

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
NOTICE OF COMPLAINT**

Disciplinary Proceeding No. 2016049321302
Date: December 20, 2018

TO: Robert Pearl, Esq.
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Via First Class and Certified Mail (Receipt No. 7016 2140 0000 7706 3237)

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Via First Class and Certified Mail (Receipt No. 7016 2140 0000 7706 3268)

FROM: FINRA District No. 6
Department of Enforcement
12801 North Central Expressway, Suite 1050
Dallas, TX 75243

You are notified that a Complaint has been issued by the Department of Enforcement, a copy of which is attached, alleging that your clients have violated certain FINRA Rules, NASD Rules, Municipal Securities Rulemaking Board Rules and provisions of the federal securities laws.

All individual Respondents named in this proceeding are reminded of the requirement to update immediately their Uniform Application for Securities Industry Registration or Transfer (Form U4) upon receipt of this Notice of Complaint to reflect that they have been named a Respondent in this Complaint. In addition, you are required during the pendency of this proceeding to notify immediately this office and the Office of Hearing Officers, in writing, of any change in your address.

ANSWER: Pursuant to Rules 9215 and 9138 of FINRA's Code of Procedure, you are required within 28 days after the date of mailing, i.e., no later than **January 17, 2018**, to answer this Complaint, in the manner and form described by FINRA Rule 9215, and to serve your Answer to the Complaint on all other parties pursuant to FINRA Rule 9133. Service of your Answer to the Department of Enforcement should be made to Albert A. Starkus, III, Senior Counsel, at the address referenced above. At the time of such service upon all parties, you are also required to file the signed original and one copy of your Answer with the Office of Hearing Officers pursuant to FINRA Rules 9135, 9136, and 9137. Filing of your Answer with the Office of Hearing Officers should be directed to the Office of Hearing Officers, FINRA, 1735 K Street, N.W., 2nd Floor, Washington, D.C. 20006, telephone (202) 728-8008, or you may file your Answer electronically: OHOCasFilings@finra.org. Papers are deemed timely filed with the Office of Hearing Officers if received by the Office of Hearing Officers within the specified time period.

The Answer must admit, deny or state that you do not have or are unable to obtain sufficient information to admit or deny each allegation in the Complaint. Any affirmative defense must be

stated in the Answer. Pursuant to FINRA Rule 9215(c), if you file a motion for a more definite statement, it must accompany your Answer.

Pursuant to FINRA Rule 9221, your Answer must specifically state whether you request a hearing on the allegations of the Complaint or whether you waive a hearing. The Office of Hearing Officers will later notify you of the hearing date and location. If you waive a hearing, a hearing may nevertheless be ordered pursuant to FINRA Rule 9221(b) or (c). If no hearing is ordered, the Office of Hearing Officers will notify you concerning your opportunity to submit documentary evidence for consideration.

INSPECTION AND COPYING OF DOCUMENTS IN POSSESSION OF STAFF: You are hereby advised that, pursuant to FINRA Rule 9251, unless otherwise provided, no later than 21 days after the filing of the last timely Answer, the Department of Enforcement shall commence making available for inspection and copying by any Respondent, certain documents prepared or obtained by the Department of Enforcement in connection with the investigation leading to the institution of these proceedings. In that regard, contact Albert A. Starkus, III to make arrangements. Please note that a Respondent shall not be given custody of the documents or be permitted to remove them from the offices of FINRA. However, a Respondent may obtain a photocopy of any documents made available for inspection; the Respondent shall pay the cost of any such copying of documents.

OFFER OF SETTLEMENT: Pursuant to FINRA Rule 9270, you may propose a written Offer of Settlement at any time. You may obtain the required format from the above-named staff

attorney. Discussions with the staff concerning possible settlement or the submission of an Offer do not relieve you of the obligation to timely file an Answer to the charges.

PRIMARY DISTRICT COMMITTEE: The Department of Enforcement has proposed the Florida District as the Primary District Committee for this proceeding based on the following factors: (1) the location of a Respondent's office at the time of the alleged misconduct; (2) the location of the office of a member/an associated person/former member/former associated person, where the alleged misconduct occurred; (3) the location of witnesses at the time of the filing of the complaint, especially the location of witnesses who are or were customers of a Respondent; (4) the location, at the time of the alleged misconduct, of the main, branch, or other office in which supervisory personnel, who are or were responsible for the supervision of a Respondent, were employed; and (5) the location, at the time of the alleged misconduct, of the main, branch, or other office in which supervisory personnel, who are or were responsible for the supervision of the office, division, function, or segment of the member where the alleged misconduct occurred, were employed. You may propose the same or another District as the Primary District Committee for this proceeding, with the filing of your Answer. The Office of Hearing Officers will designate, pursuant to FINRA Rule 9232(c), the Primary District Committee.

