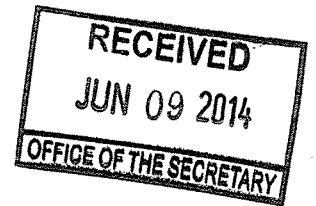


SECURITIES AND EXCHANGE COMMISSION
Washington, D.C.



FINRA DISCIPLINARY PROCEEDING
NO. 2010023349601

In the Matter of the Application of)
DENISE M. OLSON)
For Review of Disciplinary Action Taken by)
FINRA Board of Governors)
_____)

3-15916

DENISE M. OLSON'S APPLICATION FOR REVIEW BY U.S. SECURITIES AND EXCHANGE COMMISSION OF THE SANCTIONS IMPOSED ON HER BY THE FINRA BOARD OF GOVERNORS

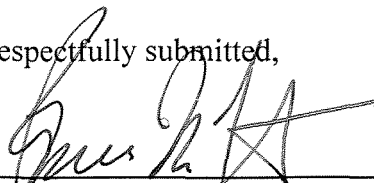
Denise Olson, by her undersigned counsel, hereby submits her application for review by the U.S. Securities and Exchange Commission of the sanctions imposed upon her by the FINRA Board of Governors in its Decision dated May 9, 2014.

Issue Presented

Whether the Board of Governors should have imposed a permanent bar upon Ms. Olson for making a single, fleeting mistake in improperly requesting and receiving \$740.10 by classifying a personal expense as a business expense, when there was no pattern of wrongdoing, she was extremely remorseful, would never repeat the violation, was not motivated by greed, and consistently accepted responsibility without misleading either her firm's auditor or FINRA. Ms. Olson requests that a briefing schedule be set and that she be accorded an opportunity for oral argument.

(Signature on next page)

Respectfully submitted,



Bruce M. Bettigole, Esq.

SUTHERLAND ASBILL & BRENNAN LLP

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(202) 383-0165

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ATTORNEYS FOR RESPONDENT

DENISE M. OLSON

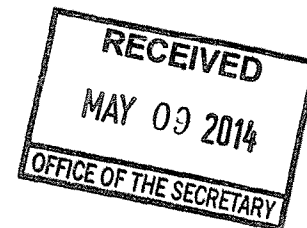
June 6, 2014



Financial Industry Regulatory Authority

Gary J. Dernelle
Associate General Counsel

Direct: (202) 728-8255
Fax: (202) 728-8264



May 9, 2014

VIA MESSENGER

Kevin O'Neill, Deputy Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

RE: Complaint No. 2010023349601: Denise M. Olson

Dear Mr. O'Neill:

Enclosed please find the decision of the FINRA Board of Governors in the above-referenced matter. This decision constitutes the final disciplinary action of FINRA in this matter.

Very truly yours,

A handwritten signature in black ink, appearing to read "Gary J. Dernelle".

Gary J. Dernelle

Enclosure

cc: Melanie Campbell



Financial Industry Regulatory Authority

Marcia E. Asquith
Senior Vice President and
Corporate Secretary

Direct: (202) 728-8831
Fax: (202) 728-8300

May 9, 2014

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

Bruce M. Bettigole, Esq.
Sutherland Ashbill & Brennan LLP
700 Sixth Street, NW, Suite 700
Washington, DC 20001

RE: Complaint No. 2010023349601: Denise M. Olson

Dear Mr. Bettigole,

Enclosed is the final decision of the Board of Governors ("Board") of the Financial Industry Regulatory Authority ("FINRA") in the above-referenced matter. The enclosed decision is the final decision of FINRA for purposes of Exchange Act Rule 19d-1(c)(1).

In the enclosed decision, the Board bars Denise M. Olson ("Olson") for her falsification of an expense report and conversion of her firm's funds. The Board also affirms hearing costs in the amount of \$1,909.71, and it imposes appeal costs of \$1,468.85.

Please note that under Rule 8311 ("Effect of a Suspension, Revocation or Bar"), because the Board imposes a bar upon Olson, effective immediately your client 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 your client is currently employed with a member of FINRA, she is required immediately to update her Form U4 to reflect this action.

Your client is also reminded that the failure to keep FINRA apprised of her most recent address may subject her to the entry of a default decision. Article V, Section 2 of the FINRA By-Laws requires all persons who apply for registration with FINRA to submit a Form U4 and to 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

Investor protection. Market integrity.

