

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

Securities Exchange Act of 1934
Release No. 34-79340 / November 17, 2016

In the Matter of the Application of the	:	
	:	
Financial Industry Regulatory Authority, Inc.	:	
	:	
For an Order Granting the Approval of	:	ORDER APPROVING
	:	APPLICATION FOR
Randy G. Ruhl	:	RELIEF FROM A
	:	STATUTORY
As a	:	DISQUALIFICATION
	:	
Municipal Securities Representative	:	
	:	
With	:	
	:	
J.J.B. Hilliard, W.L. Lyons, LLC	:	
	:	
Securities Exchange Act of 1934	:	
Section 15A(g)(2)	:	
	:	

The Financial Industry Regulatory Authority, Inc. has filed a notice containing an application (“Application”) with the Securities and Exchange Commission (“Commission”), pursuant to Rule 19h-1 of the Securities Exchange Act of 1934 (“Exchange Act”), on behalf of Randy G. Ruhl, a person subject to a statutory disqualification, as a municipal securities representative with J.J.B. Hilliard, W.L. Lyons, LLC (“Hilliard Lyons” or “Firm”), at its branch office in Indianapolis, Indiana.¹

I. Background

A. Basis for Statutory Disqualification

¹ Ruhl has separately filed an application under Rule 193 of the Commission’s Rules of Practice with the Commission’s Division of Enforcement, seeking consent to associate with Hilliard, Lyons in its capacity as an investment adviser.

Ruhl is subject to a statutory disqualification as a result of the Commission's July 29, 2013 administrative order ("2013 Commission Order") which found that Ruhl willfully aided and abetted and caused his former employer's violations of Sections 10(b), 15(c)(2) and 15B(c)(1) of the Exchange Act and Rules 10b-5(b) and 15c2-12 thereunder, and Municipal Securities Rulemaking Board ("MSRB") Rules G-17 and G-20, and caused his former employer's violations of Section 17(a)(2) of the Securities Act of 1933 ("Securities Act").² The 2013 Commission Order found that Ruhl was involved in a series of events that led to violations of the federal securities laws by his former employer, City Securities Corporation ("City Securities"), a registered broker-dealer that acted as an underwriter for various municipal bond offerings by Indiana municipalities, including bond offerings on behalf of the West Clark Community Schools ("School District"). In his capacity as a supervisor, Ruhl approved of, and substantially assisted in, City Securities' misconduct.

Specifically, the 2013 Commission Order found that City Securities, as the sole underwriter for the School District's 2007 bond offering, conducted inadequate due diligence and failed to form a reasonable basis for believing the truthfulness of material statements in the issuer's official statement, in particular its assertion that it had complied with its prior continuing disclosure obligations, which resulted in City Securities offering and selling municipal securities on the basis of a materially misleading disclosure statement. Additionally, in connection with other municipal bond offerings between December 2007 and 2010, City Securities fraudulently mischaracterized expenses for entertainment, charitable donations and gratuities as expenses for "Printing, Preparation and Distribution of Official Statement," so as to obtain reimbursement from bond proceeds without the knowledge of various municipal securities issuers. Finally, City Securities also approved and provided improper entertainment and gratuities to representatives of municipal bond issuers.

In addition to the willful findings, the 2013 Commission Order bars Ruhl "from association with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization; from serving or acting as an employee, officer, director, member of an advisory board, investment adviser or depositor of, or principal underwriter for a registered investment company or affiliated person of such investment adviser, depositor, or principal underwriter; and from participating in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, or inducing or attempting to induce the purchase or sale of any penny stock" for a period of one year, with the right to reapply thereafter. The 2013 Commission Order also permanently bars Ruhl from association in a supervisory capacity with any broker, dealer, investment adviser, municipal securities dealer, municipal advisor, transfer agent, or nationally recognized statistical rating organization.

Ruhl also was ordered to pay disgorgement of \$18,155, prejudgment interest of \$2,165 and a civil penalty of \$18,155, which he has paid.

² See In the City Securities Corporation and Randy Ruhl, Admin. Proc. File No. 3-15390, Securities Act Release No. 9434, Exchange Act Release No. 70056, Investment Company Act Release No. 30632 (July 29, 2013).

