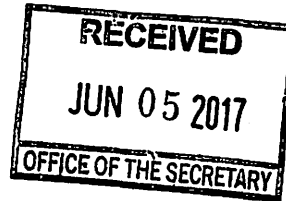


HARD COPY

May 22, 2017

Office of the Secretary
U.S. Securities and Exchange Commission
100 F. Street, NE, Mail Stop 1090
Washington, DC 20549



3-17995

To Whom It May Concern:

Pursuant to SEC Rule 420, we write on behalf of Michael Turner ("Turner") to appeal the determination of FINRA, formerly NASD, barring Turner's association with any FINRA member under FINRA Rule 9552(H) ("Determination"). Turner may be served through his counsel of record, Tad A. Devlin of Kaufman Dolowich & Voluck, at 425 California Street, Suite 2100, San Francisco, CA 94104.

The Determination was made on or about April 3, 2006. Extraordinary circumstances warrant the SEC's consideration of Turner's appeal outside of the 30-day period prescribed by Rule 420, as Turner: 1) did not receive notice from NASD of the Determination or its prior requests for information regarding the underlying issue; and 2) was improperly advised by his former counsel of his options regarding the Determination. Relevant facts are set forth below, and a copy of Turner's FINRA Broker Check Report evidencing the Determination is attached as Exhibit "A."

Turner was an investment advisor, registered with NASD under CRD# 227669. Turner held Series 7 and 63 securities licenses, and was licensed to sell securities in the State of California from October 1992 until he was suspended in October 2005.

Turner was employed by American Express Financial Advisors, Inc. ("AMEX") from October 1992 until mid-2004. On October 13, 2003, AMEX issued a Letter of Caution ("LOC") to Turner in relation to transactions he executed on behalf of one of his long-time clients. AMEX's issuance of the LOC was not prompted by a customer complaint, as none of Turner's clients had filed complaints against him.

In mid-2004, Turner began working for Union Safe Deposit Bank ("USDB") in its Corporate Fiduciary Department. USDB allowed Turner to retain his Series 7 and 63 licenses. Shortly thereafter, Bank of the West ("BoW") acquired USDB. Turner stayed on with BoW in its Corporate Fiduciary Department. BoW's internal policies prohibited employees from maintaining securities licenses. Because Turner was satisfied with his employment situation at the time, he intended to allow his licenses to lapse and would renew them if and when appropriate.

Between August 2004 and September 2005, Turner moved residences three times. Turner was under the impression that USDB and/or BoW had informed NASD of his changes in employment and addresses, as it was customary for employers to advise NASD of such administrative issues. However, upon information and belief, neither USDB nor BoW provided notice to NASD of Turner's changes in employment and addresses.

Upon information and belief, in October 2004, AMEX filed an Amended Form U5 ("U5") with NASD advising of Turner's job change. The U5 apparently also contained information related to the LOC addressing Turner's handling of his former client's account.

NASD allegedly sent four requests to Turner by certified and regular mail between March and June 2005 seeking information concerning the matters reported in the U5. Turner did not receive any of NASD's requests, as they were sent to his former residences. FINRA acknowledged in subsequent communications with Turner that the certified mailings were all returned unclaimed.

Thereafter, NASD, with full knowledge that Turner had not received the certified letters, initiated the FINRA Rule 9552 non-summary suspension hearing against Turner. NASD suspended Turner and barred him from association with any NASD member by default on April 3, 2006. (See Exhibit "A")

In or about Fall 2011, Turner applied for an investment advisor position with a large financial institution. He was tentatively offered the position, but that offer was rescinded when the institution learned of Turner's FINRA Rule 9552(H) bar. Turner learned for the first time in Fall 2011 that he had been barred by NASD on April 3, 2006, when the institution rescinded his employment offer.

Shortly after learning of the Determination, Turner contacted FINRA and was advised that AMEX had submitted the U5, that NASD claimed it sent four requests for information to him regarding the information contained in the U5, and that he had been barred for failing to respond to the requests for information. Turner sought reinstatement from FINRA directly, but it declined his request.

Turner retained counsel around that time, and was advised he could seek reinstatement from FINRA if he was sponsored by a brokerage firm to do so. Turner contacted several brokerages to request sponsorship, but each declined his request. Turner retained an attorney to assist him with the Determination, but counsel did not advise of the option to appeal FINRA's determination to the SEC.