1735 K Street, NW t 202 728 8000
Washington, DC www.finra.org
20006-1506

Bruce M. Bettigole, Esq.
May 9, 2014
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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

Your client may appeal this decision to the U.S. Securities and Exchange Commission ("SEC"). To do so, an application must be filed 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 Office of the Secretary
Securities and Exchange
Commission
100 F Street, N.E.
Mail Stop 1090 – Room 10915
Washington, D.C. 20549

The address of FINRA is:

Attn: Gary Dernelle
Office of General Counsel
FINRA
1735 K Street, N.W.
Washington, D.C. 20006

An application for review filed with the SEC must identify the FINRA case number and state the basis for Olson's appeal, include an address and daytime phone number where FINRA may serve or contact you or, if you do not represent Olson before the SEC, your client. If the address or phone number that is provided with the application changes, you or your client 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 Board in the enclosed decision will not be stayed pending appeal to the SEC, unless the SEC orders a stay.

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.

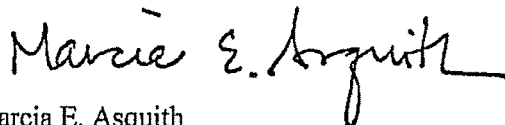
Bruce M. Bettigole, Esq.

May 9, 2014

Page 3

If your client does not appeal this Board decision to the SEC and the decision orders your client to pay fines or costs, your client 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,



Marcia E. Asquith
Senior Vice President and Corporate Secretary

cc: Denise M. Olson
Leo Orenstein
Jonathan Golomb
Christopher Perrin
Daniel Gardner
Jeffrey Pariser
Melanie Campbell

BEFORE THE BOARD OF GOVERNORS
FINANCIAL INDUSTRY REGULATORY AUTHORITY

In the Matter of
Department of Enforcement,
Complainant,
vs.
Denise M. Olson
Lakeville, MN,
Respondent.

DECISION

Complaint No. 2010023349601

Dated: May 9, 2014

Respondent submitted a false expense report and converted firm funds. Held, findings and sanction affirmed.

Appearances

For the Complainant: Jonathan Golomb, Esq., Christopher Perrin, Esq., Daniel Gardner, Esq.,
Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: Bruce M. Bettigole, Esq.

Decision

Denise M. Olson ("Olson") appeals a January 4, 2013 Hearing Panel decision. The Hearing Panel found that Olson falsified an expense report and converted her member firm's funds by obtaining payment for personal expenses for which corporate reimbursement was not allowed, in violation of FINRA Rule 2010.¹ For this misconduct, the Hearing Panel barred Olson from associating with any FINRA member in any capacity. We affirm the Hearing Panel's findings of a violation and the sanction it imposed.

¹ The conduct rules that apply in this case are those that existed at the time of the conduct at issue.

- 2 -

I. Background

Olson entered the securities industry in 1991. From September 2004 to June 2010, Olson was associated with Wells Fargo Advisors, LLC ("Wells Fargo") (formerly Wachovia Securities, Inc.). She registered through the firm as a general securities representative and general securities sales supervisor and served as branch manager of the firm's Bloomington, Minnesota office. Wells Fargo terminated Olson's registrations on June 17, 2010, after uncovering the misconduct that is at issue in this matter. She is not currently associated with a FINRA member.²

II. Procedural History

The Department of Enforcement ("Enforcement") filed a single-cause complaint on October 7, 2011. Enforcement alleged that Olson purchased personal items using her corporate credit card and later falsely claimed the expenditure as a business expense. Consequently, Enforcement averred, Wells Fargo made a \$740.10 payment to Olson's corporate credit card for a non-reimbursable, personal expense, and she converted firm funds for her personal use, in violation of FINRA Rule 2010.

On November 7, 2011, Olson filed an answer largely admitting the facts alleged in Enforcement's complaint. Olson's counsel subsequently conceded that her actions violated FINRA Rule 2010. A disciplinary hearing, held on October 12, 2012, was therefore limited to presentations of evidence for the purpose of assessing the sanctions to impose for Olson's wrongdoing.

The Hearing Panel issued its decision on January 4, 2013. Consistent with Enforcement's allegations, and given the respondent's admitted liability, the Hearing Panel found that Olson falsified an expense report and converted firm funds, in violation of FINRA Rule 2010. The Hearing Panel concluded that barring Olson's further association with any FINRA member served as an appropriate, remedial sanction for her misconduct. This appeal followed.³

² After Wells Fargo terminated her, Olson briefly associated with another FINRA member before registering through Ameriprise Financial Services, Inc. ("Ameriprise"), as a general securities representative and general securities sales supervisor. Olson associated with Ameriprise, and worked as a recruiter for the firm, from March 2011 until December 2012, when she voluntarily resigned.

³ Olson appealed the Hearing Panel's decision to the National Adjudicatory Council ("NAC"). Under FINRA Rule 9349(c), the NAC provided its proposed written decision to the FINRA Board of Governors ("FINRA Board"), which exercised its discretionary review powers under FINRA Rule 9351(a). The decision of the FINRA Board constitutes the final disciplinary action of FINRA in this matter.

