

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MATTHEW R. LOGAN
(CRD No. 5366984),

Respondent.

Disciplinary Proceeding
No. 2019063570502

Hearing Officer–RES

HEARING PANEL DECISION

June 29, 2021

Respondent Matthew R. Logan is barred from associating with any FINRA member in any capacity for using an impostor to take his FINRA Regulatory Element continuing education training and three non-FINRA continuing education courses.

Appearances

For the Complainant: Meghan Ferguson, Esq., Robert Kennedy, Esq., Christina Stanland, Esq., Gina Petrocelli, Esq., Department of Enforcement, Financial Industry Regulatory Authority.

For the Respondent: Jeremy L. Bartell, Esq.

DECISION

I. Introduction

FINRA’s Department of Enforcement filed a Complaint against Respondent Matthew R. Logan, formerly a registered representative. The Complaint consists of one cause of action alleging that in October 2018 Logan cheated on his FINRA Regulatory Element continuing education training by directing the administrative assistant in his office (“Assistant”) to take the training for him.¹ Logan also had the Assistant take three non-FINRA continuing education courses on his behalf.² According to the Complaint, this conduct violated FINRA Rule 2010.³ Enforcement seeks a bar, the standard sanction for using an impostor on the Regulatory Element.

¹ Complaint (“Compl.”) ¶ 1.

² Compl. ¶ 1.

³ Compl. ¶¶ 1, 32.

Logan filed an Answer, in which he admitted having violated FINRA Rule 2010.⁴ Logan concedes a sanction is in order, but requests that the Hearing Panel show leniency and not impose a bar because of several claimed mitigating factors.

A hearing was held before a Hearing Panel on the sole issue of what sanction, if any, to impose on Logan for his admitted violation of FINRA Rule 2010. After carefully considering the hearing testimony, the hearing exhibits, and the parties' pre-hearing and post-hearing briefs, the Hearing Panel finds, as explained below, that Enforcement established Logan's violation of FINRA Rule 2010 because he used an impostor, the Assistant, to take the FINRA Regulatory Element continuing education training and three non-FINRA courses in his place. The standard sanction for using an impostor in the Regulatory Element is a bar. The Hearing Panel therefore bars Logan from associating with any FINRA member in any capacity.

II. Findings of Fact

A. Respondent

Logan first associated with a FINRA member in 2007 and at that time registered with FINRA as an Investment Company and Variable Contracts Products Representative ("IR").⁵ In October 2010, Logan associated with FINRA member Hornor, Townsend & Kent, LLC ("HTK") and registered with FINRA through HTK.⁶ He registered with FINRA as a General Securities Representative ("GSR") in January 2015.⁷ Logan holds a life and health insurance license and FINRA Series 6, Series 7, and Series 63 licenses.⁸

In a Uniform Termination Notice for Securities Industry Registration (Form U5) dated January 9, 2019, HTK reported the termination of Logan's association for "instruct[ing] a subordinate to complete his required regulatory element and other continuing education requirements."⁹ FINRA opened an investigation based on HTK's disclosure of Logan's termination.¹⁰ In May 2019, Logan registered with FINRA as an IR and GSR through an association with another FINRA member.¹¹ On August 21, 2019, that FINRA member filed a Form U5 on Logan's behalf disclosing that the member had terminated his association because he was "[n]ot registered with resident state [Massachusetts]."¹²

⁴ Answer ("Ans.") ¶ 32.

⁵ Joint Stipulations ("Stip.") ¶ 2.

⁶ Stip. ¶ 3.

⁷ Stip. ¶ 3.

⁸ Hearing Transcript ("Tr.") 69.

⁹ Joint Exhibit ("JX-") 2, at 2.

¹⁰ JX-17, at 1.

¹¹ Stip. ¶ 5.

¹² Stip. ¶ 5.

