in pertinent part, “For the duration of my examination or CE session, I will not use or attempt to use any personal items, such as ... Study Materials”³² And also stated, “I understand and acknowledge that unscheduled breaks are permitted only for restroom use. If I take an unscheduled break during my session, I will not access my locker or leave the building”³³ The Rules of Conduct further advised David that “Test center personnel are NOT

²³ Compl. ¶ 10; CX-11.

²⁴ CX-11.

²⁵ Compl. ¶ 12; Stip. ¶ 14.

²⁶ Compl. ¶ 12; Stip. ¶ 14; CX-3.

²⁷ Compl. ¶¶ 12-13.

²⁸ CX-12.

²⁹ Compl. ¶ 13; Stip. ¶ 14.

³⁰ Affidavit of SB (testing center administrator) (“SB Aff.”) ¶ 6. SB stated that she gave this instruction each time she proctored a FINRA exam. SB Aff. ¶¶ 4-5. SB estimates that she has proctored hundreds of FINRA qualifications exams in the last 11 years. SB Aff. ¶ 3.

³¹ Compl. ¶ 14; CX-13.

³² Compl. ¶ 14; CX-13, at 2.

³³ Compl. ¶ 14; CX-13, at 2-3.

authorized to grant exceptions to any of these rules.”³⁴ David agreed to abide by the rules and acknowledged that he understood that a failure to comply with the rules could result in a bar from the financial services industry.³⁵

Approximately two hours after David commenced his exam, he took an unscheduled break, retrieved the Study Guide from his locker, and left the testing center to consult the Study Guide.³⁶ No one permitted David to retrieve or consult the Study Guide during the unscheduled break.³⁷ After consulting the Study Guide, David returned to the exam, reviewed approximately three dozen answers he had already provided on the exam, and then changed nine of his answers.³⁸ David failed the exam with a score of 72.³⁹

2. February 2017 Exam

Three days after David failed his Series 66 exam, he scheduled an appointment to re-take it on February 24, 2017, at the same testing center.⁴⁰ On January 27, 2017, David received an email from Pearson confirming his exam appointment and advising him of the Rules of Conduct, specifically that he was prohibited from receiving assistance and using study materials at any time during the testing event.⁴¹

On February 24, 2017, David arrived at the testing center with the Study Guide and placed it in a locker in the testing center’s lobby.⁴² He brought the Study Guide to the exam for the purpose of consulting it during an unscheduled break.⁴³ Upon arrival, David was again given the “FINRA Candidate Rules Agreement.”⁴⁴ After placing the Study Guide in a locker, David entered the testing room and sat down at a computer terminal to take the exam. There, he was shown the same Rules of Conduct and again agreed that he would follow the rules and acknowledged that he understood that a failure to comply with the rules could result in a bar from the financial services industry.⁴⁵

³⁴ CX-13, at 2.

³⁵ Compl. ¶ 15; CX-13, at 4.

³⁶ Compl. ¶¶ 16-17; Stip. ¶ 16.

³⁷ Compl. ¶ 18.

³⁸ Compl. ¶ 19.

³⁹ Compl. ¶ 20; Stip. ¶ 18; CX-13, at 11.

⁴⁰ Compl. ¶ 21; Stip. ¶ 19.

⁴¹ Compl. ¶ 22; Stip. ¶¶ 20, 32; CX-17.

⁴² Compl. ¶¶ 23, 25; Stip. ¶ 21.

⁴³ Compl. ¶ 24.

⁴⁴ Stip. ¶ 21.

⁴⁵ Compl. ¶¶ 26-27; Stip. ¶ 22; CX-18.