III. Facts

Wells Fargo issued Olson a corporate credit card. As Wells Fargo permitted, Olson periodically used the corporate credit card for both business and personal reasons. An expenditure that was not reimbursable as a corporate expense under the firm's expense allowance policies, however, remained Olson's personal responsibility.⁴

On April 2, 2010, Olson purchased two Apple® iPods® for her niece and nephew. She charged the \$740.10 purchase to her corporate credit card. Olson later accounted for the charge using Wells Fargo's expense-management system. She did not, however, designate the expenditure as a personal expense. Instead, Olson falsely claimed that she incurred the expense to purchase branch office equipment, entering the description "branch equip for new conf room" in the space provided to justify the outlay as a business cost. Consequently, Wells Fargo paid the \$740.10 charge that Olson incurred to purchase two iPods®.

Wells Fargo began an investigation in May 2010 to address discrepancies in Olson's use of her corporate credit card. On June 2, 2010, a Wells Fargo auditor questioned Olson about each of the greater than 140 charges she made to her corporate credit card during an eight-month period. When they reached the April 2, 2010 charge for \$740.10, Olson read the entry description she provided in Wells Fargo's expense-management system and explained that the expense represented branch office equipment that she purchased for a conference room. After the Wells Fargo auditor asked her which conference room the purchase supported, Olson volunteered that she had in fact purchased two iPods® and admitted that she falsely submitted the expenditure for approval as a business expense.

Olson provided Wells Fargo a voluntary, hand-written statement acknowledging her misconduct. Wells Fargo then immediately terminated Olson's employment.⁵ Olson reimbursed Wells Fargo the \$740.10 that the firm paid to her corporate credit card as a result of her false entry.

⁴ Wells Fargo's expense-management system, which was computer based, included a pre-populated option to identify an expense charged to the corporate credit card as "personal," in which case the employee used another on-line system to pay for the personal charge using his or her own funds.

⁵ The Uniform Termination Notice for Securities Industry Registration ("Form U5") that Wells Fargo submitted to end Olson's registrations with the firm contained the termination comments: "violation of company policy – misuse of corporate credit card – not compliance related."

IV. Discussion

FINRA Rule 2010 states that “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.”⁶ The rule reaches beyond ordinary legal requirements. See *Dep’t of Enforcement v. Shvarts*, Complaint No. CAF980029, 2000 NASD Discip. LEXIS 6, at *12 (NASD NAC June 2, 2000) (discussing the scope of NASD Rule 2110, the exact predecessor to FINRA Rule 2010). It sets forth a standard that encompasses “a wide variety of conduct that may operate as an injustice to investors or other participants” in the securities markets. *Id.* (quoting *Daniel Joseph Alderman*, 52 S.E.C. 366, 369 (1995), *aff’d*, 104 F.3d 285 (9th Cir. 1997)). In FINRA disciplinary proceedings, “[t]he analysis that is employed [under the rule] is a flexible evaluation of the surrounding circumstances with attention to the ethical nature of the conduct.” *Id.* at *15. FINRA’s authority to pursue discipline for violations of FINRA Rule 2010 is sufficiently broad to encompass any unethical, business-related misconduct, regardless of whether it involves a security. See *Daniel D. Manoff*, 55 S.E.C. 1155, 1162 (2002) (“We . . . have concluded that [NASD] Rule 2110 applies when the misconduct reflects on the associated person’s ability to comply with the regulatory requirements of the securities business . . .”).

The Hearing Panel found, and Olson does not dispute, that she failed to abide by the fundamental ethical requirements imposed on her as a person associated with a FINRA member firm. Olson knowingly falsified an expense report, deceitfully obtained Wells Fargo’s payment of personal expenses, and converted her firm’s funds.⁷ FINRA has consistently found that such conduct, or equivalent conduct, is dishonorable and violates FINRA Rule 2010. See *Dep’t of Enforcement v. Saad*, Complaint No. 2006006705601, 2009 FINRA Discip. LEXIS 29, at *19-20 (FINRA NAC Oct. 6, 2009) (finding that the respondent violated NASD Rule 2110 by submitting false expense reimbursement forms for a trip he did not take and a cell phone he did not buy to obtain a disallowed reimbursement), *aff’d*, Exchange Act Release No. 62178, 2010 SEC LEXIS 1761 (May 26, 2010), *aff’d in relevant part*, 718 F.3d 904 (D.C. Cir. 2013); *Dist.*

⁶ FINRA Rule 2010 applies also to persons associated with a member under FINRA Rule 0140(a), which provides that “[p]ersons associated with a member shall have the same duties and obligations as a member under the Rules.”