B. Logan Is Promoted to Sales Manager

Besides being associated with HTK, Logan was employed as an insurance agent by Penn Mutual Life Insurance Company (“Penn Mutual”), HTK’s parent company. In 2013, Logan was promoted to sales manager at Penn Mutual’s Greater Boston agency, Concord Wealth Management (“Concord Wealth”).¹³ At the hearing, Logan testified that in 2018 he managed “around 20 full-time sales agents and about ten part-time life insurance broker agents.”¹⁴ According to Logan, 95 percent of his time and effort were spent on life insurance, and five percent was securities-related.¹⁵

Logan testified that the Firm “increased [the] sales target significantly year over year.”¹⁶ The demands of the Firm skyrocketed while Logan was sales manager.¹⁷ When he first became sales manager in 2013, the annual sales target for his office was to generate \$300,000 of life insurance premiums.¹⁸ In 2018, the sales requirement for the office was \$1.5 million of life insurance premiums.¹⁹ Logan testified that, on average, he worked 60 hours per week.²⁰

C. Logan Cheats on Three Non-FINRA Continuing Education Courses by Using an Impostor to Take the Courses for Him

Logan cheated on three courses of non-FINRA continuing education training.

1. The Ethics Training

In October 2017, Logan was required to complete an ethics continuing education course created by the Firm (“Ethics Training”).²¹ He received one or more reminders from the Firm about the Ethics Training.²² The Ethics Training consisted of three modules.²³

¹³ Tr. 71. For the remainder of this Hearing Panel Decision, HTK, Penn Mutual, and Concord Wealth will be referred to collectively as “the Firm.”

¹⁴ Tr. 72.

¹⁵ Tr. 102, 144.

¹⁶ Tr. 73.

¹⁷ Tr. 75.

¹⁸ Tr. 147-48.

¹⁹ Tr. 148.

²⁰ Tr. 149.

²¹ JX-9, at 1.

²² JX-10, at 1.

²³ The titles of the modules were (1) Raising Concerns: The Star Employee; (2) Speak Up: Sounds Like We Don’t Have A Problem; and (3) Ethical Choices: A Gray Area. Stip. ¶ 13. Neither party stated whether the Ethics Training was part of FINRA’s Firm Element, which is a continuing and current education program administered by FINRA members to enhance their registered representatives’ securities knowledge, skill, and professionalism. FINRA Rule 1240(b)(2).

On October 27, 2017, the Firm sent Logan an email stating, “Just a reminder that the deadline for completing the required Ethics courses . . . is today.”²⁴ Logan directed the Assistant to take the Ethics Training for him.²⁵ Logan testified he communicated his directive to the Assistant by “forward[ing] the regular company e-mail to her company e-mail.”²⁶ In the forwarding email, Logan stated, “[W]e need this done today.”²⁷ The Assistant took each module for Logan by logging onto the Firm’s online training portal using his credentials.²⁸ Logan did not complete the modules at any time.²⁹

2. The HTK Training

In May 2018, Logan erroneously believed he had to complete a continuing education course titled “HTK Processing Checks and Securities Training” (“HTK Training”).³⁰ His erroneous belief apparently arose from the fact that he was copied on one or more emails about the HTK Training from the Firm’s Director of Licensing and On-Boarding (“Licensing Director”).³¹ In one of these emails, the Licensing Director stated that all registered representatives were required to complete a mandatory training course about the Firm’s guidelines for processing securities-related checks and securities.³² In an email sent three days later, the Licensing Director stated, “Please let me know when [the training is] completed so I can delete you from my list.”³³

Logan forwarded the Licensing Director’s email to the Assistant, asking, “[I]s this completed?”³⁴ The Assistant replied, “Not yet will complete today.”³⁵ Logan admitted that his purpose in forwarding the Licensing Director’s email was to have the Assistant “complete the training on [his] behalf.”³⁶ The Assistant took the HTK Training by logging onto the Firm’s

²⁴ JX-9, at 1.

²⁵ Tr. 107-08.

²⁶ Tr. 91; *accord* JX-10, at 1.

²⁷ JX-9, at 2.

²⁸ Stip. ¶ 14.

²⁹ Stip. ¶ 14.

³⁰ Tr. 109. Neither party stated whether this HTK Training was part of the Firm Element.

³¹ JX-12, at 3.

³² JX-12, at 4.

³³ JX-12, at 3.

³⁴ JX-12, at 1, 3; Stip. ¶ 15; Tr. 108-10.

³⁵ JX-12, at 1.

