

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

Department of Enforcement,

Complainant,

v.

William Mark Heiden (CRD No. 2885156),

Respondent.

DISCIPLINARY PROCEEDING  
No. 2017053182001

**COMPLAINT**

The Department of Enforcement alleges:

**SUMMARY**

1. Between February 2015 and June 2015, Respondent William Mark Heiden engaged in unauthorized trading in the accounts of two elderly customers in violation of FINRA Rule 2010.

2. In addition, between August 2013 and October 2016, Heiden exercised discretion in the accounts of two other elderly customers without written authorization from the customers and without acceptance of the accounts as discretionary by his FINRA member firm in violation of NASD Rule 2510(b) and FINRA Rule 2010.

**RESPONDENT AND JURISDICTION**

3. Heiden entered the securities industry in April 1997 when he became associated with a FINRA member firm. Through that firm, he became registered with FINRA as a General Securities Representative in June 1997. Between September 2000 and July 2013, Heiden associated with three other FINRA member firms. In July 2013, Heiden became registered with

Wedbush Securities Inc. as a General Securities Representative. Wedbush terminated Heiden's registration on June 26, 2018, due to an "[e]xcessive number of customer complaints."

4. Although Heiden is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the effective date of termination of Heiden's registration with Wedbush, namely June 26, 2018; and (2) the Complaint charges him with misconduct committed while he was registered with a FINRA member.

## **FACTS**

### **Customer SK**

5. During 2015, 87 year-old customer SK maintained a trust account with Heiden at Wedbush.

6. SK's trust account at Wedbush was not discretionary, and SK never authorized Heiden to exercise discretion in the account.

7. On May 28, 2015, less than a month after the unexpected death of her husband, SK and her family members met with Heiden at SK's home to discuss her financial situation and to plan next steps for her portfolio. Prior to his death and throughout their 65-year marriage, SK's husband had always handled the couple's finances.

8. At the May 28, 2015 meeting, Heiden recommended a number of investments to SK. SK and her family members authorized one investment in a structured note that Heiden recommended. SK and her family members told Heiden that they were not prepared to make any other decisions about his recommendations and wanted some time to think about the other recommendations.

9. On June 2, 2015, Heiden executed the following transactions in SK's account without first obtaining SK's authorization:
- a. Heiden bought 3,000 shares of the Clearbridge American Energy MLP Fund for a total of \$47,480.45;
  - b. Heiden sold 1,350 common stock shares of Northwest Natural Gas Company for a total of \$58,360.11; and
  - c. Heiden sold 494 common stock shares of Verizon Communications Inc. for a total of \$24,057.75.
10. On June 3, 2015, Heiden received an email from SK's daughter requesting that he explain what he had done with SK's stock portfolio since their meeting on May 28, 2015. In the same email, SK's daughter instructed Heiden not to conduct any further activity in SK's stock portfolio until he heard back from them.
11. On June 3, 2015, in a response email to SK's daughter, Heiden apologized "for jumping the gun on some of this" explaining, "[s]ince I didn't hear from you, I thought that meant you had no objection and wanted me to begin assembling the portfolio."
12. On June 9, 2015, following repeated requests by SK's daughter, Heiden cancelled the three above-described unauthorized trades he made in SK's account on June 2, 2015.

**Customer NJ**

13. In January 2015, 79-year old Wedbush customer NJ learned that her registered representative of 30 years, RL, was retiring and that she would be getting a new registered representative.
14. In February 2015, NJ went to a local Wedbush branch office to meet with someone about the change in her registered representative. While there, she was introduced to Heiden,

who would be serving as her new registered representative. The meeting was an introductory one, and NJ did not authorize Heiden to make any changes to her accounts at that time.

15. Thereafter, Heiden was the broker of record for NJ's Individual Retirement Account (IRA) and trust accounts at Wedbush.

16. NJ's IRA and trust accounts were not discretionary, and NJ never authorized Heiden to exercise discretion in either account.

17. On February 25, 2015, Heiden executed the following transactions in NJ's IRA account without first obtaining NJ's authorization:

- a. Heiden bought 100 common stock shares of BP Prudhoe Bay Royalty Trust for a total of 7,761.94;
- b. Heiden sold 600 Comcast Corp. Senior Notes due 12/15/2061 for a total of \$15,118.78;
- c. Heiden bought 2,000 shares of the Eaton Vance Tax Managed Global Diversified Equity Income Fund for a total of \$19,758.89; AND
- d. Heiden sold 600 shares of the Western Asset Premier Bond for a total of \$8,662.94.