SB also proctored David's February 2017 exam.⁴⁶ Prior to the exam, she advised David and the other exam-takers that unscheduled breaks were for water and restroom use only and that exam-takers were not allowed to access their lockers.⁴⁷

Approximately two hours into David's February 2017 exam, he took an unscheduled break, whereupon he retrieved the Study Guide from his locker, exited the testing center, and consulted the Study Guide.⁴⁸ No one permitted David to retrieve or consult the Study Guide during his break.⁴⁹ When David returned back to the testing center lobby, SB confronted David because he was carrying a backpack.⁵⁰ David admitted to SB that he had study materials for the exam in his backpack and that he consulted those materials while on his unscheduled break.⁵¹ SB then went to another room to report the incident.⁵² While SB was away from the room, the test center manager, VD, noticed David in the testing center lobby and allowed him to return to the testing room to finish his exam.⁵³

After David was reseated, he resumed taking the exam, reviewed at least nine questions and answers, and changed three prior answers.⁵⁴ Of those changed answers, he changed one correct answer to an incorrect answer and two incorrect answers to correct answers.⁵⁵ David passed the exam with a score of 89.⁵⁶

3. David's Explanation

David offers two explanations for this conduct. First, he asserts that he did not intend to cheat because he was unaware that he was prohibited from using study materials during the Series 66 exams. He claims that he just "skimmed" the Rules of Conduct.⁵⁷ David also asserts that he believed he could use the Study Guide during unscheduled breaks because he was

⁴⁶ SB Aff. ¶ 9.

⁴⁷ SB Aff. ¶ 9.

⁴⁸ Compl. ¶¶ 28-29; Stip. ¶ 23.

⁴⁹ Compl. ¶ 30.

⁵⁰ SB Aff. ¶ 11.

⁵¹ Compl. ¶ 31; SB Aff. ¶ 11.

⁵² Compl. 31; SB Aff. ¶ 12.

⁵³ Affidavit of VD (testing center manager) ("VD Aff.") ¶¶ 3, 8; Compl. ¶ 31.

⁵⁴ Compl. ¶ 32; Stip. ¶ 25.

⁵⁵ Stip. ¶ 25.

⁵⁶ Compl. ¶ 33; Stip. ¶ 26; CX-18, at 11.

⁵⁷ Ans., p. 2.

allowed to consult his study materials during the break between Parts I and II of his Series 7 exam.⁵⁸

David's claimed ignorance is not credible. Before both Series 66 exams, David attested that he understood and agreed to follow the Rules of Conduct which explicitly informed him that he could not receive assistance or use study materials at any time during the testing event. David's attempt to disavow his previous attestations is unavailing, particularly given that he was repeatedly warned—both in writing and verbally—that he was prohibited from receiving assistance on the exam and consulting his study materials.

Moreover, David's claim that he relied on his previous experience taking the Series 7 to determine that he was permitted to use study materials on unscheduled breaks during the Series 66 exam is suspect. There is no evidence in the record to suggest that candidates are permitted to consult materials on unscheduled or scheduled breaks during the Series 7 exam. To the contrary, the record shows that consulting study materials on unscheduled breaks during the Series 7 exam is, like the Series 66 exam, strictly prohibited.⁵⁹

Second, David asserts in his Answer that he "believes" that, during the January 2017 exam, a testing center administrator told him he was allowed to use his Study Guide during the break in the testing center lobby, as long as it was outside the testing room.⁶⁰ He also asserts in his Answer that, during the February 2017 exam, he resisted returning to the testing room after a testing proctor caught him with his study materials but a testing center manager encouraged him to return to the testing room after his unscheduled break, even though the testing center manager knew that David had accessed his study materials.⁶¹ David likens the proctors' alleged conduct and statements to permitting, condoning, or tacitly approving his use of study materials.

I do not credit David's claims concerning the statements and conduct of the proctors because there is no sworn testimonial or other evidence in the record to corroborate his claims. On the other hand, Enforcement, in support of the Default Motion, offered sworn affidavits from the testing center administrator (SB) who proctored both of David's Series 66 exams and the testing center manager (VD) who proctored David February 2017 Series 66 exam.

⁵⁸ Ans., p. 2.

⁵⁹ CX-6; CX-8, at 2, 12.

⁶⁰ Ans., pp. 10-11 (First and Second Affirmative Defenses). While I granted Enforcement's motion to strike both of David's affirmative defenses because they did not constitute a valid defense as a matter of law, I noted in my Order that the Respondent was not precluded from raising these facts to argue sanctions. *See* Order Granting the Department of Enforcement's Motion to Strike Affirmative Defenses (Aug. 6, 2018).