³⁶ Tr. 110.

web-based Learning Resource Center using Logan’s credentials.³⁷ Logan himself did not take the HTK Training at any time.³⁸

3. The LIMRA Training

In October 2018, Logan instructed the Assistant to complete for him several anti-money laundering continuing education courses provided by the Life Insurance and Market Research Association (“LIMRA Training”).³⁹ Logan had to take the LIMRA Training to sell Columbus Life Insurance products.⁴⁰ He received an email from First American Insurance Underwriters informing him of the requirement to take the LIMRA Training; the subject line of the email was “Matthew Logan CL00064790-pending-ANTI-MONEY LAUNDERING REQUIRED.”⁴¹ The Assistant took the LIMRA Training for Logan by logging onto LIMRA’s online testing portal using his credentials.⁴² Logan himself did not complete the LIMRA Training at any time.⁴³

4. Logan’s Defense

The reason Logan had the Assistant take his continuing education training was because, according to Logan, “It was at a time in my life, with given the situation at Penn Mutual and what they were required, and just with my personal life, I forwarded the email without even thinking about it.”⁴⁴

D. Logan Cheats on His FINRA Regulatory Element Training by Using an Impostor to Take the Training for Him

1. Logan’s Experience with the Regulatory Element

FINRA Rule 1240 requires that “[a]ll covered persons shall comply with the requirement to complete the Regulatory Element,”⁴⁵ which focuses on compliance, regulatory, ethical, and sales practice standards. The Regulatory Element is administered through FINRA’s Continuing Education (“CE”) Online System. A registered person must take the Regulatory Element through FINRA’s CE Online System.⁴⁶

³⁷ Stip. ¶ 16.

³⁸ Stip. ¶ 16.

³⁹ Stip. ¶ 17; Tr. 108.

⁴⁰ Stip. ¶ 17.

⁴¹ JX-14, at 3.

⁴² Stip. ¶ 18; JX-19, at 4.

⁴³ Stip. ¶ 18.

⁴⁴ Tr. 92.

⁴⁵ FINRA Rule 1240(a)(1).

⁴⁶ Tr. 50.

Registered representatives at the Firm received emails reminding them when it was time to take the Regulatory Element.⁴⁷ The Firm’s written supervisory procedures informed registered representatives that “[p]ersons who fail to complete the requirements of continuing education cannot conduct any duties that require registration or earn commissions or other compensation related to such activities.”⁴⁸ Members of the operations team for the Firm emailed Logan asking him to remind sales agents he managed to take the Regulatory Element.⁴⁹ The emails stated, “Continuing Education (CE) Regulatory Element programs are no longer available at Pearson VUE or Prometric testing centers. Going forward, participants must satisfy their CE requirements exclusively via the CE Online Program.”⁵⁰

In 2015, Logan took the Regulatory Element at an in-person testing center. To take the Regulatory Element, Logan was required to show a valid, non-expired government-issued form of identification bearing his name.⁵¹ The persons administering the Regulatory Element took his photograph.⁵² He testified there were “several proctors that [were] on site during the examination.”⁵³ While the testing center allowed 2.5 hours for Logan to complete the videos and the questionnaire,⁵⁴ he always finished the Regulatory Element in about half the allowed time.⁵⁵

2. Logan Cheats on the Regulatory Element

Logan had to complete the Regulatory Element again in 2018, this time through online delivery.⁵⁶ Logan received email reminders from the Firm that he had to take the Regulatory Element and that failure to do so would cause his registration to be inactive.⁵⁷ He received the first notice of the requirement on July 29, 2018.⁵⁸ On September 24, 2018, he received an email reminder from the Firm’s Compliance Department.⁵⁹

⁴⁷ Tr. 51.

⁴⁸ JX-22, at 3.

⁴⁹ Tr. 113-14; JX-8.

⁵⁰ JX-7, at 2; JX-8, at 4.

⁵¹ Tr. 88-89; JX-6, at 1.

⁵² Tr. 89.

⁵³ Tr. 89.

⁵⁴ Tr. 152.

⁵⁵ Tr. 90.

⁵⁶ Stip. ¶ 7; Tr. 90.

⁵⁷ Stip. ¶ 8.

⁵⁸ JX-19, at 2.

⁵⁹ JX-13, at 3-4.