PROPOSED HEARING LOCATION: The Department of Enforcement has proposed Boca Raton, FL as the appropriate location for any hearing in this proceeding. Pursuant to FINRA Rule 9221, you may propose an appropriate location for any hearing, with the filing of your

Answer. The assigned Hearing Officer will designate, pursuant to FINRA Rule 9221(d), the location of any hearing.

REPRESENTATION: Pursuant to FINRA Rule 9141, any Respondent may be represented by an attorney. Alternatively, an individual may appear on his own behalf; a member of a partnership may represent the entity; and a bona fide officer of a corporation, trust or association may represent the entity.

NOTICE OF APPEARANCE: You are advised that the Department of Enforcement is represented in this matter by Albert A. Starkus, III, Senior Counsel, FINRA, Department of Enforcement, 12801 North Central Expressway, Suite 1050, Dallas, TX, 75243, Phone: 972-716-7663; Gregory Firehock, Senior Litigation Counsel, FINRA, Department of Enforcement, 15200 Omega Drive, Rockville, MD, 20850, Phone: 301-258-8527; Tino Lisella, Director, FINRA Department of Enforcement, 5200 Town Center Circle, Suite 200, Boca Center Tower 1, Boca Raton, FL, 33486, Phone: 561-443-8034; and David B. Klafter, Chief Counsel, FINRA Department of Enforcement, 5200 Town Center Circle, Suite 200 Boca Center Tower 1, Boca Raton, FL, 33486, Phone: 561-443-8110.

GOVERNING RULES: You are directed to FINRA Rule 9000, et seq., <http://finra.complinet.com>, for additional pertinent rules governing these proceedings.



Albert A. Starkus, III
Senior Counsel

Enclosure: Complaint

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Ami Kathryn Forte (CRD No. 2457536)

and

Charles Joseph Lawrence (CRD No.
3131566),

Respondents.

DISCIPLINARY PROCEEDING
No. 2016049321302

HEARING OFFICER:

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From September 2011 through June 2012 (the “Relevant Period”), while registered with member firm Morgan Stanley, Respondents Ami Kathryn Forte and Charles Joseph Lawrence exploited RS, a 79-year-old customer suffering from severe cognitive impairment. Forte and Lawrence engaged in qualitatively and quantitatively unsuitable trading in RS’s accounts, generating more than \$9 million in commissions in less than one year. In addition, Lawrence repeatedly exercised trading discretion without authorization in RS’s accounts, including during periods when RS was hospitalized and unable to communicate.

2. RS was Forte’s customer since the late 1990s when they began a romantic relationship. Through her personal, brokerage, and business relationships with RS, Forte occupied a position of trust and confidence with RS that continued until his death in mid-2012.

3. During the Relevant Period, Forte and Lawrence met and spoke frequently with RS and knew he suffered severe cognitive impairment. Yet, Forte and Lawrence never reported RS's condition to Morgan Stanley. Instead, Forte and Lawrence increased their level of trading in RS's accounts in the months after RS's diagnosis. Indeed, during the ten-month period from September 2011 through June 2012, after RS had been diagnosed with severe cognitive impairment, Forte and Lawrence effected more than 2,800 trades in RS's accounts, generating over \$9 million in commissions. In addition, many of these transactions involved unsuitable short-term trading of long-term investment products, such as income-producing bonds with long-term maturity dates.

4. By excessively trading and churning RS's accounts, Forte and Lawrence violated NASD Rule 2310, FINRA Rule 2010, and MSRB Rules G-17 and G-19. By the same misconduct, Forte and Lawrence willfully violated Securities Exchange Act of 1934 ("Exchange Act") Section 10(b) and Exchange Act Rule 10b-5, willfully violated MSRB Rules G-17 and G-19, and violated FINRA Rules 2020 and 2010. In the alternative, Forte violated FINRA Rule 2010 and willfully violated MSRB Rule G-17 by aiding and abetting Lawrence's violation of Exchange Act Section 10(b), Exchange Act Rule 10b-5, and FINRA Rule 2020.

5. By engaging in unsuitable short-term trading of long-term investment products in RS's accounts, Forte and Lawrence violated NASD Rule 2310, FINRA Rule 2010, and MSRB Rules G-17 and G-19.

6. By exercising discretion in RS's accounts without written authorization, Lawrence violated NASD Rule 2510(b), FINRA Rule 2010, and MSRB Rules G-8, G-17, and G-19(d).

7. Finally, Forte, who remained broker of record on RS's accounts and kept in near daily contact with RS, used her position of trust and confidence to exploit RS while he was suffering severe cognitive impairment and to generate excessive commissions from his accounts. By doing so, Forte engaged in unethical business conduct in violation of FINRA Rule 2010 and also willfully violated MSRB Rule G-17.