⁶¹ Ans., pp. 10-11 (First and Second Affirmative Defenses).

SB states that she never advised David that he could access or use study materials on an unscheduled break during a FINRA exam.⁶² VD states the same.⁶³ VD also acknowledged that she was the testing center manager who told David to be reseated during an unscheduled break at his February 2017 exam. However, when she told David to return to the testing room, she was unaware of the exchange between David and SB and unaware that the SB had confronted David about reviewing his study materials.⁶⁴ VD assumed that David had just been waiting in the lobby to be reseated at the exam after an unscheduled break and therefore she instructed him to be reseated.⁶⁵ SB corroborated VD's statements. Specifically, SB states that she did not tell VD about her interactions with David, including that he had been caught using study materials, until after David finished his exam.⁶⁶ I find no evidence in the record that gives reason to question the veracity of SB's and VD's sworn statements.

Moreover, contrary to David's claim in his Answer that the testing center proctors permitted him to use study materials, Enforcement alleged that no one permitted David to retrieve or consult his Study Guide during his unscheduled exam breaks.⁶⁷ Given that David is in default for failing to appear at the hearing, I deem these allegations to be true.

Based on all the evidence, I find that David not only possessed unauthorized study materials but cheated on both of his Series 66 exams.

F. David Violated NASD Rule 1080 and FINRA Rule 2010

NASD Rule 1080 states that “[a]n applicant [for a qualification examination] cannot receive assistance while taking the examination.” Consulting study materials during a qualification exam violates NASD Rule 1080 and FINRA Rule 2010.⁶⁸ It is also unethical merely to possess unauthorized study materials in a testing area—whether or not those materials are helpful or used to cheat.⁶⁹

⁶² SB Aff. ¶¶ 7-8.

⁶³ VD Aff. ¶¶ 6-7.

⁶⁴ VD Aff. ¶ 9.

⁶⁵ VD Aff. ¶ 8.

⁶⁶ SB Aff. ¶¶ 12-14.

⁶⁷ Compl. ¶¶ 18, 30.

⁶⁸ See, e.g., *Dep't of Enforcement v. Rubino*, No. 2008014873201, 2010 FINRA Discip. LEXIS 36 (OHO June 15, 2010).

⁶⁹ See *Helene R. Schwartz*, 51 S.E.C. 1207, 1209 (1994) (“[T]o assure the honesty of its testing process, the NASD does not have to demonstrate actual cheating. It may properly discipline an individual for bringing unauthorized test materials into the test center.”); *Dep't of Enforcement v. Shelley*, No. C3A050003, 2007 NASD Discip. LEXIS 8, at *27-28 (NAC Feb. 15, 2007) (affirming the hearing panel's finding that respondent's attempt to cheat on a Series 24 examination was unethical).

David admits that, during both Series 66 exams, he possessed the Study Guide, consulted the Study Guide during unscheduled breaks, and then returned to the testing room and changed some answers he had given on the exams. He did so even though he was shown—and agreed to follow—the Rules of Conduct which strictly prohibit receiving assistance and consulting study materials at any point during the test event. This conduct constitutes cheating.

As discussed above, David’s assertion that he was unaware that he was prohibited from consulting his study materials is unpersuasive. But, even accepting David’s assertion that he did not carefully read the Rules of Conduct, his ignorance of FINRA rules and testing requirements does not excuse his conduct.⁷⁰ At the time David cheated on both exams, he was an associated person of a FINRA member firm and registered with FINRA as registered representative. As such, he was responsible for knowing and abiding by the applicable regulatory rules, which included refraining from receiving assistance while taking a qualification exam.⁷¹

Accordingly, I find that David violated NASD Rule 1080 and FINRA Rule 2010 by possessing unauthorized study materials and cheating on his Series 66 exams.