The Firm's Chief Operating Officer was copied on the September 24, 2018 email. She forwarded the email to Logan with an order for him to "???" get this done!!"⁶⁰ Logan forwarded the email to the Licensing Director, asking, "Do I have to schedule appt or do I just hop on the computer to take it? And where do I go online to take it?"⁶¹ The Licensing Director replied, "Go online before 11/23/2018. See the BLUE CE link below."⁶² Logan admits he understood that he could not instruct someone else to log onto FINRA's website and take the Regulatory Element for him.⁶³ Yet Logan forwarded the September 24, 2018 email chain to the Assistant with the expectation that she would take the Regulatory Element on his behalf.⁶⁴

Logan received another reminder email about the Regulatory Element on October 24, 2018.⁶⁵ Logan forwarded this email to the Assistant stating, "Let's discuss today."⁶⁶ Logan testified, "I saw FINRA CE, I forwarded the e-mail to [the Assistant]. And I understood that this was an online course."⁶⁷ In a reply email, the Assistant stated, "I have been working on this in between my work but I'm almost done."⁶⁸ On October 30, 2018, the Assistant completed Logan's Regulatory Element, logging onto FINRA's CE Online System and impersonating Logan by using his login credentials.⁶⁹

Logan received a Certificate of Completion of the Regulatory Element via an email from the CE Online System at FINRA.org.⁷⁰ Logan instructed the Assistant to print the Certificate.⁷¹ The Assistant provided the Certificate to the Firm's operations department.⁷² Logan admits this was so the Firm would have proof that he had taken the Regulatory Element himself and this was a lie he told the Firm.⁷³

⁶⁰ JX-13, at 3.

⁶¹ JX-13, at 3.

⁶² JX-13, at 1; Tr. 128.

⁶³ Tr. 111.

⁶⁴ Stip. ¶ 9; JX-13, at 1; Tr. 92-93, 108.

⁶⁵ JX-15, at 1, 3; Tr. 112, 129-30.

⁶⁶ JX-15, at 1; Tr. 132.

⁶⁷ Tr. 151.

⁶⁸ JX-15, at 1; Tr. 133.

⁶⁹ Stip. ¶ 10; Tr. 98; JX-18, at 3-4.

⁷⁰ Stip. ¶ 11; JX-16, at 1, 4; Tr. 134-35.

⁷¹ JX-16, at 1; Tr. 136.

⁷² Tr. 137.

⁷³ Tr. 137.

3. Logan's Defense

Logan testified that the Firm's sales target demands had become so astronomical that he could not keep up with them. He lost clarity and focus and blindly forwarded to the Assistant the Firm emails reminding him of his continuing education obligations.⁷⁴ According to Logan, "[i]t was impossible to be reading page 3 of an e-mail among a couple hundred [he] was getting a day at this period in time."⁷⁵

E. Logan Falsely Denies His Cheating to the Firm

In a routine email review in November 2018, the supervision department of the Firm discovered emails showing the Assistant had taken Logan's Regulatory Element.⁷⁶ A review of the Assistant's computer activity confirmed she had been on FINRA's CE Online System for a great deal of time, which was consistent with her taking the Regulatory Element.⁷⁷ Ricardo Núñez, a Firm attorney, made arrangements to interview Logan and, separately, the Assistant, both by telephone. Núñez scheduled the interviews a day or two in advance.⁷⁸ He testified that the interviews "were scheduled and essentially back to back."⁷⁹

Núñez interviewed the Assistant first.⁸⁰ The Assistant stated she had typed in Logan's login credentials so that he could take the Regulatory Element from her computer.⁸¹ Núñez testified the Assistant "indicated that she would log him in and then take the computer into Mr. Logan's office and he would complete the training in his office on her computer."⁸² She said this arrangement was more convenient because Logan could take the Regulatory Element between meetings.⁸³

In Logan's interview with Núñez, he did not confess that he had instructed the Assistant to take four continuing education courses for him.⁸⁴ Instead, Logan lied.⁸⁵ He falsely denied that the Assistant had taken the Regulatory Element for him.⁸⁶ He stated that when he told the

⁷⁴ Tr. 101.

⁷⁵ Tr. 125.

⁷⁶ Tr. 46; JX-19, at 1.

⁷⁷ Tr. 47-48; JX-19, at 3.

⁷⁸ Tr. 53-54, 60-61.

⁷⁹ Tr. 54.

⁸⁰ Tr. 54-55.

⁸¹ Tr. 56.

⁸² Tr. 56.

⁸³ Tr. 56-57.

⁸⁴ Tr. 140-41.

⁸⁵ Tr. 141.

⁸⁶ Tr. 57-58.