In 2016, Turner retained this law firm to represent him as to the Determination. We filed a petition in the State of California, San Francisco Superior Court, on his behalf. The petition was served on FINRA on February 22, 2017. After meet and confer efforts with FINRA's counsel, Turner agreed to dismiss his petition (without prejudice) filed in the State Court and to instead pursue relief through the SEC.

Turner had an impeccable record as financial advisor prior to the Determination. None of his clients made customer complaints about his management of their funds over the course of his 13.5 year career. Turner's reinstatement would confer a benefit to the public given his service record and high ethical standards. Finally, Turner would have responded to FINRA's requests for information had he received them.

Based on the foregoing, Turner respectfully asserts extraordinary circumstances warrant the SEC's consideration of his appeal of FINRA's determination. He hopes to put this issue behind him and to reestablish his career as an investment advisor.

Very truly yours,



Tad A. Devlin of
Kaufman Dolowich & Voluck, LLP

Exhibit "A"

BrokerCheck Report

MICHAEL ROSS TURNER

CRD# 2272669

| <u>Section Title</u> | <u>Page(s)</u> |
|-------------------------------------|-----------------------|
| Report Summary | 1 |
| Broker Qualifications | 2 - 3 |
| Registration and Employment History | 4 |
| Disclosure Events | 5 |

About BrokerCheck®



BrokerCheck offers information on all current, and many former, registered securities brokers, and all current and former registered securities firms. FINRA strongly encourages investors to use BrokerCheck to check the background of securities brokers and brokerage firms before deciding to conduct, or continue to conduct, business with them.

- **What is included in a BrokerCheck report?**

- BrokerCheck reports for individual brokers include information such as employment history, professional qualifications, disciplinary actions, criminal convictions, civil judgments and arbitration awards. BrokerCheck reports for brokerage firms include information on a firm's profile, history, and operations, as well as many of the same disclosure events mentioned above.
- Please note that the information contained in a BrokerCheck report may include pending actions or allegations that may be contested, unresolved or unproven. In the end, these actions or allegations may be resolved in favor of the broker or brokerage firm, or concluded through a negotiated settlement with no admission or finding of wrongdoing.

- **Where did this information come from?**

- The information contained in BrokerCheck comes from FINRA's Central Registration Depository, or CRD® and is a combination of:
 - information FINRA and/or the Securities and Exchange Commission (SEC) require brokers and brokerage firms to submit as part of the registration and licensing process, and
 - information that regulators report regarding disciplinary actions or allegations against firms or brokers.

- **How current is this information?**

- Generally, active brokerage firms and brokers are required to update their professional and disciplinary information in CRD within 30 days. Under most circumstances, information reported by brokerage firms, brokers and regulators is available in BrokerCheck the next business day.

- **What if I want to check the background of an investment adviser firm or investment adviser representative?**

- To check the background of an investment adviser firm or representative, you can search for the firm or individual in BrokerCheck. If your search is successful, click on the link provided to view the available licensing and registration information in the SEC's Investment Adviser Public Disclosure (IAPD) website at <http://www.adviserinfo.sec.gov>. In the alternative, you may search the IAPD website directly or contact your state securities regulator at <http://www.finra.org/Investors/ToolsCalculators/BrokerCheck/P455414>.

- **Are there other resources I can use to check the background of investment professionals?**

- FINRA recommends that you learn as much as possible about an investment professional before deciding to work with them. Your state securities regulator can help you research brokers and investment adviser representatives doing business in your state.

Thank you for using FINRA BrokerCheck.



Using this site/information means that you accept the FINRA BrokerCheck Terms and Conditions. A complete list of Terms and Conditions can be found at brokercheck.finra.org



For additional information about the contents of this report, please refer to the User Guidance or www.finra.org/brokercheck. It provides a glossary of terms and a list of frequently asked questions, as well as additional resources. [For more information about FINRA, visit www.finra.org.](http://www.finra.org)

MICHAEL R. TURNER

CRD# 2272669

Report Summary for this Broker



This report summary provides an overview of the broker's professional background and conduct. Additional information can be found in the detailed report.

This broker is not currently registered.

Broker Qualifications

This broker is not currently registered.