The willful findings of aiding and abetting contained in the 2013 Commission Order subject Ruhl to a statutory disqualification under Section 3(a)(39)(F) of the Exchange Act and its incorporation of Section 15(b)(4)(E) of the Exchange Act. Additionally, the bars subject Ruhl to a statutory disqualification under Section 3(a)(39)(B) of the Exchange Act.

B. Ruhl's Industry Background

Ruhl qualified as a municipal securities representative (Series 52) in August 1988, qualified as a municipal securities principal (Series 53) in September 2007, and was associated with City Securities between May 1988 and July 2013.

C. The Firm

Hilliard Lyons has been an NASD/FINRA member since 1936. Hilliard Lyons is registered as a broker-dealer and is a municipal securities dealer and municipal securities broker as defined in Section 3(a)(30) and (a)(31) of the Exchange Act. In addition, Hilliard Lyons is registered as an investment adviser and a municipal advisor. Hilliard Lyons has approximately 38 branch offices, and employs approximately 411 registered representatives and 80 general securities principals.

The Firm is subject to a statutory disqualification as a result of a Commission Order, stemming from the Commission's Municipalities Continuing Disclosure Cooperative Initiative ("MCDC Initiative"), issued pursuant to Section 15(b) of the Exchange Act, dated September 30, 2015, which found that the Firm willfully violated Section 17(a)(2) of the Securities Act, which prohibits offering and selling municipal securities on the basis of materially misleading disclosure documents ("2015 Hilliard Lyons Order").³ The willful findings contained in the 2015 Hilliard Lyons Order subject the Firm to a statutory disqualification under Section 3(a)(39)(F) of the Exchange Act and its incorporation of Section 15(b)(4)(D) of the Exchange Act.

Pursuant to the 2015 Hilliard Lyons Order, the Firm was fined \$420,000, and was required to comply with a set of undertakings. These undertakings include the retention of an independent consultant to conduct a review of the Firm's policies and procedures as they relate to municipal securities underwriting due diligence, and for the Firm to implement any such recommendations in a timely fashion.⁴

On November 30, 2015, FINRA filed a notice pursuant to Rule 19h-1 of the Exchange Act, notifying the Division of its decision to allow Hilliard Lyons to continue in membership

³ See Admin. Proc. File No. 3-16855, Securities Act Release No. 9943, Exchange Act Release No. 76040 (September 30, 2015).

⁴ In ordering the sanctions, the Commission considered the fact that Hilliard Lyons self-reported its violations as part of the MCDC Initiative.

with FINRA. The Division acknowledged this filing with a January 6, 2016 staff letter of acknowledgement.⁵

Additionally, on August 25, 2016, Hilliard Lyons became subject to another Commission Order, which found that Hilliard Lyons, as a registered investment adviser, published, circulated, and distributed advertisements to certain of its advisory clients that contained untrue statements of material facts relative to the performance track record of a “sector rotation strategy” called AlphaSector (“2016 Hilliard Lyons Order”).⁶ As a result, the Commission found that the Firm violated Sections 204(a) and 206(4) of the Investment Advisers Act of 1940 (“Advisers Act”) and Rules 204-2(a)(16) and 206(4)-1(a)(5) thereunder. Hilliard Lyons was fined \$200,000 and ordered to cease and desist from committing or causing any violations and future violations. The 2016 Hilliard Lyons Order did not subject the Firm to a statutory disqualification because the Firm’s violations did not constitute “willful” violations of the Advisers Act.

II. Proposed Business Activities and Supervision

In the Application, Hilliard Lyons proposes to employ Ruhl as a municipal securities representative in its Indianapolis, Indiana branch office. Ruhl will be supervised by Alexander Rorke, Senior Managing Director and head of the Firm’s Municipal Securities Group. Rorke has been registered with Hilliard Lyons since December 2011. Rorke first qualified as a general securities representative in September 1991, and as a municipal securities principal in June 2001. Rorke works primarily out of the Louisville, Kentucky office, but supervises several other employees, in addition to Ruhl, who work out of the Indianapolis, Indiana branch office.

Conway Robert Bond will act as Ruhl’s backup supervisor in the event that Rorke is unavailable. Bond has been associated with Hilliard Lyons since July 1996. Bond first qualified as a general securities representative in October 1996, and as a municipal securities principal in November 2000. Bond splits his time between the Firm’s Indianapolis, Indiana and Denver, Colorado branch offices.