Assistant to “initiate training,” he meant to have her sign him in so he could take the training from her computer.⁸⁷ Núñez thought it was odd for Logan to use the phrase “initiate training” in their interview because in none of the emails Núñez reviewed had Logan used the phrase “initiate training.”⁸⁸ Núñez testified, “I specifically asked him about the FINRA regulatory element training [and] he denied that [the Assistant] had done that for him. And he indicated that he had completed it.”⁸⁹

Logan told the same false story in his interview that the Assistant had told in hers. Logan told Núñez the Assistant had logged in through her computer and had brought it to him to complete the training.⁹⁰ Núñez asked Logan to identify the modules in the Regulatory Element but Logan could name only one of them.⁹¹ Logan testified, “I was evasive with Mr. Núñez. I shouldn’t have been.”⁹² After the interview, the Firm terminated Logan’s employment.⁹³

III. Conclusions of Law

Enforcement charges Logan with violating FINRA Rule 2010 by cheating on the FINRA Regulatory Element and three non-FINRA continuing education courses. FINRA Rule 2010 requires that “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.”⁹⁴ Conduct that reflects poorly on an associated person’s ability to comply with regulatory requirements fundamental to the securities industry conflicts with such standards and principles.⁹⁵ FINRA Rule 2010 proscribes all unethical business-related conduct, even if it is not in connection with securities or a securities transaction.⁹⁶

Cheating on the Regulatory Element is analogous to cheating on a FINRA qualification examination. Both forms of misconduct violate the high ethical standards of FINRA Rule

⁸⁷ Tr. 58.

⁸⁸ Tr. 58.

⁸⁹ Tr. 58.

⁹⁰ Tr. 153.

⁹¹ Tr. 59-60.

⁹² Tr. 97.

⁹³ Tr. 61.

⁹⁴ FINRA Rules “apply to all members and persons associated with a member,” and associated persons “have the same duties and obligations as a member under the Rules.” FINRA Rule 0140(a).

⁹⁵ *Keilan Dimone Wiley*, Exchange Act Release No. 76558, 2015 SEC LEXIS 4952, at *15 (Dec. 4, 2015), *petition for review denied*, 663 F. App’x 353 (5th Cir. 2016); *Dep’t of Enforcement v. Reifler*, No. 2016050924601, 2019 FINRA Discip. LEXIS 44, at *14 (NAC Sept. 30, 2019), *appeal docketed*, No. 3-19589 (SEC Oct. 10, 2019).

⁹⁶ *Allen Holeman*, Exchange Act Release No. 86523, 2019 SEC LEXIS 1903, at *30-31 (July 31, 2019), *petition for review denied*, No. 19-1251, 2021 U.S. App. LEXIS 208 (D.C. Cir. Jan. 5, 2021); *Dep’t of Enforcement v. Clarke*, No. 2016050938301, 2020 FINRA Discip. LEXIS 42, at *19 (NAC Sept. 17, 2020), *appeal docketed*, No. 3-20126 (SEC Oct. 19, 2020).

2010.⁹⁷ As FINRA’s National Adjudicatory Council has found, the examination process provides a basic protection for the investing public, ensuring that registered representatives are qualified to perform the functions they undertake on the public’s behalf.⁹⁸ Similarly, the Securities and Exchange Commission has found that cheating on an examination threatens the integrity of the registration process and cannot be tolerated.⁹⁹ FINRA must be able to ensure the integrity of its testing, licensing, and continuing education.

Logan cheated on his FINRA Regulatory Element and three other continuing education courses by directing the Assistant to act as an impostor and take those courses for him.¹⁰⁰ When Núñez interviewed Logan—and even read out loud to him the emails back and forth between him and the Assistant—Logan falsely denied the Assistant had taken the courses for him.¹⁰¹ Logan now admits he violated FINRA Rule 2010.¹⁰²

IV. Sanctions

According to FINRA’s Sanction Guidelines (“Guidelines”), the purpose of the disciplinary process is to protect the investing public, support and improve overall business standards in the securities industry, and decrease the likelihood of recurrence of misconduct by the disciplined respondent.¹⁰³ The Guidelines contain General Principles Applicable to All Sanction Determinations, Principal Considerations in Determining Sanctions, and Guidelines applicable to specific violations.

