BEFORE THE NATIONAL ADJUDICATORY COUNCIL

FINANCIAL INDUSTRY REGULATORY AUTHORITY

In the Matter of Department of Enforcement, Complainant, vs. Jason A. Craig Washington Township, MI, Respondent.	DECISION Complaint No. E8A2004095901 Dated: December 27, 2007

Respondent willfully failed to disclose material information concerning his criminal background on a Form U4. Held, findings and sanctions affirmed.

Appearances

For the Complainant: Leo F. Orenstein, Esq., Department of Enforcement, Financial Industry Regulatory Authority

For Respondent: Stuart Sinai, Esq.

Decision

Jason A. Craig ("Craig") appeals an August 28, 2006 Hearing Panel decision. In that decision, the Hearing Panel found that Craig violated NASD Rule 2110 and Membership and Registration Rules Interpretive Material ("IM") 1000-1 by willfully failing to disclose on a Uniform Application for Securities Industry Registration or Transfer ("Form U4") that he had been charged with four felonies and convicted of one misdemeanor. The Hearing Panel barred Craig. After a complete review of the record, we affirm the Hearing Panel's findings of violation and the sanctions imposed.[1]

[1] As of July 30, 2007, NASD consolidated with the member firm regulation functions of NYSE and began operating under a new corporate name, the Financial Industry Regulatory Authority ("FINRA"). References in this decision to FINRA shall include, by reference and where appropriate, references to NASD.

I. Background

Craig entered the securities industry in 1999 and first registered as a general securities representative in 2000. He has been associated with several FINRA member firms since he entered the securities industry. Craig's conduct relevant to this decision occurred while he was associated with Hantz Financial Services, Inc. ("Hantz" or the "Firm"). Hantz terminated Craig in October 2004 for failing to disclose required information on a Form U4. Craig is not currently registered with another member firm.

II. Factual and Procedural History

A. Craig's Relevant Criminal History

It is undisputed that Craig's relevant criminal history includes the following five felony charges and one misdemeanor conviction, all of which occurred in Michigan. Craig was charged on August 30, 2002, with possession of a controlled substance, which is a felony.[2] On May 27, 2003, Craig was charged with uttering and publishing, which also is a felony.[3] The uttering and publishing charge related to checks that Craig received from his credit union that were made payable to credit card companies. Craig altered the checks to make himself the payee. This charge was reduced to misdemeanor larceny, and Craig pleaded guilty on July 24, 2003. The court deferred the larceny conviction for one year and ordered Craig to pay court costs and a fine totaling $500 and complete 50 hours of community service within 180 days. Because Craig failed to complete the required hours of community service, the court revoked the deferral and entered a conviction for the misdemeanor larceny charge on July 7, 2004.[4] On September 30, 2003, Craig was charged with the felony offense of possession of a controlled substance.[5] On July 19, 2004, Craig was charged with two related felony offenses: writing checks drawn on a financial institution at which he had no account ("no-account check violation") and altering or

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[2] *See* Mich. Comp. Laws § 333.7403. Craig pleaded guilty upon this charge being reduced to the misdemeanor offense of attempted possession of a controlled substance. After Craig successfully completed court-ordered probation, the court set aside the guilty plea and dismissed the case in June 2005.

[3] Uttering and publishing involves forging, altering, or counterfeiting a record or document with the intent to injure or defraud. *See* Mich. Comp. Laws § 750.249.

[4] In March 2006, Craig requested that the court set aside the larceny conviction. The court granted Craig's request on March 22, 2006.

[5] *See* Mich. Comp. Laws § 333.7403.

forging electronic data on a driver's license with intent to aid in the commission of the no-account check violation.[6] Approximately two weeks later, Craig interviewed with Hantz.