Matthew Huettner will act as Ruhl’s secondary backup supervisor in the event that both Rorke and Bond are unavailable. Huettner has been registered with Hilliard Lyons since June 2002. Huettner first qualified as a general securities representative in November 1993, and as a municipal securities principal in August 2013. Huettner works solely out of the Firm’s Indianapolis, Indiana branch office.

In the Application, FINRA and Hilliard Lyons propose the following plan of heightened supervision for Ruhl:

1. The written supervisory procedures for Hilliard Lyons will be amended to state that Rorke is the direct supervisor for Ruhl. Rorke is a resident at the Firm’s home office located at 500 W. Jefferson, Louisville, KY.

⁵ See Letter from Robert C. Cushmac, Special Counsel, Commission, to Lorraine Lee-Stepney, Manager, Statutory Disqualification Program, FINRA (January 6, 2016).

⁶ See Admin. Proc. File No. 3-17498, Advisors Act Release No. 4502 (August 25, 2016).

2. At times when Rorke is not readily accessible, Bond will act as Ruhl's interim direct supervisor. Bond is a resident in both the Indianapolis, Indiana and Denver, Colorado branch offices of the Firm.
3. If neither Rorke nor Bond is available, Huettner, who is located in the Indianapolis, Indiana office, will act as Ruhl's second interim supervisor.
4. Ruhl will be permitted to work from the Firm's branch office located at 10 W. Market Street, Suite 2450, Indianapolis, Indiana 46204, where he will be responsible for developing new business contacts and the banking origination of municipal financings. The nature of his responsibilities entails frequent travel and meetings outside the office.
5. Ruhl must disclose to Rorke, on a monthly basis, details related to his outside meetings. The disclosure must contain an appointment log with the date, time, topic(s) that were addressed and the location of all of Ruhl's outside client appointments. These materials will be copied and maintained in a segregated file for ease of review during a statutory disqualification or other examination.
6. Ruhl will not act in any supervisory capacity. He will neither have the responsibility, ability or authority to affect the conduct of associated persons of the Firm, nor will he be involved in the management of the Firm.
7. Ruhl will not open or service any brokerage trading accounts, including but not limited to, discretionary accounts other than for himself and his spouse.
8. Ruhl will not participate in any offering of a penny stock, including: acting as a promoter, finder, consultant, agent or other person who engages in activities with a broker, dealer or issuer for purposes of the issuance or trading in any penny stock, including inducing or attempting to induce the purchase or sale of any penny stock.
9. In addition to the frequent contact that Rorke expects to have with Ruhl via phone and email and during the time Rorke visits the Indianapolis office, Rorke will have a formal meeting in person with Ruhl no less frequently than monthly to discuss his activities and any issues that may have been identified through Rorke's ongoing review of Ruhl's activities. Rorke will maintain a written record of such meetings, which will include a description of the matters discussed. Records of such meetings will be maintained in a segregated file for ease of review during a statutory disqualification or other examination.
10. At least once every two weeks, Rorke, Bond, and Heuttner shall meet, either in person or via teleconference, to discuss the heightened supervisory plan and any and all related issues, including but not limited to, Ruhl's performance under the plan. Rorke shall maintain a written record of these meetings and maintain such records in a segregated file for ease of review during a statutory disqualification or other examination.