A. Using an Impostor in the Regulatory Element of Continuing Education, in Violation of FINRA Rule 2010

The Sanction Guideline for Using an Impostor in the Regulatory Element of Continuing Education recommends a fine of \$5,000 to \$39,000.¹⁰⁴ The Guideline provides that a bar is standard:

⁹⁷ *Dep’t of Enforcement v. Shelley*, No. C3A050003, 2007 NASD Discip. LEXIS 8, at *12 (NAC Feb. 15, 2007).

⁹⁸ *Id.* at *13.

⁹⁹ *Ronald H.V. Justiss*, Exchange Act Release No. 37074, 1996 SEC LEXIS 998, at *11 (Apr. 5, 1996).

¹⁰⁰ Stip. ¶¶ 9, 13, 15, 17.

¹⁰¹ Tr. 57-58, 140-41, 153.

¹⁰² Ans. ¶ 32.

¹⁰³ FINRA Sanction Guidelines (“Guidelines”) at 2 (Oct. 2020) (General Principle No. 1), <http://www.finra.org/sanctionguidelines>.

¹⁰⁴ Guidelines at 40.

A bar is standard. If mitigation is documented (only in cases of unauthorized possession that do not rise to the level of cheating), consider a lesser sanction, such as suspending the individual in any or all capacities for up to two years.¹⁰⁵

This is not a case of unauthorized possession that does not rise to the level of cheating. Instead, the evidence shows Logan intended to—and in fact did—cheat. Thus, mitigation cannot be documented and is unavailable in determining sanctions.

Various SEC and FINRA cases confirm a bar is standard.¹⁰⁶ There are only three violations for which the Sanction Guidelines recommend a bar as the standard sanction, and using an impostor in the Regulatory Element is one of them. A registered person's dishonesty in using an impostor on the Regulatory Element evidences such a complete disregard for FINRA's rules that a bar is necessary to protect the investing public.

Several aggravating factors support a bar in this case. First, Logan did not accept responsibility for or acknowledge his misconduct to the Firm before detection or intervention.¹⁰⁷ Logan did not attempt to accept responsibility for his cheating—which ended in October 2018—until September 2019, in a letter to FINRA.¹⁰⁸ Second, he engaged in a year-long pattern of cheating from October 2017 to October 2018.¹⁰⁹ Third, in his interview with Núñez, he acted in a premeditated way, with the Assistant as his accomplice, to try to deceive the Firm with a concocted story.¹¹⁰ It is further aggravating that, even now, he seeks to minimize his lying to the Firm, testifying, “I was evasive with Mr. Núñez.”¹¹¹ Fourth, he acted intentionally when he directed the Assistant to take the Regulatory Element and three different continuing education

¹⁰⁵ Guidelines at 40 (emphasis added).

¹⁰⁶ *Shelley*, 2007 NASD Discip. LEXIS 8, at *30 (“We do not find that there were any mitigating factors in the record that would justify imposing a sanction less than a bar.”); *Justiss*, 1996 SEC LEXIS 998, at *11 (“While the misconduct did not involve direct harm to customers, it flouts the ethical standards to which members of this industry must adhere.”); *Hugh M. Casper*, Exchange Act Release No. 7479, 1964 SEC LEXIS 415, at *5-6 (Dec. 7, 1964) (“[W]e regard a deception in connection with the taking of those examinations . . . to be so grave that we would not find the extreme sanction of revocation or expulsion to be excessive or oppressive unless the most extraordinary mitigative facts were shown.”).

¹⁰⁷ Guidelines at 7 (Principal Consideration No. 2: Whether an individual accepted responsibility for and acknowledged the misconduct to his employer prior to detection and intervention by the firm); *accord Kent M. Houston*, Exchange Act Release No. 71589A, 2014 SEC LEXIS 863, at *28 (Feb. 20, 2014) (for sanction purposes, acceptance of responsibility is mitigating only when it occurs prior to detection and intervention by the firm).

¹⁰⁸ JX-18, at 3.

¹⁰⁹ Guidelines at 7 (Principal Consideration No. 8: Whether the respondent engaged in numerous acts or a pattern of misconduct; Principal Consideration No. 9: Whether the respondent engaged in the misconduct over an extended period of time).

¹¹⁰ Guidelines at 7 (Principal Consideration No. 10: Whether the respondent attempted to mislead or deceive the member firm with which he was associated); *accord Dep't of Enforcement v. Connors*, No. 2012033362101, 2017 FINRA Discip. LEXIS 2, at *44-45 (NAC Jan. 10, 2017) (a respondent's attempt to mislead his employer firm is a significant aggravating factor).