⁷ “Conversion generally is an intentional and unauthorized taking of and/or exercise of ownership over property by one who neither owns the property nor is entitled to possess it” and is conduct that violates FINRA Rule 2010. *John Edward Mullins*, Exchange Act Release No. 66373, 2012 SEC LEXIS 464, at *33 (Feb. 10, 2012) (quoting *FINRA Sanction Guidelines* 38 (2007)). Although Olson’s false expense reporting did not result in Wells Fargo paying Olson directly for the two iPods® that she purchased, Wells Fargo, in effect, paid for Olson’s personal expenditure. Under these facts, we agree with the Hearing Panel’s conclusion that Olson, with intent, converted for her own use firm funds that she was not entitled or authorized to possess, in violation of FINRA Rule 2010. See *id.* (finding that the respondent’s personal use of gift certificates and wine, purchased with the funds of a charitable foundation, constituted conversion).

Bus. Conduct Comm. v. Kwikkel-Elliott, Complaint No. C04960004, 1998 NASD Discip. LEXIS 12, at *13 (NASD NBCC Jan. 16, 1998) (finding that a registered representative violated NASD Rule 2110 when she requested and received from her employer reimbursement for expenses that she did not incur); *see also Keith Perkins*, 54 S.E.C. 989, 992 (2000) (affirming FINRA findings that a registered representative's submission of false reimbursement requests for seminar expenses he did not incur violated NASD Rule 2110), *aff'd*, 31 F. App'x 562 (9th Cir. 2002).

We therefore affirm the Hearing Panel's findings.

V. Sanctions

The Hearing Panel barred Olson from associating with any FINRA member in any capacity as a sanction for her misconduct.⁸ Olson argues that a bar is excessive and punitive, and she requests that we replace it with a fine and a period of suspension during which she would not be permitted to associate with a FINRA member firm. Enforcement, on the other hand, steadfastly objects to our imposing sanctions that result in anything less than Olson's exclusion from the securities industry. After carefully considering the issues presented on appeal, and the record that confronts us, we affirm the sanction imposed by the Hearing Panel.

First, in deciding upon the fitting sanction to impose for Olson's misconduct, we have considered the FINRA Sanction Guidelines ("Guidelines").⁹ The Guideline for conversion is expressed in remarkably specific terms and instructs that adjudicators "[b]ar the respondent regardless of [the] amount converted."¹⁰ Olson's misconduct, absent mitigating factors, poses such a substantial a risk to investors and the markets "as to render [her] unfit for employment in the securities industry" and "a bar is therefore an appropriate remedy." *See Charles C. Fawcett*, Exchange Act Release No. 56770, 2007 SEC LEXIS 2598, at *22 n.27 (Nov. 8, 2007) (noting that the Guideline for conversion is one of only three that propose a bar as the standard sanction for the underlying rule violation).

Second, we discern from the record a number of troubling, aggravating factors that further justify barring Olson for her wrongdoing. By intentionally taking funds to which she was not entitled, Olson exhibited flagrant dishonesty.¹¹ Moreover, when it came time to account for

⁸ A majority of the Hearing Panel concurred in the decision to bar Olson. The Hearing Panel's dissenting panelist concluded that a bar was excessive and punitive, and asserted that a \$5,000 fine and a six-month suspension in all capacities would better serve to remediate Olson's misconduct.

⁹ *FINRA Sanction Guidelines* (2013), <http://www.finra.org/web/groups/industry/@ip/@enf/@sg/documents/industry/p011038.pdf> [hereinafter *Guidelines*].

¹⁰ *Id.* at 36. Because a bar is standard, the Guidelines for conversion do not recommend a fine. *Id.*

¹¹ *See Guidelines*, at 7 (Principal Considerations in Determining Sanctions, No. 13).

her purchase of two iPods® in Wells Fargo's expense-management system, Olson knowingly failed to designate the expenditure as a personal expense. Instead, she falsely claimed that she incurred the expense to purchase branch office equipment and deceitfully entered an untruthful description to justify the outlay as a business cost, thus misleading her firm in an attempt to conceal her misconduct and evade detection.¹² Olson's self-serving behavior resulted in her obvious financial gain and caused Wells Fargo to pay her for expenses that were her obligation alone to bear.¹³

Finally, we do not find any evidence of mitigation that warrants deviating from the standard sanction of a bar in this case. As an initial matter, we note that Olson has throughout these disciplinary proceedings urged FINRA adjudicators to impose no more than a "brief suspension" for her misconduct, drawing parallels to the misconduct examined and the sanctions FINRA imposed in the matters of *Department of Enforcement v. McCartney* and *Department of Enforcement v. Leopold*. In those cases, FINRA found that the respondents falsely reported expenses to their member firms in an effort to obtain reimbursements or other financial benefits to which they were not entitled, in violation of NASD Rule 2110. See *McCartney*, Complaint

¹² See *id.* at 6 (Principal Considerations in Determining Sanctions, No. 10).