This broker has passed:

- 0 Principal/Supervisory Exams
- 1 General Industry/Product Exam
- 1 State Securities Law Exam

Registration History

This broker was previously registered with the following securities firm(s):

DUERR FINANCIAL CORPORATION
 CRD# 18558
 CHINO HILLS, CA
 04/2004 - 01/2005

AMERICAN EXPRESS FINANCIAL ADVISORS INC.
 CRD# 6363
 MINNEAPOLIS, MN
 10/1992 - 03/2004

IDS LIFE INSURANCE COMPANY
 CRD# 6321
 MINNEAPOLIS, MN
 10/1992 - 03/2004

Disclosure Events

This broker has been involved in one or more disclosure events involving certain final criminal matters, regulatory actions, civil judicial proceedings, or arbitrations or civil litigations.

Are there events disclosed about this broker? **Yes**

The following types of disclosures have been reported:

| Type | Count |
|------------------|-------|
| Regulatory Event | 1 |

Investment Adviser Representative Information

The information below represents the individual's record as a broker. For details on this individual's record as an investment adviser representative, visit the SEC's Investment Adviser Public Disclosure website at <https://www.adviserinfo.sec.gov>

Broker Qualifications



Registrations

This section provides the self-regulatory organizations (SROs); states and U.S. territories the broker is currently registered and licensed with, the category of each registration, and the date on which the registration became effective. This section also provides, for each firm with which the broker is currently employed, the address of each branch where the broker works.

This broker is not currently registered.

Broker Qualifications



Industry Exams this Broker has Passed

This section includes all securities industry exams that the broker has passed. Under limited circumstances, a broker may attain a registration after receiving an exam waiver based on exams the broker has passed and/or qualifying work experience. Any exam waivers that the broker has received are not included below.

This individual has passed 0 principal/supervisory exams, 1 general industry/product exam, and 1 state securities law exam.

Principal/Supervisory Exams

| Exam | Category | Date |
|--------------------------|----------|------|
| No information reported. | | |

General Industry/Product Exams

| Exam | Category | Date |
|---|----------|------------|
| General Securities Representative Examination | Series 7 | 10/14/1992 |

State Securities Law Exams

| Exam | Category | Date |
|--|-----------|------------|
| Uniform Securities Agent State Law Examination | Series 63 | 10/21/1992 |

Additional information about the above exams or other exams FINRA administers to brokers and other securities professionals can be found at www.finra.org/brokerqualifications/registeredrep/.

Registration and Employment History



Registration History

The broker previously was registered with the following securities firms:

| Registration Dates | Firm Name | CRD# | Branch Location |
|--------------------|--|-------|-----------------|
| 04/2004 - 01/2005 | DUERR FINANCIAL CORPORATION | 18558 | CHINO HILLS, CA |
| 10/1992 - 03/2004 | AMERICAN EXPRESS FINANCIAL ADVISORS INC. | 6363 | MINNEAPOLIS, MN |
| 10/1992 - 03/2004 | IDS LIFE INSURANCE COMPANY | 6321 | MINNEAPOLIS, MN |

Employment History

This section provides up to 10 years of an individual broker's employment history as reported by the individual broker on the most recently filed Form U4.

Please note that the broker is required to provide this information only while registered with FINRA or a national securities exchange and the information is not updated via Form U4 after the broker ceases to be registered. Therefore, an employment end date of "Present" may not reflect the broker's current employment status.

| Employment Dates | Employer Name | Employer Location |
|-------------------|-----------------------------|-------------------|
| 04/2004 - Present | DUERR FINANCIAL CORPORATION | IRVINE, CA |
| 03/2004 - Present | UNION SAFE DEPOSIT BANK | STOCKTON, CA |

Disclosure Events



What you should know about reported disclosure events:

1. Disclosure events in BrokerCheck reports come from different sources:

- As mentioned at the beginning of this report, information contained in BrokerCheck comes from brokers, their employing firms, and regulators. When more than one source reports information for the same disclosure event, all versions of the event will appear in the BrokerCheck report. The different versions are separated by a solid line with the reporting source labeled.

For your convenience, below is a matrix of the number and status of regulatory disclosure events involving this broker. Further information regarding these events can be found in the subsequent pages of this report. You also may wish to contact the broker to obtain further information regarding these events.

| | Final | On Appeal |
|------------------|-------|-----------|
| Regulatory Event | | |



Disclosure Event Details

This report provides the information exactly as it was reported to CRD and therefore some of the specific data fields contained in the report may be blank if the information was not provided to CRD.