18. On February 25, 2015, Heiden executed the following transactions in NJ's trust account without first obtaining NJ's authorization:

- a. Heiden bought 2,000 common stock shares of AllianzGI NFJ Dividend, Interest & Premium Strategy Fund for a total of \$33,759.75;
- b. Heiden sold Beverly Hills CA Unified School District Notes due 08/01/2028 (total par value at maturity: \$25,000) for a total of \$20,205.38;

- c. Heiden sold 735 shares of Blackrock Resources and & Commodities Strategy Trust for a total of \$7,200.87;
- d. Heiden sold Bombardier Capital Mortgage Securitization Corp. Notes due 06/15/2030 (total par value at maturity: \$25,000) for a total of \$6,834.37;
- e. Heiden sold 20,000 CA State University Systemwide Notes due 11/01/2027 (total par value at maturity: \$20,000) for a total of \$20,147.42;
- f. Heiden sold Commerce CA Joint Powers Financing Authority Notes due 08/01/2023 (total par value at maturity: \$20,000) for a total of \$20,610.44;
- g. Heiden bought 908.265 common stock shares of Gabelli Gold for a total of \$10,000;
- h. Heiden sold 103.714 shares of Nuveen International Growth Fund for a total of \$4,047.96;
- i. Heiden sold 7,232.169 shares of Oppenheimer Rochester California Municipal Fund for a total of \$61,835.04;
- j. Heiden sold Pasadena CA Pension Obligation Notes due 05/15/2041 (total par value at maturity: \$10,000) for a total of \$9,853.87;
- k. Heiden sold 1,333 shares of PIMCO Corporate & Income Strategy Fund for a total of \$20,015.31;
- l. Heiden bought 2,100 shares of PIMCO Dynamic Credit Income Fund for a total of \$43,703.80;
- m. Heiden bought 3,342.246 shares of Putnam Diversified Income Fund for a total of \$25,000; and

- n. Heiden sold 10,000 St. Helena CA Unified School District Notes due 08/01/2033 (total par value at maturity: \$10,000) for a total of \$10,409.19.

19. On February 26, 2015, Heiden executed the following transactions in NJ's trust account without first obtaining NJ's authorization:

- a. Heiden bought 1,500 shares of the Clearbridge American Energy MLP Fund for a total of \$24,893.85;
- b. Heiden sold 400 Comcast Corp. Senior Notes due 12/15/2061 for a total of \$10,037.46;
- c. Heiden bought 1,000 shares of the Eaton Vance Tax Managed Global Diversified Equity Income Fund for a total of \$9,914.93;
- d. Heiden bought 2,000 shares of the Prudential Global Short Duration High Yield Fund for a total of \$33,327.55; and
- e. Heiden bought 2,000 common stock shares of Resource Capital Corp. for a total of \$9,988.89.

20. On March 2, 2015, Heiden executed the following transactions in NJ's trust account without first obtaining NJ's authorization:

- a. Heiden sold 1,893.74 shares of the Templeton World Fund for a total of \$32,345.15; and
- b. Heiden sold 2,000 shares of Western Asset Claymore Inflation-Linked Securities & Income Fund for a total of \$22,990.82.

21. On March 3, 2015, Heiden executed the following transactions in NJ's trust account without first obtaining NJ's authorization:

- a. Heiden sold 2,051.01 shares of the AB Municipal Income California Fund for a total of \$23,422.48;
- b. Heiden bought 200 common stock shares of BP Prudhoe Bay Royalty Trust for a total of \$13,749.33;
- c. Heiden sold 1,666 shares of the Eaton Vance California Municipal Bond Fund for a total of \$19,880.35; and
- d. Heiden sold 1,770.63 shares of the Nuveen Short Term Bond Fund for a total of \$17,617.81.

22. On March 4, 2015, Heiden executed the following transactions in NJ's trust account without first obtaining NJ's authorization:

- a. Heiden bought Morgan Stanley Medium Term Senior Notes due 02/27/2035 (total par value at maturity: \$62,000) for a total of \$61,555.81; and
- b. Heiden sold 1,000 units of Tennessee Valley Authority Power Bonds Series D due 6/1/2028 for a total of \$24,206.69.