¹³ See *id.* at 6-7 (Principal Considerations in Determining Sanctions, Nos. 11, 17). Olson testified that she often personally purchased items for her branch office and did not seek reimbursement from Wells Fargo because she viewed the purchases as an opportunity for "giving back" or "reinvest[ing]" in the branch. On one such occasion, in September 2009, when Wells Fargo renovated the branch, Olson purchased two refrigerators with her personal credit card for \$2,056.25, and she did not seek reimbursement. She explained that, at the moment she falsely claimed her purchase of the two iPods® as a business expense, she made a "quick decision" based on a momentary and "fleeting thought" to obtain partial "reimbursement" for the refrigerators by designating her April 2, 2010 charge as a business expense. Olson self-rationalized her acts based on an ill-formed belief that she "was being reimbursed for something that [she] had already paid for out of [her] own pocket." The fact that Olson "may have been able to obtain reimbursement for other legitimate expenses if submitted properly does not exonerate or lessen the significance of [her] unethical conduct." See *Saad*, 2009 FINRA Discip. LEXIS 29, at *22. Even were we to assume that Olson did not profit from her misconduct, which we do not, it would not alter our assessment that barring Olson is in order. See *Janet Gurley Katz*, Exchange Act Release No. 61449, 2010 SEC LEXIS 994, at *91-92 & n.66 (Feb. 1, 2010) (sustaining a bar although the respondent "may not have profited directly from misappropriating some of her clients' funds"). Her deliberate self-help and conscious unwillingness to follow proper reimbursement channels within her firm reflect negatively on her ability to comply with basic regulatory requirements. See *James A. Goetz*, 53 S.E.C. 472, 477 (1998) ("Goetz's misconduct here – disregarding his employer's foundation's fundamental rules for securing payment of matching gifts . . . – reflects directly on Goetz's ability both to comply with regulatory requirements fundamental to the securities business and to fulfill his fiduciary responsibilities in handling other people's money.").

No. 2010023719601, 2012 FINRA Discip. LEXIS 60, at *9 (FINRA NAC Dec. 10, 2012) (“McCartney does not dispute that he intentionally prepared and submitted to Hartford Life a false expense report and, to support the false report, a fabricated receipt, a fabricated verification letter, and a falsified check, for which he received a monetary reimbursement of \$500 to which he was not entitled.”); *Leopold*, Complaint No. 2007011489301, 2012 FINRA Discip. LEXIS 2, at *11 (FINRA NAC Feb. 24, 2012) (“There is no dispute that Leopold created fictitious hotel invoices and forged the signatures of registered representatives on false verification letters for the purposes of reducing his tax liability . . .”). After considering the relevant Guidelines at play in those cases, FINRA determined that barring the respondents would not serve a remedial purpose. See *McCartney*, 2012 FINRA Discip. LEXIS 60, at *19 & n.17 (“FINRA sanctions may be remedial, but must not be punitive.”); *Leopold*, 2012 FINRA Discip. LEXIS 2, at *24 & n.15 (same).

In *McCartney* and *Leopold*, FINRA tailored remedial sanctions that did not include a bar after considering the Guidelines, including the specific Guidelines for the violations found: improper use of funds and the forgery or falsification of records. See *McCartney*, 2012 FINRA Discip. LEXIS 60, at *11-12 & n.9; *Leopold*, 2012 FINRA Discip. LEXIS 2, at *15. Unlike the Guideline for conversion, the Guideline for improper use of funds recommends that adjudicators “[c]onsider a bar” and, where mitigation exists, suspend the respondent in any or all capacities for a period of six months to two years and thereafter until the respondent pays restitution. *Guidelines*, at 36. The Guideline for forgery and falsification of records recommends that adjudicators “consider,” in cases where mitigation exists, suspending the respondent in any or all capacities for up to two years and, in “egregious” cases, a bar. *Id.* at 37.