Regulatory - Final

This type of disclosure event involves a final, formal proceeding initiated by a regulatory authority (e.g., a state securities agency, self-regulatory organization, federal regulator such as the Securities and Exchange Commission, foreign financial regulatory body) for a violation of investment-related rules or regulations.

Disclosure 1 of 1

| | |
|---|---|
| Reporting Source: | Regulator |
| Regulatory Action Initiated By: | NASD |
| Sanction(s) Sought: | |
| Other Sanction(s) Sought: | |
| Date Initiated: | 09/28/2005 |
| Docket/Case Number: | E0120040326-02 |
| Employing firm when activity occurred which led to the regulatory action: | |
| Product Type: | No Product |
| Other Product Type(s): | |
| Allegations: | RESPONDENT IS SUSPENDED PURSUANT TO THE PROVISIONS OF RULE 9552 SERIES NON-SUMMARY SUSPENSION SANCTION. |
| Current Status: | Final |
| Resolution: | Other |
| Does the order constitute a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct? | No |
| Resolution Date: | 04/03/2006 |
| Sanctions Ordered: | Bar |



Other Sanctions Ordered:

Sanction Details:

PURSUANT TO NASD PROCEDURAL RULE 9552(H) AND IN ACCORDANCE WITH THE NOTICE OF INTENT TO SUSPEND AND NOTICE OF SUSPENSION DATED SEPTEMBER 28, 2005, AND OCTOBER 24, 2005, RESPECTIVELY, ON APRIL 3, 2006, RESPONDENT IS BARRED FROM ASSOCIATION WITH ANY NASD MEMBER IN ANY CAPACITY.

Regulator Statement

RESPONDENT WAS SUSPENDED OCTOBER 24, 2005, FROM ASSOCIATING WITH ANY NASD MEMBER FIRM IN ANY CAPACITY. RESPONDENT FAILED TO REQUEST TERMINATION OF THE SUSPENSION WITH IN SIX MONTHS OF THE DATE OF THE NOTICE OF INTENT, THEREFORE HE IS AUTOMATICALLY BARRED FROM ASSOCIATION WITH ANY NASD MEMBER IN ANY CAPACITY PURSUANT TO NASD RULE 9552(H).

End of Report



This page is intentionally left blank.

1 **PROOF OF SERVICE**

2 *In Re: Appeal of Michael Turner of FINRA Determination*

3 I am employed in the County of San Francisco, State of California. I am over the age of
4 18 and not a party to this action. My business address is 425 California Street, Suite 2100, San
5 Francisco, California, 94104. On the execution date below and in the manner stated herein, I
6 served the following documents:

7 **APPLICATION TO APPEAL FINRA'S DETERMINATION**

8 on all interested parties in this action by placing [] the original or [X] a true copy of the original
9 thereof enclosed in sealed envelopes addressed as follows:

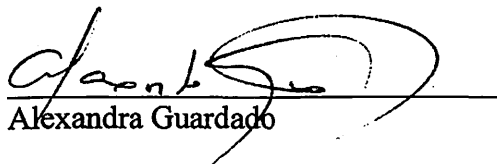
10 FINRA REGULATION, INC.
11 Agent for Service of Process:
12 Corporation Service Company
13 CSC Lawyers Incorporating Service
14 2710 Gateway Oaks Drive, Suite 150N
15 Sacramento, CA 95833

16 FINRA REGULATION, INC.
17 9509 Key West Avenue
18 Rockville, MD 20850

19 [X] BY MAIL I deposited such envelope(s) with postage thereon fully prepaid in the United
20 States mail at a facility regularly maintained by the United States Postal Service at San
21 Francisco, California. I am readily familiar with the firm's practice of collecting and processing
22 correspondence for mailing. Under the practice it would be deposited with the U.S. Postal
23 Service on that same day with postage thereon fully prepaid at San Francisco, California in the
24 ordinary course of business.

25 [X] (STATE) I declare under penalty of perjury under the laws of the State of California that
26 the above is true and correct.

27 Executed on May 22, 2017, at San Francisco, California.

28 
Alexandra Guardado