B. Craig's Employment with Hantz and Completion of the Form U4

On August 4, 2004, Craig interviewed with Hantz's director of recruiting, Linda Horney ("Horney"), for a registered representative position at the Firm. Horney had several additional pre-employment meetings with Craig. Craig made no mention of his criminal history during any of these meetings. Craig met with Hantz's senior vice president, Lisa McClain ("McClain"), on August 18, 2004. During this meeting, McClain told Craig that she wanted to formally offer him a position at the Firm and asked him whether there was anything in his background that would prevent her from hiring him. Craig answered "no" and accepted the employment offer.

On August 24, 2004, Craig met with Horney to complete pre-employment paperwork, including a Form U4 and an authorization for Hantz to run criminal and credit background checks on him. Horney told Craig to list at the bottom of the authorization form such matters as arrests, loan defaults, and bankruptcies and asked him whether he "needed to disclose anything." Craig said he did not. As Craig began completing the Form U4, he told Horney that he had been charged with one felony.

Question number 14A(1)(b) on the Form U4 asked Craig, "[h]ave you ever . . . been charged with any felony?" Craig responded "yes" to this question. Question number 14B(1)(a) on the Form U4 asked Craig, "[h]ave you ever . . . been convicted of or pled guilty . . . to a misdemeanor involving . . . wrongful taking of property . . .?" Craig answered "no" to this question. The Form U4 includes a disclosure reporting page for an applicant to provide details for *each* criminal matter included in affirmative responses to Questions 14A and 14B on the Form U4. In this section of the Form U4, Craig wrote that he had been charged with felony possession of marijuana and cocaine on August 8, 2002, and that the charge was pending. Craig testified that he was referring to the first felony possession charge that occurred in August 2002, but that he provided the incorrect date. Craig admitted that he failed to disclose and provide details of the four other felony charges. Craig testified that he believed by disclosing one criminal charge, the remainder of his criminal history would be revealed during the Firm's investigation into his background.

Craig began working for Hantz on September 20, 2004. Soon thereafter, Hantz received a report from FINRA related to a May 2003 criminal charge that FINRA discovered from a copy of the United States Department of Justice investigatory report for Craig after checking Craig's fingerprints. Because this charge did not match the charge disclosed on Craig's Form U4, FINRA requested documentation and an explanation from Hantz. Horney testified that when she questioned Craig about the discrepancy, Craig stated that he "must have gotten the date wrong." Horney followed-up with FINRA and learned that FINRA had found two additional criminal charges that Craig had not disclosed on the Form U4. Horney again met with Craig and asked

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6 *See id.* §§ 750.131a, 257.310(7)(b).

for an explanation. Horney testified that she pointed out to Craig that FINRA had identified three different charges, all on different dates, and involving three different arresting agencies. Horney stated that Craig "got very nervous" and "confused" and had no explanation. Horney then referred the matter to McClain. When McClain met with Craig to discuss the criminal charges, Craig told McClain that he believed that the charges had been expunged and that his attorney had told Craig that he did not have to disclose them. When McClain asked Craig for specifics of the additional charges that had surfaced, Craig responded, "I'm not sure. I don't recall. I need to talk to my attorney. They should have been expunged." McClain then terminated Craig's employment. Craig's attorney spoke with McClain after the Firm fired Craig and stated that the charges had not been expunged from Craig's criminal record.

C. Procedural History

The Department of Enforcement ("Enforcement") filed an amended complaint against Craig on November 15, 2005. The amended complaint alleged that Craig failed to disclose four felony charges and one misdemeanor conviction on a Form U4 completed in August 2004 when associating with Hantz. Craig admitted that his criminal background included the matters set forth in the complaint, but denied that his conduct violated NASD rules.

The Hearing Panel held a hearing on June 2, 2006. Enforcement presented three witnesses: Horney, McClain, and a FINRA compliance specialist. Craig testified on his own behalf. On August 28, 2006, the Hearing Panel found Craig liable for the misconduct as alleged in the complaint. The Hearing Panel barred Craig. This appeal followed.[7]

III. Discussion

We have thoroughly reviewed the record and affirm the Hearing Panel's findings of violation.