RESPONDENTS AND JURISDICTION

8. **Ami Kathryn Forte** first registered with a FINRA member firm in 1994. From January 2000 through April 2016, Forte was registered as a General Securities Representative through Morgan Stanley (CRD No. 149777) or its predecessor firms. On April 22, 2016, Morgan Stanley filed a Uniform Termination Notice for Securities Industry Registration (Form U5) noting that it had terminated Forte's registration due to "[c]oncerns relating to disclosed arbitration award involving former client and conduct at issue therein, including without limitation adherence to industry rules and/or firm policy regarding use of trading discretion, concealed personal relationship with client and timely reporting of liens." On March 21, 2018, Forte was registered as a General Securities Representative through another FINRA member firm. On October 17, 2018, the FINRA member firm filed a Form U5 terminating Forte's registration. Although Forte is no longer registered or associated with a FINRA member, she remains subject to FINRA's jurisdiction for the purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the effective date of termination of Respondent's registration with the FINRA member firm, namely, October 17, 2018, and (2) the Complaint charges her with misconduct committed while she was registered or associated with a FINRA member.

9. **Charles Joseph Lawrence** first registered with a FINRA member firm in 1998. From December 1998 through April 22, 2016, Lawrence was registered as a General Securities Representative through Morgan Stanley or its predecessor firms. Lawrence is currently registered with another FINRA member firm.

FACTS

I. **RS Opens Brokerage Accounts with Forte, and Forte Establishes The Forte Group with Lawrence**

10. In the late 1990s, while registered with another FINRA member firm, Forte met RS and began a romantic relationship with him. Shortly thereafter, RS opened a brokerage account with Forte as broker of record.

11. In January 2000, Forte became registered with Morgan Stanley DW Inc., the predecessor firm to Morgan Stanley. RS concurrently opened multiple accounts at Morgan Stanley and soon transferred his brokerage accounts there. Forte served as broker of record on all of RS's accounts.

12. During the Relevant Period, RS had a total of approximately \$192 million in the following six accounts (the "RS Accounts") at Morgan Stanley:

- a. Account No. XXX914, [RS] Revocable Trust;¹
- b. Account No. XXX666, RMS Limited Partnership;
- c. Account No. XXX616, RMS Limited Partnership;
- d. Account No. XXX800, RMS Limited Partnership;
- e. Account No. XXX645, [RS] Foundation; and
- f. Account No. XXX901, Interphase, Inc.

¹ Account numbers have been partially redacted with XXX. Forte was also the broker of record on several other accounts that RS maintained at Morgan Stanley. However, the activity in those accounts is not relevant to the allegations asserted within this Complaint.

13. In 2001, Forte established The Forte Group at Morgan Stanley, which she headed as Senior Vice President, to assist with handling her accounts, including the RS Accounts. Lawrence joined The Forte Group at its inception and by 2009 Forte had tasked him with entering most of The Forte Group's day-to-day trades in the RS Accounts. Nevertheless, Forte remained in near daily contact with RS, was the broker of record on the RS Accounts, and had overall responsibility for the trading strategy and day-to-day trading in the RS Accounts.

14. Forte received substantial financial benefits from the trading in the RS Accounts which, as alleged below, was unsuitable and excessive. During the Relevant Period, which covers a span of ten months, trading in the RS Accounts generated over \$9 million in commissions, most of which was paid to Forte.

15. RS's accounts generated approximately 94 percent of Forte's commission revenues and allowed Forte to garner the number one ranking on Barron's Top 100 Women Financial Advisors list for 2010, 2011 and 2012, and to rank number 25 on Barron's Top 100 Financial Advisors list in 2012.

16. Lawrence received no commissions from the trading activity in the RS Accounts. Instead, he was paid an annual salary ranging from \$100,000 to \$150,000 as a member of The Forte Group. Lawrence also received a bonus, which ranged from \$75,000 to \$200,000, and which he negotiated with Forte annually.

II. By September 2011, RS Exhibits Severe Cognitive Impairment

17. By at least September 2011, and until his death in August 2012, RS was suffering from severe cognitive impairment. During this period, RS was mentally and physically debilitated and unable to manage his daily care.

18. RS's cognitive impairment and lack of capacity were apparent to his family, employees, caregivers, and medical and mental healthcare providers. They were also apparent to Morgan Stanley employees, including Forte and Lawrence.