23. On March 26, 2015, Heiden also bought JPMorgan Chase & Co Notes due 03/29/2030 (total par value at maturity: \$25,000) for a total of \$25,005.95 in NJ's trust account without first obtaining NJ's authorization.

24. Unauthorized trades made by Heiden in NJ's accounts resulted in losses (including commissions and fees) in excess of \$10,000.

**Customers DP and KP**

25. DP and KP became Heiden's customers in or around 2008. DP's father had been a long-time brokerage customer of Heiden's father and had referred DP and KP to Heiden. At that time, Heiden was registered with another FINRA member firm.

26. After Heiden registered with Wedbush in July 2013, DP and KP moved their accounts to Wedbush where Heiden remained their registered representative.

27. In August 2013, when DP and KP moved their accounts to Wedbush, DP was 63 years old and KP was 67 years old. At that time, DP and KP maintained two trust accounts with Heiden at Wedbush, as well as an IRA account for DP and an inherited IRA account for DP.

28. During the period August 2013 through October 2016, Wedbush maintained written supervisory policies and procedures (WSPs) requiring all registered representatives to contact the owner of an account and obtain authorization prior to entering a transaction in the account.

29. The WSPs indicated that if a registered representative wanted to exercise discretion to trade in a customer's account, specific written authorization of discretion from the customer on a designated form was required.

30. The WSPs also required a designated supervisor to approve an account as discretionary prior to a registered representative effecting discretionary transactions in the account.

31. In addition, the WSPs required that each trade order specify whether discretion was exercised or not.

32. Heiden never sought or obtained written authorization from DP or KP to exercise discretion in any of their Wedbush accounts. He also failed to complete the designated Wedbush form seeking firm authorization from Wedbush prior to exercising discretion in DP and KPs' accounts.

33. Similarly, no one at Wedbush ever approved any of DP or KP's accounts at Wedbush as discretionary.

34. Notwithstanding this lack of written customer authorization and firm approval, between August 2013 and October 2016, Heiden exercised discretion and executed more than 100 trades in DP and KPs' accounts without first obtaining DP and/or KP's authorization in writing or firm approval.

**FIRST CAUSE OF ACTION**

**UNAUTHORIZED TRADING  
(Violation of FINRA Rule 2010)**

35. The Department of Enforcement re-alleges and incorporates by reference paragraphs 1–34, above.

36. FINRA Rule 2010 requires an associated person to “observe high standards of commercial honor and just and equitable principles of trade.”

37. Executing trades in a customer's account without the customer's authorization constitutes a breach of the duty to observe high standards of commercial honor and just and equitable principles of trade and, thus, is a violation of FINRA Rule 2010.

38. Heiden executed the above-described trades in the accounts of SK and NJ without first obtaining authorization, as required.

39. By reason of the foregoing, Heiden violated FINRA Rule 2010.

**SECOND CAUSE OF ACTION**

**EXERCISE OF DISCRETION WITHOUT WRITTEN AUTHORIZATION  
(Violation of NASD Rule 2510(b) and FINRA Rule 2010)**

40. The Department of Enforcement re-alleges and incorporates by reference paragraphs 1–39, above.

41. NASD Rule 2510(b) provides that “[n]o member or registered representative shall exercise any discretionary power in a customer's account unless such customer has given prior

written authorization to a stated individual or individuals and the account has been accepted by the member, as evidenced in writing by the member or the partner, officer or manager, duly designated by the member in accordance with Rule 3010.” A violation of NASD Rule 2510(b) also is a violation of FINRA Rule 2010.

42. Heiden exercised discretion in executing over 100 trades in DP and KPs’ Wedbush accounts between August 2013 and October 2016 without first receiving DP or KP’s authorization and without obtaining written approval from Wedbush prior to exercising discretion in DP and KPs’ accounts.

43. By reason of the foregoing, Heiden violated NASD Rule 2510(b) and FINRA Rule 2010.

### **RELIEF REQUESTED**

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

- A. make findings of fact and conclusions of law that Respondent committed the violation charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest; and
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

**FINRA DEPARTMENT OF ENFORCEMENT**

Date: January 17, 2019



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