11. Prior to the pricing of any senior managed underwriting for which Ruhl is the lead banker, Rorke will: (i) review the Bond Purchase Agreement (“BPA”) and its expense-related supporting documents; (ii) ensure that the BPA and/or its supporting documents include a description of all expenses that are well defined, documentable, and in compliance with applicable regulations and rules; and (iii) confirm that the Firm’s Municipal Underwriting desk has documented that the filings by the proposed issuer with Electronic Municipal Market Access (EMMA) have been reviewed and, based on that review, there is a reasonable basis for believing that the representations by the issuer in the Official Statement for the offering are accurate, whether continuing disclosure undertakings have been adhered to, and the offering document is complete in all material respects. Rorke will evidence his reviews in writing. Records of Rorke’s reviews will be maintained in a segregated file for ease of review during a statutory disqualification or other examination.
12. Except in cases where pre-approval is impracticable, in which case notice shall be given on the next business day, Ruhl shall obtain Rorke’s pre-approval for any out of pocket expenses Ruhl intends to be reimbursed from a financing prior to the expense being incurred. Rorke will review and approve all invoices prepared by Ruhl before they are sent to a Firm client. Rorke will review and approve all expense reports submitted by Ruhl for reimbursement. This approval process will include examining the expenses in light of what is authorized by the BPA.
13. Ruhl’s incoming non-electronic written correspondence will be opened by the Indianapolis, Indiana, office manager on no less than a weekly basis, and will either be scanned and sent electronically or sent via overnight courier to Rorke on no less than a weekly basis. Ruhl’s outgoing non-electronic written correspondence and institutional communications will be reviewed by Rorke prior to sending. Rorke will address any concerns to Ruhl. Rorke will maintain a record of any concerns he notes from his review in a segregated file for ease of review during a statutory disqualification or other examination.
14. Rorke will review, prior to sending, the response to a request for proposal by a municipal securities issuer for which Ruhl has the lead role. Rorke will receive copies of all of Ruhl’s incoming and outgoing email correspondence. Rorke will review at least twenty percent of Ruhl’s emails no less frequently than weekly. Rorke will address any concerns to Ruhl. Rorke will maintain a record of any concerns he notes from his review in a segregated file for ease of review during a statutory disqualification or other examination.
15. Ruhl will only be allowed to use a Firm email address for business purposes, with all email monitored through the Bloomberg Vault Compliance Console. In the event that Ruhl receives a business-related email message in a personal account, he will immediately forward that message to both his and Rorke’s Firm email addresses.
16. Any complaints received by the Firm about Ruhl will be immediately referred to both Rorke and the Firm’s Chief Compliance Officer (“CCO”) for their review. Rorke will

prepare a memorandum to the file detailing the investigative steps taken and the resolution of the matters. Documents pertaining to any complaint against Ruhl will be kept in a separate file for ease of review during a statutory disqualification or other examination.

17. Ruhl shall complete continuing education each year addressing municipal securities regulations. Ruhl shall certify annually to Rorke that he has completed such continuing education. Rorke will validate the contents of the continuing education taken by Ruhl to ensure that it addresses municipal securities regulations. Records of Ruhl's continuing education and certification will be maintained in a segregated file for ease of review during a statutory disqualification or other examination.
18. Ruhl shall undertake training, annually, regarding the Firm's policies and procedures with respect to Rule 206(4)-5, under the Investment Advisers Act, 17 C.F.R. § 275.206(4)-5, and will certify annually to Rorke that he has completed such training and has complied with those policies and procedures. Rorke will certify that, to the best of his knowledge, Ruhl has complied with those policies and procedures. Records of the certifications will be maintained in a segregated file for ease of review during any examination of the Firm.
19. Rorke will certify quarterly to the Firm's CCO that he and Ruhl are in compliance with all of the conditions of the heightened supervision plan. Ruhl will certify quarterly to the Firm's CCO that he is in compliance with all of the conditions of the heightened supervision plan.
20. The Firm will not make any material changes to this heightened supervision plan for Ruhl without the prior approval of FINRA's Member Regulation.

III. Relief Sought

In the Application, FINRA seeks an order declaring that, notwithstanding Ruhl's statutory disqualification, the Commission:

1. Will not institute proceedings pursuant to Sections 15(b)(6) and 19(h) of the Exchange Act solely on the basis of Ruhl's association with a broker or dealer; and
2. Will not direct FINRA to bar the proposed association, as provided in Section 15A(g)(2) of the Exchange Act.

IV. Conclusion

The Division of Trading and Markets ("Division"), pursuant to delegated authority, has reviewed the Application and the record before FINRA. Relying on the representations made by

FINRA and Hilliard Lyons concerning the proposed association of Ruhl,⁷ the Division has concluded that it is appropriate for the Commission to approve the Application for Ruhl to associate as an investment banking representative subject to the conditions of this order.

Accordingly, IT IS ORDERED that the Application of FINRA on behalf of Hilliard Lyons and Ruhl be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁸

Brent J. Fields
Secretary

⁷ All representations, terms, and conditions of employment contained in FINRA's Rule 19h-1 notice filing (which includes Hilliard Lyons' MC-400 Application to FINRA), including any subsequent amendments or correspondence not specifically listed in this order, are incorporated herein by reference.

⁸ 17 CFR 200.30-3(a)(4).