The decisions in *McCartney* and *Leopold* do not mandate that a suspension is the correct sanction for Olson. “It is well established that the determination of the appropriate sanction depends on the facts and circumstances of each case and is not dependent on the sanctions imposed in other cases.”¹⁴ *Justin F. Ficken*, Exchange Act Release No. 58802, 2008 SEC LEXIS 3047, at *14 (Oct. 17, 2008). More importantly, the respondents in *McCartney* and *Leopold* were not charged with conversion and their sanctions were assessed using Guidelines that allow adjudicators flexibility in imposing sanctions for their violations. Enforcement’s decision to charge Olson with conversion, and to seek her bar from the securities industry under the conversion Guideline, is entitled to deference. *Cf. Butz v. Economou*, 438 U.S. 478, 515

¹⁴ FINRA’s decisions in *McCartney* and *Leopold* were highly fact specific and did not rest on the presence or absence of any one aggravating or mitigating factor. See *McCartney*, 2012 FINRA Discip. LEXIS 60, at *19 (“Based on the presence of both aggravating and mitigating factors, and our balancing of these factors, we have determined that McCartney’s misconduct was serious, but not egregious, and warrants a sanction less than a bar.”); *Leopold*, 2012 FINRA Discip. LEXIS 2, at *23 (“Based on the presence of both aggravating and mitigating factors, and our assigning of moderate weight to mitigating factors, we have determined that Leopold’s conduct was serious and warrants a downward departure from a bar.”). We caution adjudicators that relying on discrete statements from *McCartney* and *Leopold* to support a claim of mitigation in another case is unsound.

(1978) (“An agency official, like a prosecutor, may have broad discretion in deciding whether a proceeding should be brought and what sanctions should be sought.”).

FINRA and other self-regulatory organizations have regularly barred members of the securities industry who, like Olson, have engaged in the conversion, theft, or misappropriation of funds belonging to others. See *Mullins*, 2012 SEC LEXIS 464, at *80 (“We support the NAC’s conclusion that J. Mullins’s misconduct ‘reveals a troubling disregard for fundamental principles of the securities industry’”); *Mission Sec. Corp.*, Exchange Act Release No. 63453, 2010 SEC LEXIS 4053, at *50 (Dec. 7, 2010) (“Applicants’ conduct was egregious, and we see no basis for setting aside FINRA’s imposition of sanctions here.”); *Manoff*, 55 S.E.C. at 1166 (“We agree with the NASD that Manoff’s continued presence in the securities industry threatens the public interest.”); *Katz*, 2010 SEC LEXIS 994, at *88 (“Misappropriating client funds and making misstatements are serious misconduct, and we have sustained bars as appropriate sanctions in the past for such conduct.”); *Eliezer Gurfel*, 54 S.E.C. 56, 63 (1999) (“We note that the censure and bar are within the range of sanctions recommended”); *Henry A. Vail*, 52 S.E.C. 339, 342 (1995) (“His actions make us doubt his commitment to the high fiduciary standards demanded by the securities industry.”), *aff’d*, 101 F.3d 37 (5th Cir. 1996); *Ernest A. Cipriani*, 51 S.E.C. 1004, 1007 (1994) (“These various factors . . . afford no justification for the misappropriation of a customer’s funds.”); *Joseph H. O’Brien II*, 51 S.E.C. 1112, 1117 (1994) (“It is clear that his continued presence in the securities industry threatens the public interest.”); *Richard J. Daniello*, 50 S.E.C. 42, 46 (1989) (“Daniello misappropriated his employer’s funds. Protection of the securities industry and public investors requires that a severe sanction be imposed”); *Raymond M. Ramos*, 49 S.E.C. 868, 871 (1988) (“The various factors that Ramos cites afford no basis for leniency.”); *Richard Dale Grafman*, 48 S.E.C. 83, 85 (1985) (“The hardship visited on Grafman is outweighed by the necessity of ensuring that the exchange community and public investors are protected against a recurrence of the dishonest actions in which Grafman engaged.”); *Dep’t of Enforcement v. Paratore*, Complaint No. 2005002570601, 2008 FINRA Discip. LEXIS 1, at *13 (FINRA NAC Mar. 7, 2008) (“[W]e find that Paratore’s misconduct constitutes a serious departure from the ethical principles prescribed by Rule 2110, and that the Hearing Panel’s imposition of separate bars is therefore warranted.”); *Kwikkel-Elliott*, 1998 NASD Discip. LEXIS 4, at *20 (“Because we find that Kwikkel-Elliott’s continued participation in the securities industry presents a risk to the public, we hold that she is barred”); *Lisa A. Ferlitto*, NYSE Disc. Action 96-29, 1996 NYSE Disc. Action LEXIS 38, at *4 (NYSE Mar. 19, 1996) (“[T]he Hearing Panel . . . determined that Ms. Ferlitto be censured and permanently barred from membership”).