NASD Rule 2110 and IM-1000-1 require associated persons to disclose accurately and fully information required in the Form U4 and to observe the high standards of commercial

[7] Pursuant to NASD Rule 9346(b), Craig made a motion to adduce additional evidence before the FINRA National Adjudicatory Council ("NAC") subcommittee ("Subcommittee") empanelled to consider this appeal. The Subcommittee denied Craig's motion in its entirety because Craig failed to demonstrate that the evidence qualified for admission under NASD Rule 9346(b). Specifically, the Subcommittee determined that Craig could have sought to introduce testimony of certain witnesses at the hearing below, but did not do so; that evidence related to the subsequent disposition of various charges and to Craig's drug and alcohol history since he completed the Form U4 in August 2004 were not material and, in any event, that some of this evidence was already admitted into the record; and that an excerpt from Craig's investigative testimony that he sought to introduce was similar to testimony that he gave before the Hearing Panel. We adopt the Subcommittee's ruling as our own.

honor and just and equitable principles of trade.[8] Self-regulatory organizations, state regulators, and broker-dealers utilize the Form U4 to determine and monitor the fitness of securities professionals. *Rosario R. Ruggiero*, 52 S.E.C. 725, 728 (1996). Thus, the accuracy of an applicant's Form U4 "is critical to the effectiveness" of the screening process. *Id.*; *see also Guang Lu*, Exchange Act Rel. No. 51047, 2005 SEC LEXIS 117, at *19-20 (Jan. 14, 2005) (recognizing that "the candor and forthrightness of applicants is critical"), *aff'd*, 179 Fed. Appx. 702 (D.C. Cir. 2006). The failure of an applicant for FINRA registration to fully and accurately disclose all information required by the Form U4, including criminal history, violates NASD Rule 2110 and IM-1000-1. *See Dep't of Enforcement v. Zdzieblowski*, Complaint No. C8A030062, 2005 NASD Discip. LEXIS 3, at *13-14 (NASD NAC May 3, 2005).

We find that Craig provided false and incomplete information on a Form U4 in violation of NASD Rule 2110 and IM-1000-1. "The violation of providing false information to the NASD requires only that the complainant prove that the information was false." *Dep't of Enforcement v. Knight*, Complaint No. C10020060, 2004 NASD Discip. LEXIS 5, at *8 (NASD NAC Apr. 27, 2004) (internal quotation omitted). It is undisputed that Craig was charged with five felonies, but only disclosed the details of one of these charges on the Form U4 that he completed as a requirement for employment with Hantz. Further, there is no dispute that on July 7, 2004, Craig was convicted of misdemeanor larceny. Therefore, Craig should have answered "yes" to Question 14B, whether he had ever been convicted of a misdemeanor involving the wrongful taking of property, when he completed the Form U4 on August 24, 2004. Craig's answer of "no" was false. In addition, Craig admitted at the hearing below that he should have answered "yes" to this question.

We also find that Craig acted willfully by failing to disclose material information on a Form U4.[9] Section 3(a)(39)(F) of the Securities Exchange Act of 1934 ("Exchange Act") states that a person who files an application for association with a member of a self-regulatory organization and who "willfully" fails to disclose "any material fact which is required to be stated" in that application is statutorily disqualified from participating in the securities industry. "A willfulness finding is predicated on [a respondent's] intent to commit the act that constitutes the violation—completing the Form U4 inaccurately." *Zdzieblowski*, 2005 NASD Discip. LEXIS 3, at *14. Thus, we need not find that Craig intended to violate NASD rules. *See Tager*

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[8] NASD IM-1000-1 provides that the filing of registration information that "is incomplete or inaccurate so as to be misleading . . . may be deemed to be conduct inconsistent with just and equitable principles of trade" in violation of NASD Rule 2110. NASD Rule 0115 makes all NASD rules, including NASD Rule 2110, applicable both to FINRA members and all persons associated with FINRA members.