¹¹¹ Tr. 97.

courses for him.¹¹² Logan adopted a calculated method of avoiding his duty as a member of the securities industry to take required continuing education training.

It is also aggravating that Logan cheated on his continuing education requirements at a time when he was a sales manager in the Firm. Because he enlisted the help of another person in his cheating (the Assistant), he made it more likely that other registered persons in the office would learn about his misconduct. These other registered persons, following the example of their manager, might think they too could use the Assistant, or other individuals, as impostors in meeting their continuing education requirements.

The Hearing Panel finds that these aggravating factors predominate. For the reasons stated below, we do not find Logan’s proposed mitigating factors to be compelling.

B. Logan’s Contentions That He Should Not Be Barred

In the hearing, Logan contended that in cheating cases in which individuals settled by entering into Acceptance, Waiver and Consents (“AWCs”), the sanction the individuals received were much less than a bar.¹¹³ But comparisons to sanctions in settled cases are inappropriate because pragmatic considerations—avoiding adversary proceedings, which consume more time and Enforcement resources—justify imposing lower sanctions in negotiating a settlement. Thus, agreed sanctions imposed in matters resolved by AWCs are neither precedent nor significant for determining the appropriate sanction to impose on a respondent who chooses to litigate.¹¹⁴ Numerous SEC and NAC cases hold that comparisons between cases—even between litigated cases—are inappropriate.¹¹⁵

Eleven of the twelve AWC cases that Logan relies on involved a person cheating on the Firm Element, not the Regulatory Element. And although a bar is standard for cheating on the Regulatory Element, it is not standard for cheating on the Firm Element. Instead, Firm Element

¹¹² Guidelines at 8 (Principal Consideration No. 13: Whether the respondent’s misconduct was the result of an intentional act, recklessness or negligence); *accord Keith D. Geary*, Exchange Act Release No. 80322, 2017 SEC LEXIS 995, at *28 (Mar. 28, 2017) (a finding of intent may result in the imposition of sanctions that exceed the range recommended in the Sanction Guidelines), *petition for review denied*, 727 F. App’x 504 (10th Cir. 2018).

¹¹³ Tr. 211-13.

¹¹⁴ Guidelines at 1 (“FINRA staff and respondents also may use these guidelines in crafting settlements, acknowledging the broadly recognized principle that settled cases generally result in lower sanctions than fully litigated cases to provide incentives to settle.”).

¹¹⁵ *Newport Coast Sec., Inc.*, Exchange Act Release No. 88548, 2020 SEC LEXIS 917, at *34 (Apr. 3, 2020) (“We have observed repeatedly that ‘comparisons to sanctions in settled cases are inappropriate.’”); *Kimberly Springsteen-Abbott*, Exchange Act Release No. 88156, 2020 SEC LEXIS 2684, at *39 (Feb. 7, 2020) (“As we have noted repeatedly, the appropriate sanction depends on the facts and circumstances of each particular case and cannot be precisely determined by comparison with action taken in other proceedings.”), *petition for review dismissed in part and denied in part*, No. 20-1092, 2021 U.S. App. LEXIS 5724 (D.C. Cir. Feb. 26, 2021); *Dep’t of Enforcement v. C.L. King & Assoc., Inc.*, No. 2014040476901, 2019 FINRA Discip. LEXIS 43, at *136-37 (NAC Oct. 2, 2019) (“[C]omparisons to sanctions in settled cases are inappropriate because pragmatic considerations justify the acceptance of lesser sanctions in negotiating a settlement such as the avoidance of time-and-manpower-consuming adversary proceedings.”).

cheating is subject to a separate Sanction Guideline.¹¹⁶ The twelfth AWC case involved a person cheating on the Regulatory Element, but the cheating did not involve using an impostor to take the training. In a thirteenth AWC matter, which Logan's counsel appropriately brings to the Hearing Panel's attention although it cuts against his position,¹¹⁷ the person accepted a bar for cheating on the Regulatory Element.