Olson also asks that we consider her expressions of remorse and acceptance of responsibility for her actions as evidence that she will not repeat her wrongdoing in the future. When questioned about her corporate credit card use during a Wells Fargo audit, Olson ultimately disclosed that she falsely submitted a personal expenditure for approval as a business expense, contemporaneously provided a voluntary statement in which she admitted her misconduct, and repaid her firm. In response to a FINRA information request issued shortly after Wells Fargo terminated her, Olson again acknowledged that she knowingly claimed a personal purchase as a business expense, stating that she “obviously made a mistake” and an “error” which she regretted. Finally, during her disciplinary hearing, Olson repeatedly accepted

that she intentionally misled her firm, conceded that her actions were wrong, and testified that she would not repeat her misconduct.

We, however, decline to give mitigative effect to these facts.¹⁵ Acceptance of responsibility is mitigating “only when it occurs ‘prior to detection and intervention by the firm . . . or a regulator.’” *Kent M. Houston*, Exchange Act Release No. 71589, 2014 SEC LEXIS 614, at *28 (Feb. 20, 2014) (quoting *Guidelines*, at 6 (2007)). Here, in response to questioning by a Wells Fargo auditor, Olson initially clung to the falsehood that the expense in question was a business expense. Instead of accepting responsibility, she resisted it until her lie became undeniable. Olson apparently would have remained silent, and her acceptance of responsibility and repayment of the converted funds to her firm likely would not have occurred, absent Wells Fargo’s inquiry into her corporate credit card use. *See Shaw*, 51 S.E.C. at 1127 (“It appears that Shaw would have retained Luthi’s money if she had not discovered his conversion.”); *Kwikkel-Elliott*, 1998 NASD Discip. LEXIS 4, at *18 (“There is no evidence suggesting that she would have made the offer absent such a confrontation.”); *Dist. Bus. Conduct Comm. v. Gurfel*, Complaint No. C9B950010, 1998 NASD Discip. LEXIS 52, at *21 (NASD NAC June 12, 1998) (“[H]is repayment of the funds is not a mitigating factor, as the offer of repayment occurred only after he was confronted about his wrongdoing . . .”), *aff’d*, 54 S.E.C. 56 (1999); *cf. Cipriani*, 51 S.E.C. at 1008 (finding that the respondent’s conversion “would have continued even longer had it not been inadvertently detected” by his customer).

Olson’s pledge that she will not repeat her misconduct is unconvincing. Olson failed to appreciate the gravity of her actions at the time she submitted the false expense report or soon thereafter. Olson testified that, after marking the charge for the iPods® as a business expense to avoid paying for them, she had no concern for what she had done and was unbothered by her actions. She admittedly did not realize the seriousness of her wrongdoing and did not grasp the nature of her “mistake” until after Wells Fargo terminated her. We recognize that Olson has no prior disciplinary history, but her conversion of Wells Fargo’s funds was accomplished by her deliberate falsification of firm records.¹⁶ “These were acts of deception, and we therefore reject this mitigation argument.” *See Mark F. Mizenko*, 58 S.E.C. 846, 856 (2005) (declining to find mitigation where the respondent, who forged a signature on a corporate resolution to guarantee

¹⁵ The Hearing Panel made no findings concerning Olson’s credibility or the credibility of any other witness who appeared and testified at the hearing below. We therefore make our findings based upon our review of the entire record. *See Dep’t of Enforcement v. Masceri*, Complaint No. C8A040079, 2006 NASD Discip. LEXIS 29, at *42 n.26 (NASD NAC Dec. 18, 2006). While we have considered the testimony of two character witnesses who attested to Olson’s general reputation for honesty, we conclude that barring Olson is an appropriately remedial remedy. *See Joel Eugene Shaw*, 51 S.E.C. 1224, 1227 n.11 (1994) (“We nonetheless conclude that it is appropriate in the public interest that Shaw be barred . . .”).

¹⁶ We do not accept Olson’s argument that her lack of a disciplinary history is mitigating. *See Rooms v. SEC*, 444 F.3d 1208, 1214 (10th Cir. 2006) (“Lack of a disciplinary history is not a mitigating factor.”).

loans and leases for potential customers, asserted that his misconduct was “aberrant and not part of a pattern of conduct intended to deceive his employer”).

There can be no credible dispute that conversion constitutes one of the most grievous offenses that can be committed by a securities industry professional. *See Mullins*, 2012 SEC LEXIS 464, at *73. Olson’s wrongdoing did not involve customer securities or funds, but her “willingness to acquire a sum of money through questionable means indicates a troubling disregard for basic principles of ethics and honesty which, on another occasion, might manifest itself in a securities- or customer-related transaction.”¹⁷ *See Kwikkel-Elliott*, 1998 NASD Discip. LEXIS 12, at *19; *accord Dep’t of Enforcement v. Manoff*, Complaint No. C9A990007, 2001 NASD Discip. LEXIS 4, at *34 (NASD NAC Apr. 26, 2001), *aff’d*, 55 S.E.C. 1155. “Notwithstanding the lack of recurrence and [Olson’s] expressions of remorse and assurances against future violations, . . . such factors do not outweigh our concern that [she] will present a threat if we permit [her] to remain in the securities industry.”¹⁸ *See Gary M. Kornman*, Exchange Act Release No. 59403, 2009 SEC LEXIS 367, at *26-27 (Feb. 13, 2009).