[9] We have previously found that criminal history is material information. *See Knight*, 2004 NASD Discip. LEXIS 5, at *13-14 ("Because of the importance that the industry places on full and accurate disclosure of information required by the Form U4, we presume that essentially all the information that is reportable on the Form U4 is material.").

v. SEC, 344 F.2d 5, 8 (2d Cir. 1965) (stating that there is "no requirement that the actor . . . be aware that he is violating one of the Rules or Acts" to uphold a finding of willfulness).

Craig testified that he did not disclose all of the felony charges and the conviction on the Form U4 because he believed they either were expunged or were going to be expunged in the future. Craig admitted at the hearing, however, that he knew at the time that these charges were "still pending." As we have previously found, Question 14A on the Form U4 "is unqualified" and a respondent is obligated to disclose *any* felony with which he has been charged irrespective of the outcome of the charge. *Dep't of Enforcement v. Taylor*, Complaint No. C8A050027, 2007 NASD Discip. LEXIS 11, at *35 (NASD NAC Feb. 27, 2007); *see also Dist. Bus. Conduct Comm. v. Perez*, Complaint No. C10950077, 1996 NASD Discip. LEXIS 51, at *6-7 (NASD NBCC Nov. 12, 1996) (determining that a respondent is obligated at the time when he completes the Form U4 to disclose all relevant criminal actions, including those that are pending). Moreover, Question 14B on the Form U4 clearly and unambiguously asked Craig whether he had been convicted of a misdemeanor involving the wrongful taking of property. Craig falsely responded "no" to this question, and he has admitted that his answer was inaccurate. Craig was charged, was represented by counsel, and pleaded guilty to the misdemeanor larceny charge in open court. When he failed to complete court-ordered community service, Craig was convicted of misdemeanor larceny. Approximately seven weeks later, he completed the Form U4 for employment with Hantz without disclosing the recently-entered larceny conviction and then signed the Form U4 below the statement, "I swear or affirm that I have read and understand the items and instructions on this form and that my answers (including attachments) are true and complete to the best of my knowledge. I understand that I am subject to administrative, civil or criminal penalties if I give false or misleading answers." We find that Craig knew that he was completing the Form U4 inaccurately and, therefore, that his misconduct was willful.

In addition, the Hearing Panel found Craig's testimony not credible. The initial fact-finder's credibility determinations are entitled to considerable deference, which may only be overcome by substantial evidence. *Joseph S. Barbera*, 54 S.E.C. 967, 977 n.30 (2000); *see also Dane S. Faber*, Exchange Act Rel. No. 49216, 2004 SEC LEXIS 277, at *17-18 (Feb. 10, 2004) (stressing that deference is given to initial decision maker's credibility determination "based on hearing the witnesses' testimony and observing their demeanor"). The substantial evidence necessary to reverse the Hearing Panel's findings of credibility is absent; we thus agree with the Hearing Panel's determination. Craig provided shifting explanations regarding why he did not disclose fully and completely the details of his criminal history. When the Firm first confronted Craig, he had no explanation for his failure to disclose and later claimed that disclosure of his complete criminal background was not required because he believed the events were or would be expunged from his record. Craig claimed at the hearing, contrary to Horney's testimony, that he did disclose to her that three of the pending felony charges were "going to be expunged pending probation." Craig explained to the Hearing Panel that he did not intentionally hide his criminal record and thought that he could omit all but one of the felony charges and the conviction because the Firm would find them on its own. Craig implies that he believed his answers were unimportant because Hantz intended to investigate his background and check his fingerprints. We find that Craig understood his obligation to disclose his criminal history, and, instead of

doing so fully, he took a calculated risk that the criminal background investigation might not show his complete record.

