

Written Supervisory Procedures: A Roadmap to Victory (for Claimants)

Peter B. King
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How Much is Too Much?

9.2 Suitability

... Even though suitability is primarily concerned with solicited transactions, FCs should discuss the suitability of unsolicited trades with the client before entering orders. If orders are out of character for the account and unsolicited, FCs should discourage the trade and make sure the client has signed an unsolicited letter. The branch manager should consider contacting the client to discuss the unsolicited order.

11.12 Quarterly Account Review

. . . If [after reviewing selected accounts] you are unable to conclude that the type and level of activity is suitable, you should review the account further and consider:

- Personally contacting the client to ask open-ended questions about the account. You should disclose the profit/loss of the account, the commissions paid by the client, and any margin interest paid. You should write a letter to the client confirming the conversation.
- Document any conversations with the client.
- Notes of your conversations with the FC or client should be retained with the documentation of the account review.

8.7 Discretionary Account Review File

... You are required to supervise discretionary accounts more closely than other accounts.

- In addition to your daily review of discretionary trades, you are required to review the trading activity monthly.
- Firm policy also requires that you or the FC send reports to the client along with a cover letter which, at a minimum, includes commissions generated and a report of any margin interest charged during the period.
- Annually, you must contact the client, either in person or by phone, to discuss account performance and review net worth and investment objectives. Substantive notes of these contacts must be retained in your discretionary account supervision file.
- This telephone or face to face contact should be followed with a full disclosure letter outlining realized gains and losses and commissions paid.
- A copy of your notes and the full disclosure letter must be sent to the Compliance Department.

(cont'd) Discretionary Account Review File

Contents of the File. The file should contain:

- Monthly account statements with evidence of reviews plus any additional reports or documents bearing notes as to your review.
- Copies of the quarterly reports and cover letter sent to the client.
- Notes from your annual personal or phone contact with the client.

The file should be kept by the branch office for six years.

How Little is Too Little?

9.7 Updated New Account Cards

FCs are required to periodically review client account information and complete an updated New Account Card if there has been significant information changes. In addition to reminding FCs of this responsibility, you must review the updated New Account Card information.

The Roundabout Path . . .

Correction of Errors

It is the associated person's responsibility to bring an error to the attention of the Designated Supervisory Principal who will then take steps to rectify and correct the error. The Designated Supervisory Principal will create a record, such as a new order ticket, used to correct the error and initial, sign or electronically sign the record to evidence supervisory review. Under no circumstances may a registered representative enter an order to reverse an error.

. . . Takes a Detour Through FINRA

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. 2014040147502**

TO: Department of Enforcement
Financial Industry Regulatory Authority (“FINRA”)

RE: [REDACTED] Incorporated, Respondent
Member Firm
CRD No. [REDACTED]

[REDACTED] Respondent
General Securities Sales Supervisor
General Securities Representative
CRD No. [REDACTED]

. . . Takes a Detour Through FINRA

B. Respondents consent to the imposition of the following sanctions:

1. As to [REDACTED]:
 - a. a censure;
 - b. a \$200,000 fine; and
 - c. [REDACTED] also agrees to comply with the following undertaking:

A requirement that within 30 days of approval of this AWC, an officer of the Firm shall provide to James E. Day, Chief Counsel and Vice President, FINRA, at the address set forth below, a written certification that the Firm's systems, policies and procedures for correcting trade errors are reasonably designed to achieve compliance with applicable securities laws, regulations and rules. FINRA staff can extend the deadline set forth upon written request from [REDACTED]

2. As to [REDACTED]:
 - a. a \$5,000 fine; and
 - b. a ten (10) business day suspension from associating with any FINRA member firm in any principal capacity.

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