While there are no prior litigated FINRA disciplinary proceedings in which a respondent was accused of cheating or using an impostor on the Regulatory Element, FINRA hearing panels have consistently barred respondents found to have cheated on qualification examinations, the Firm Element, and state licensing requirements, which we consider to be analogous. And while the recommended ranges in the Guidelines are not absolute, this only means a hearing panel must consider each case on its own facts and tailor sanctions to respond to the misconduct at issue.¹¹⁸ A hearing panel cannot ignore aggravating factors and the lack of mitigating factors to arrive at a more lenient sanction when the governing Sanction Guideline provides a bar is standard.

Logan claims his failure to take the Regulatory Element and the three non-FINRA continuing education courses was because his office had to address pressing and urgent matters and was chronically understaffed.¹¹⁹ This is much like an argument that a respondent's misconduct was due to outside stress. But contrary to Logan's contention, such factors do not mitigate a respondent's misconduct.¹²⁰ He did not ask to be excused from any work duties at the Firm because of the stress he was experiencing.¹²¹ Nor did Logan ask for more time to complete any of his continuing education requirements.¹²²

Logan contends that FINRA's move from in-person administration of the Regulatory Element to online administration is a mitigating factor because online administration does not include the trappings of seriousness (e.g., proof of identity, photographing the training subject, constant monitoring by proctors, and so on) that is present in in-person administration.¹²³ But the move to online administration makes it even more important to apply the governing Sanction Guideline according to its terms. Without the safeguards applied in in-person training, online administration must depend on the good faith of the training subjects. It is also much easier to cheat in online training, as this case demonstrates. The imposition of a bar on a person caught

¹¹⁶ Guidelines at 41.

¹¹⁷ *Ooi*, AWC No. 2012032545901 (Apr. 2013), finra.org/rules-guidance/disciplinary-actions/april-2013-0.

¹¹⁸ *McCarthy v. SEC*, 406 F.3d 179, 190 (2d Cir. 2005).

¹¹⁹ Tr. 103, 196.

¹²⁰ *Dep't of Enforcement v. Jones*, No. 2015044782401, 2020 FINRA Discip. LEXIS 45, at *32 (NAC Dec. 17, 2020), *appeal docketed*, No. 3-20209 (SEC Jan. 19, 2021); *Dep't of Enforcement v. Ortiz*, No. 2014041319201, 2017 FINRA Discip. LEXIS 5, at *36-37 (NAC Jan. 4, 2017).

¹²¹ Tr. 107.

¹²² Tr. 107.

¹²³ Tr. 203-04.

cheating in online training shows the securities industry that such cheating will not be tolerated in the new training environment.

Finally, the Hearing Panel finds the fact that Logan does very little securities business is not a mitigating factor. When individuals register with FINRA, they agree to abide by FINRA Rules on an equal basis with all other registered persons, no matter how little or how much securities business they undertake. They choose to avail themselves of the benefits of FINRA registration. They are expected to shoulder the concomitant burdens.

C. Conclusion

Based on the applicable Sanction Guideline, the Principal Considerations, and the aggravating factors for Logan's violation of FINRA Rule 2010, the Hearing Panel bars him from associating in any capacity with any FINRA member firm. Because of the bar, and consistent with the Sanction Guidelines,¹²⁴ we do not impose a fine.

V. Order

The Hearing Panel orders that, for violating FINRA Rule 2010 by using an impostor to cheat on the Regulatory Element and three non-FINRA continuing education courses, Respondent Matthew R. Logan shall be barred from associating with any FINRA member in any capacity. Logan shall pay the hearing costs of \$2,466.10, consisting of a \$750 administrative fee and \$1,716.10 for the cost of the hearing transcript.

¹²⁴ Guidelines at 10 ("Adjudicators generally should not impose a fine if an individual is barred and there is no customer loss.").

If this Decision becomes FINRA's final disciplinary action, Logan's bar shall become effective immediately. The costs shall be due on a date set by FINRA, but not less than 30 days after this Decision becomes FINRA's final disciplinary action.¹²⁵

SO ORDERED.


Richard E. Simpson
Hearing Officer

Copies to:

Matthew R. Logan (via overnight courier and email)
Jeremy Bartell, Esq. (via email)
Meghan Ferguson, Esq. (via email)
Robert Kennedy, Esq. (via email)
Christina Stanland, Esq. (via email)
Gina Petrocelli, Esq. (via email)
Jennifer L. Crawford, Esq. (via email)

¹²⁵ The Hearing Panel has considered and rejects without discussion all other arguments of the parties.