In his appellate brief, Craig characterizes his misconduct as "filling out the form improperly." Craig's omissions were far afield from mere administrative error or a good-faith misunderstanding of his reporting obligation. To the contrary, such omissions demonstrate that Craig hoped to avoid revealing the full extent of his criminal transgressions. Hantz provided Craig with multiple opportunities to fully disclose his criminal background, but he did not do so. Craig's decision to disclose only a fraction of his criminal history served to frustrate the purpose of the Form U4, which acts as a warning mechanism for firms and self-regulatory organizations with respect to individuals with "suspect history." *Dist. Bus. Conduct Comm. v. Jones*, Complaint No. C02970023, 1998 NASD Discip. LEXIS 60, at *9 (NASD NAC Aug. 7, 1998) (internal quotation omitted). "NASD, which cannot investigate the veracity of every detail in each document filed with it, must depend on its members to report to it accurately and clearly in a manner that is not misleading." *Robert E. Kauffman*, 51 S.E.C. 838, 839 (1993). Craig should have known that his failure to provide complete and accurate details of his criminal background was improper. We affirm the Hearing Panel's finding that Craig willfully failed to disclose four felony charges and one misdemeanor conviction on his Form U4 in violation of NASD Rule 2110 and IM-1000-1.[10]

IV. Sanctions

The Hearing Panel barred Craig from associating with any member firm in any capacity for failing to disclose relevant criminal history on a Form U4. We have considered the factors that Craig presented in mitigation. Because these factors are not sufficiently mitigating to warrant lesser sanctions, we find it appropriate in this case to affirm the bar.

The FINRA Sanction Guidelines ("Guidelines") for filing a false or inaccurate Form U4 provide for fines ranging from $2,500 to $50,000 and a suspension in any or all capacities for 5 to 30 business days or, in egregious cases, a suspension up to two years or a bar.[11] The Guidelines for submission of a false Form U4 provide three considerations in determining the appropriate sanctions: (1) whether the information at issue was significant and the nature of that information; (2) whether the respondent's failure to disclose information resulted in a statutorily disqualified individual associating with a firm; and (3) whether the respondent's misconduct resulted in harm.[12]

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[10] As a consequence of our finding, Craig is statutorily disqualified from association with any FINRA member.

[11] *FINRA Sanction Guidelines* 73 (2007), http://www.finra.org/web/groups/enforcement/documents/enforcement/p011038.pdf [hereinafter *Guidelines*].

[12] *Id.*

Two of these considerations apply to Craig's misconduct and support the imposition of significant sanctions.[13] First, the information was significant and therefore serves to aggravate Craig's misconduct. The undisclosed felony charges and misdemeanor conviction had a serious consequence upon Craig's employment in the securities industry. Notably, Hantz terminated Craig as a direct result of his nondisclosure of this significant information. Craig's undisclosed criminal charges and conviction impeded Hantz's ability to adequately screen Craig's application at the time it was made. Truthful and complete answers to the Form U4's questions would have provided important information for Hantz to consider in deciding whether to hire Craig and, if hired, what sort of supervision might be appropriate for him, particularly in light of the fact that the conduct leading to the misdemeanor conviction involved theft. While we give some credit to the fact that Craig disclosed one felony charge pending against him, he elected not to fully reveal his criminal background as directed by the Form U4. Under these circumstances, we conclude that Craig's misconduct was egregious and intentional given the utmost importance of complete and truthful disclosures on the Form U4.[14] We find no mitigation in Craig's argument that he did not act intentionally because he believed that the Firm and FINRA would uncover for themselves the remainder of the charges and the conviction through the background investigation. Craig had an *unqualified* obligation to provide true and complete information to his prospective employer, and in turn to FINRA, through submission of an accurate Form U4. *See Thomas R. Alton*, 52 S.E.C. 380, 382 (1995). Moreover, Craig withheld this information from Hantz despite Firm staff questioning Craig about his background on several occasions.

Second, Craig's failure to disclose the information resulted in a statutorily disqualified individual associating with the Firm.[15] Craig was convicted of misdemeanor larceny on July 7, 2004. Thus, when Hantz hired Craig in August 2004, he was statutorily disqualified as a result of this conviction. Craig argues that the court's subsequent action in setting aside this conviction should be a mitigating factor in assessing sanctions. We disagree. At the time Craig completed the Form U4, the court had entered the conviction thereby making Craig statutorily disqualified to associate with a member firm. The court's subsequent dismissal of the conviction nearly two years later does not serve to mitigate Craig's earlier misconduct.[16] Further, the falsity involved

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[13] In his appellate brief, Craig erroneously cites the Guidelines related to disclosures within FOCUS Reports for the proposition that Craig's misconduct resulted in no harm. Our analysis centers on the specific Guidelines for matters involving Forms U4, which are applicable to the facts of this case. In any event, there is no evidence in the record that Craig's nondisclosure resulted in any harm to a registered person, another member firm, or a customer.