III. Sanctions

FINRA’s Sanction Guidelines provide that for cheating during a qualification examination a bar is standard.⁷² The principal consideration is whether the nature of the unauthorized material indicated that it would not be useful for taking the examination, and therefore would make clear that the respondent did not intend to cheat.⁷³

Here, David’s use of a Series 66 study guide would certainly be useful when taking the Series 66 exam. In fact, David admits to changing several answers on his exams after consulting the Study Guide. No mitigating factors exist here.⁷⁴ Rather, David’s conduct is aggravated by the fact that he agreed to follow the Rules of Conduct, which expressly prohibited him from

⁷⁰ *Jason A. Craig*, Exchange Act Release No. 59137, 2008 SEC LEXIS 2844, at *16 (Dec. 22, 2008) (citation omitted) (“Ignorance of the NASD’s rules is no excuse for [respondent’s] violation. Participants in the securities industry must take responsibility for compliance and cannot be excused for lack of knowledge, understanding or appreciation of these requirements.”).

⁷¹ *Harry Friedman*, Exchange Act Release No. 64486, 2011 SEC LEXIS 1699, at *33 (May 13, 2011) (“[W]e have consistently held that registered representatives are responsible for understanding their regulatory obligations, and ignorance of those obligations does not excuse a violation of an SRO’s Rules.”).

⁷² FINRA Sanction Guidelines (“Guidelines”) at 40 (May 2018), <http://www.finra.org/industry/sanction-guidelines>.

⁷³ Guidelines at 40.

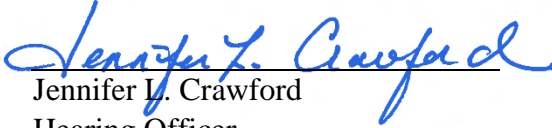
⁷⁴ Even accepting David’s assertion that he was ignorant of the rules, this does not mitigate his sanctions. *See Thomas C. Kocherhans*, 52 S.E.C. 528, 531-532, 534 (1995) (determining that ignorance of FINRA rules does not compel a reduction of sanction); *Dep’t of Enforcement v. Friedman*, No. 2005000835801, 2010 FINRA Discip. LEXIS 10, at *30 (NAC July 26, 2010), *aff’d*, 2011 SEC LEXIS 1699.

consulting study materials at any time during the testing event.⁷⁵ He also was separately and repeatedly advised of this prohibition by the testing center’s proctor and FINRA.⁷⁶

Accordingly, I find it appropriate to bar David from associating with any FINRA member in any capacity. The imposition of a bar is remedial because it protects the investing public from a person who cannot be trusted to comply with legal and regulatory requirements. The Securities and Exchange Commission has held that cheating on a FINRA exam cannot be tolerated because it “threatens the integrity of [FINRA’s] registration process” and “flouts the ethical standards to which members of the industry must adhere.”⁷⁷ Given the importance of qualifications exams, the Commission has stated that it regards “deception in connection with the taking of those examinations ... to be so grave” that it would not find a bar to be excessive or oppressive unless “the most extraordinary mitigative facts were shown.”⁷⁸

IV. Order

Respondent Jason David is barred from associating with any FINRA member in any capacity for possessing unauthorized study materials at, and cheating on, two Series 66 examinations.⁷⁹ The bar shall become effective immediately if this Default Decision becomes FINRA’s final action in this disciplinary proceeding.


Jennifer L. Crawford
Hearing Officer

⁷⁵ Guidelines at 8 (Principal Consideration No. 13 – Whether the respondent’s misconduct was the result of an intentional act, recklessness or negligence).

⁷⁶ Guidelines at 8 (Principal Consideration No. 14 – Whether the respondent engaged in the misconduct at issue notwithstanding prior warnings from FINRA, another regulator or a supervisor [in the case of an individual respondent] that the conduct violated FINRA rules or applicable securities laws or regulations).

⁷⁷ *Ronald H.V. Justiss*, Exchange Act Release No. 37074, 52 S.E.C. 746, 750 (1996) (affirming the imposition of a bar against the respondent for bringing unauthorized material to the testing center and using those materials to cheat on his Series 65 exam).

⁷⁸ *Hugh M. Casper*, 42 S.E.C. 471, 473 (1964); *see accord Shelley*, 2007 NASD Discip. LEXIS 8, at *29-30.

⁷⁹ I have considered and rejected without discussion all other arguments of the parties.

Copies to:

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