The facts and circumstances of this case lead us to conclude that barring Olson serves a remedial interest and protects the investing public. *See McCarthy v. SEC*, 406 F.3d 179, 188 (2d Cir. 2005) (“[T]he purpose of expulsion or suspension from trading is to protect investors, not to penalize brokers.”). It will also serve to deter others who may be inclined to steal from their firms or customers. *See Mullins*, 2012 SEC LEXIS 464, at *80 (“We support the NAC’s conclusion . . . that a bar is ‘necessary to deter him and others similarly situated from engaging in similar misconduct.’”); *see also McCarthy*, 406 F.3d at 189 (“Although general deterrence is not, by itself, sufficient justification for expulsion or suspension, we recognize that it may be considered as part of the overall remedial inquiry.”). We therefore affirm the bar prescribed by the Hearing Panel for Olson’s misconduct.¹⁹

¹⁷ Olson’s misconduct was no less serious because it did not involve customers. *See Grafman*, 48 S.E.C. at 85 n.2 (“The fact that he defrauded a brokerage firm instead is hardly a factor in his favor.”).

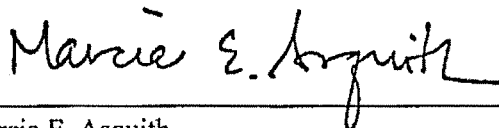
¹⁸ Olson argues repeatedly that her conversion of Wells Fargo’s funds represented a “single, fleeting mistake” and that we should find it mitigating that she did not engage in an ongoing pattern of misconduct over an extended period. *See Guidelines*, at 6 (Principal Considerations in Determining Sanctions, Nos. 8, 9). We disagree. “[T]he presence of certain factors may be aggravating, but their absence does not draw an inference of mitigation.” *Id.* (citing *Rooms*, 444 F.3d at 1214-15). The Guideline for conversion, which states that a bar is standard “regardless of [the] amount converted,” obviously indicates that a single instance of theft provides ample justification to bar an individual from the securities industry, no matter the sum involved.

¹⁹ In doing so, we do not accept Olson’s proposition that we should lessen her sanctions because of certain financial hardships that she claims she suffered after leaving Wells Fargo. As the Commission has explained, “[w]e . . . do not consider mitigating the economic disadvantages [respondent] alleges [she] suffered because they are a result of [her] misconduct.” *See Jason A. Craig*, Exchange Act Release No. 59137, 2008 SEC LEXIS 2844, at *27 (Dec. 22, 2008)

VI. Conclusion

We affirm the Hearing Panel's findings that Olson violated FINRA Rule 2010 by falsifying an expense report and converting firm funds. We also affirm the bar imposed by the Hearing Panel for Olson's misconduct. Finally, we affirm the Hearing Panel's order that Olson pay costs in the amount of \$1,909.71, and we impose appeal costs of \$1,468.85.²⁰ The bar imposed herein shall be effective upon service of this decision.

On Behalf of the Board of Governors,



Marcia E. Asquith,
Senior Vice President and Corporate Secretary

[cont'd]

(rejecting argument that the "amount of time, money, and loss of work" suffered as a result of misconduct was mitigating). We also do not find it mitigating that Wells Fargo terminated Olson after discovering her misconduct. *See Guidelines*, at 7 (Principal Considerations in Determining Sanctions, No. 14) ("Whether the member firm with which an individual respondent is/was associated disciplined the respondent for the same misconduct at issue prior to regulatory detection."). "As a general matter, we give no weight to the fact that a respondent was terminated by a firm when determining the appropriate sanction in a disciplinary case. We consider the disciplinary sanctions we impose to be independent of a firm's decisions to terminate or retain an employee." *Dep't of Enforcement v. Prout*, Complaint No. C01990014, 2000 NASD Discip. LEXIS 18, at *11 (NASD NAC Dec. 18, 2000). In this respect, we note that Wells Fargo terminated Olson for what it termed a "violation of company policy." We are imposing sanctions for conversion, a violation that strikes at the heart of the integrity of the securities industry. Moreover, the sanctions that we impose in this case, as in all cases, represent the public announcement of what FINRA condemns, under its rules, as unacceptable conduct for securities industry professionals.

²⁰ We also have considered and reject without discussion all other arguments advanced by the parties.