[14] *See Guidelines*, at 7 (Principal Considerations in Determining Sanctions, No. 13).

[15] *See Guidelines*, at 73; FINRA By-Laws Article III, Section 4; Exchange Act Section 3(a)(39)(F).

[16] Upon an order setting aside a conviction, the applicant is considered not to have been previously convicted. Mich. Comp. Laws § 780.622. Expungement under Michigan law does

[Footnote continued on next page]

in Craig's misdemeanor conviction was especially significant for employment in the securities industry because the underlying conviction involved theft.

Craig contends that we should take into account his purported confusion regarding matters that he believed would later be dismissed or expunged. As we discussed, none of the criminal matters was dismissed or expunged when Craig completed the Form U4 in August 2004. Even if the matters were later dismissed, sanctions are imposed as a result of Craig's failure to disclose and not as a result of the substantive criminal conduct itself. We further fail to see how Craig could have reasonably concluded that a negative response was permitted with respect to the larceny conviction. *See, e.g.*, *Roy Ray Seaton*, 47 S.E.C. 131, 134 (1979) (rejecting applicant's contention that Form U4 question regarding whether he was the subject of any investigation was so ambiguous that he could not properly respond to it), *aff'd*, 670 F.2d 309 (D.C. Cir. 1982).

Craig also argues in favor of mitigation that he made restitution related to the no account check charge and misdemeanor larceny conviction.[17] We determine that his argument provides for negligible mitigation. *See Arthur Lipper Corp.*, 46 S.E.C. 78, 98 (1975) (holding that repayment made after commencement of investigation into violative conduct has minimal mitigative weight), *aff'd*, 547 F.2d 171 (2d Cir. 1976). Craig repaid the bank for the no-account check only after the court ordered him to pay restitution and repaid the credit union related to the larceny conviction only after the misdeed was discovered.

Craig argues that the lack of customer harm should be considered a mitigating factor. Although harm to customers is an aggravating factor, an absence of customer harm generally is not mitigating. *See Dep't of Enforcement v. Mizenko*, Complaint No. C8B030012, 2004 NASD Discip. LEXIS 20, at *20 (NASD NAC Dec. 21, 2004) ("[T]here is no authority for the proposition that the absence of harm to customers is mitigating."), *aff'd*, Exchange Act Rel. No. 52600, 2005 SEC LEXIS 2655 (Oct. 13, 2005); *Dep't of Enforcement v. Dieffenbach*, Complaint No. C06020003, 2004 NASD Discip. LEXIS 10, at *40 (NASD NAC July 30, 2004), *aff'd in part*, *Michael A. Rooms*, Exchange Act Rel. No. 51467, 2005 SEC LEXIS 728 (Apr. 1, 2005),

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not, however, "fully relieve an individual of the legal disabilities flowing from the conviction." *People v. Van Heck*, 651 N.W.2d 174, 178 (Mich. Ct. App. 2002). The Michigan Department of State Police is required to retain a record of expunged convictions and their associated sentences, which may be accessed and used by various Michigan authorities for a variety of reasons, including denial of employment with a law enforcement agency or licensing by an agency of the judicial branch of state government and enhancement of a sentence for a later felony conviction. Mich. Comp. Laws § 780.623.

[17] The Guidelines suggest that adjudicators consider for purposes of sanctions whether the respondent voluntarily and reasonably attempted, prior to detection and intervention, to pay restitution. *Guidelines*, at 6 (Principal Considerations in Determining Sanctions, No. 4).

aff'd, *Rooms v. SEC*, 444 F.3d 1208 (10th Cir. 2006). We see no reason to depart from that rule here particularly in light of the fact that Craig's criminal history would be highly significant to potential investors and employers.

Craig further argues that his lack of disciplinary history and customer complaints, as well as a former employer's purported willingness to rehire him and provide "heightened supervision," warrant mitigation. A "lack of disciplinary history is not mitigating for purposes of sanctions because an associated person should not be rewarded for acting in accordance with his duties as a securities professional." *Philippe N. Keyes*, Exchange Act Rel. No. 54723, 2006 SEC LEXIS 2631, at *23 (Nov. 8, 2006); *see also Rooms*, 444 F.3d at 1214 ("Lack of . . . disciplinary history is not a mitigating factor."). We also do not accept as a mitigating factor a prospective employer's offer of an increased supervisory structure as it pertains to Craig. While increased supervision of Craig may be an appropriate course for a prospective employer, such future supervisory efforts in no way mitigate Craig's failure to provide Hantz, and in turn FINRA, with salient information about Craig's past criminal misconduct.

The Commission has stated that submitting information to a member firm that is "doctored to delete unfavorable information in order to gain employment is serious misconduct." *Henry Irvin Judy*, 52 S.E.C. 1252, 1256 (1997). Truthful answers are essential to a meaningful system of self-regulation, and non-disclosure of four felony charges and a misdemeanor larceny conviction only frustrates the critical investigatory process. Because full and accurate disclosure on the Form U4 is vital to determining the fitness of an applicant for registration as a securities professional, we determine that a bar is the appropriate sanction in this case. Craig's misconduct does not represent an irrelevant or momentary lapse of judgment. Rather, Craig withheld five material criminal events that occurred over a period close in time to when he completed the Form U4.[18] Significantly, two of the felony charges and the conviction involved the wrongful taking of property, and the larceny conviction disqualified Craig from registering as a securities professional at the time. In addition, Craig's evasive statements and attempted subterfuge indicate that he would pose a risk if he were to enter the securities industry. The information about Craig's criminal history was central to a determination of whether he would observe the high standards of conduct demanded of associated persons, and his misconduct calls into question his fitness to be involved in the securities industry. To prevent Craig from similar misconduct in the future, we bar him from associating with any member firm in any capacity. A bar will also serve to deter others from engaging in similar misconduct by failing to disclose fully and truthfully relevant criminal history on a Form U4. *Cf. Lu*, 2005 SEC LEXIS 117, at *30 (affirming bar of respondent for failing to disclose material information on a Form U4).

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[18] Craig contends that credit should be given for the fact that two of the events flowed from the same misconduct: the uttering and publishing felony charge and the misdemeanor larceny conviction. We give no weight to Craig's contention. Craig was obligated to disclose each matter as an independent reportable event as required by the Form U4.

V. Conclusion

We affirm the Hearing Panel's findings that Craig willfully failed to disclose material criminal history on a Form U4 in violation of NASD Rule 2110 and IM-1000-1. Accordingly, for this violation, we impose a bar in all capacities. Craig is also statutorily disqualified. The bar is effective upon service of this decision. Craig is ordered to pay hearing costs of $2,050.72.[19]

On Behalf of the National Adjudicatory Council,

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Barbara Z. Sweeney, Senior Vice President
and Corporate Secretary

[19] We also have considered and reject without discussion all other arguments of the parties.

Barbara Z. Sweeney
Senior Vice President and
Corporate Secretary

Direct: (202) 728-8062
Fax: (202) 728-8075

December 27, 2007

VIA CERTIFIED MAIL:
RETURN RECEIPT REQUESTED/FIRST-CLASS MAIL

Stuart Sinai, Esq.
Kemp Klein Law Firm
201 West Big Beaver Road, Suite 600
Troy, MI 48084

Re: Complaint No. E8A2004095901: Jason A. Craig

Dear Counsel:

Enclosed is the decision of the National Adjudicatory Council ("NAC") in the above-referenced matter. The Board of Governors of the Financial Industry Regulatory Authority ("FINRA") did not call this matter for review, and the attached NAC decision is the final decision of FINRA.

In the enclosed decision, the NAC found that Jason A. Craig ("Craig") willfully failed to disclose information concerning his criminal background in violation of NASD Rule 2110 and IM-1000-1. For this misconduct, the NAC has barred Craig in all capacities. The NAC also ordered that Craig pay hearing costs of $2,050.72.

Please note that under IM-8310-1 ("Effect of a Suspension, Revocation or Bar"), because the NAC has imposed a bar, effective immediately Craig is not permitted to associate further with any FINRA member firm in any capacity, including a clerical or ministerial capacity. Pursuant to Article V, Section 2 of the FINRA By-Laws, if Craig is currently employed with a member of FINRA, he is required immediately to update his Form U4 to reflect this action.

Pursuant to Article V, Section 2 of FINRA's By-Laws, persons associated with a member firm must immediately update their Form U4 to reflect any disciplinary action taken against them and must keep all information on the Form U4 current and accurate. In addition, FINRA may request information from, or file a formal disciplinary action against, persons who are no longer

registered with a FINRA member for at least two years after their termination from association with a member. *See* Article V, Sections 3 and 4 of FINRA's By-Laws. Requests for information and disciplinary complaints issued by FINRA during this two-year period will be mailed to such persons at their last known address as reflected in FINRA's records. Such individuals are deemed to have received correspondence sent to the last known address, whether or not the individuals have actually received them. Thus, individuals who are no longer associated with a FINRA member firm and who have failed to update their addresses during the two years after they end their association are subject to the entry of default decisions against them. *See Notice to Members 97-31*. Letters notifying FINRA of such address changes should be sent to:

CRD
P.O. Box 9495
Gaithersburg, MD 20898-9401

This decision may be appealed to the U.S. Securities and Exchange Commission ("SEC"). To do so, Craig must file an application with the SEC within 30 days of your receipt of this decision. A copy of this application must be sent to the FINRA Office of General Counsel, as must copies of all documents filed with the SEC. Any documents provided to the SEC via facsimile or overnight mail should also be provided to FINRA by similar means.

The address of the SEC is:	The address of FINRA is:
The Office of the Secretary Securities and Exchange Commission 100 F Street, N.E. Mail Stop 1090 – Room 10915 Washington, D.C. 20549	Attn: Jennifer Brooks, Esq. Office of General Counsel FINRA 1735 K Street, N.W. Washington, D.C. 20006

If Craig files an application for review with the SEC, the application must identify the FINRA case number and state the basis for the appeal. Craig must include an address where he may be served and a phone number where he may be reached during business hours. If Craig's address or phone number changes, he must advise the SEC and FINRA. Attorneys must file a notice of appearance.

The filing with the SEC of an application for review shall stay the effectiveness of any sanction except a bar or expulsion. Thus, the bar imposed by the NAC in the enclosed decision will not be stayed pending appeal to the SEC, unless the SEC orders a stay. Additionally, orders in the enclosed NAC decision to pay fines and costs will be stayed pending appeal. Questions

regarding the appeal process may be directed to the Office of the Secretary at the SEC. The phone number of that office is (202) 551-5400.

If Craig does not appeal this NAC decision to the SEC and the decision orders him to pay fines or costs, he may pay these amounts after the 30-day period for appeal to the SEC has passed. Any fines and costs assessed should be paid (via regular mail) to FINRA, P.O. Box 7777-W8820, Philadelphia, PA 19175-8820 or (via overnight delivery) to FINRA, W8820-c/o Mellon Bank, Room 3490, 701 Market Street, Philadelphia, PA 19106.

Very truly yours,

Barbara Z. Sweeney
Senior Vice President and Corporate Secretary

cc: Jason Craig
Leo F. Orenstein, Esq.
Damian Williams, Regulatory Rev & Disclosure
Christopher Dragos, Regulatory Rev & Disclosure
Zita Tepie, Finance