19. Multiple treating physicians, some as early as 2008, determined that RS suffered from dementia or Alzheimer's or both. In February 2008, a treating physician, Dr. BM, prescribed an Alzheimer's drug for RS after RS's wife noticed he was having memory difficulties. In August 2008, a neurologist, Dr. WH, noted during a hospital visit that RS may have Alzheimer's. In 2009, Dr. BM recommended that RS no longer engage in certain activities, such as driving.

20. By the fall of 2011, RS regularly exhibited signs of confusion and severe mental impairment, including failing to understand basic concepts involving money and his own net worth.

21. Between September 15, 2011 and January 12, 2012, at least four separate physicians on approximately five occasions diagnosed RS with severe cognitive impairment. Among other specific observations, physicians noted that RS exhibited weak short-term memory recall, was vulnerable to exploitation, was unable to manage his finances, and had an inability to perform, among others, the following tasks:

- a. simple arithmetic;
- b. identify a triangle or a circle;
- c. name more than five animals in a minute;
- d. name a vegetable within 15 seconds; and
- e. remember he had three children (he believed he had five).

22. On June 20, 2012, RS was admitted to the hospital, where Dr. WH, the neurologist who suspected RS was suffering from Alzheimer's in 2008, evaluated him. Dr. WH concluded that RS "has apparently become demented since" that time.

23. On June 26, 2012, Dr. LG, a psychologist, examined RS while he was hospitalized. Based upon that examination, on July 2, 2012, Dr. LG issued the Examining Committee Report Following Petition to Determine Incapacity. She reported that RS suffered from severe cognitive failure in all areas, and in particular that RS has "very limited knowledge/comprehension of finances."

24. As set forth below, Forte and Lawrence continued to trade in the RS Accounts throughout this period. Indeed, on the date of Dr. LG's examination, Lawrence entered at least eight trades in the RS Accounts.

25. On July 20, 2012, following a competency hearing in the Circuit Court for Pasco County, Florida, RS was found "totally without capacity to care for [his] person or property." The basis was a diagnosis of "Alzheimer's or vascular dementia, or both." In support of its determination, the Circuit Court found:

He suffers from nearly constant confusion and his memory is impaired. He is highly susceptible to exploitation and undue influence. His judgment is impaired. He lacks insight into his current health problems and limitations. As a result, he lacks the capacity to manage his property or to meet the essential requirements of his health and safety.

III. During the Ten Months Before RS Died, Forte and Lawrence Exploit RS's Vulnerable Mental and Physical Condition to Unsuitably and Excessively Trade His Accounts

26. During the Relevant Period, Forte and Lawrence were in frequent contact with RS and were aware of his severe cognitive impairment. Lawrence met or spoke with RS almost daily. Forte communicated with RS almost daily by telephone, attended many meetings with RS

at Morgan Stanley, and she and her group were deeply involved in most of RS's financial affairs. Further, Forte's and RS's personal relationship continued until shortly before June 20, 2012, when RS was hospitalized for the last time before his death.

27. Despite this awareness, neither Forte nor Lawrence reported RS's vulnerable mental condition to Morgan Stanley.

28. To the contrary, throughout this period, Forte and Lawrence continued to actively trade the RS Accounts.

29. Indeed, over the two-month period from January through February 2012, following a physician's evaluation that specifically noted RS's vulnerability to exploitation, Forte and Lawrence *increased* the level of trading in the RS Accounts to roughly twice the average volume compared to the preceding five years.

30. Throughout the Relevant Period, Forte and Lawrence exercised control over the RS Accounts.

31. First, Forte and Lawrence were able to exercise control over the RS Accounts due to RS's vulnerable physical and mental state.

32. Second, nearly all trades in the RS Accounts during the Relevant Period were marked "solicited," and RS did not reject any trades proposed by The Forte Group.

33. Also, Forte and Lawrence exercised control over the RS Accounts by exercising discretion without authorization.

34. RS never granted discretionary authority of any kind to The Forte Group regarding any of his accounts. The Morgan Stanley Compliance Manual (§ 8.7.2.1) in effect during the Relevant Period prohibited use of discretion without authorization.

35. Nevertheless, Lawrence often entered trades without contacting RS. In fact, Lawrence entered trades for RS even during periods when RS was hospitalized and unable to communicate with Forte and Lawrence. For example:

- a. RS was admitted to the hospital on September 15, 2011, and was discharged on September 18, 2011. Among the “DISCHARGE DIAGNOSES” was “Altered mental status, confusion, with . . . the ultimate diagnosis of dementia.” Lawrence effected 13 transactions in the RS Accounts during that time, generating \$38,067 in commissions and sales credits.
- b. On October 28, 2011, RS visited the hospital in anticipation of surgery on October 31, 2011. Lawrence effected 32 trades in the RS Accounts during that four-day period, 13 of which trades occurred on the day of the surgery, generating \$177,007 in gross commissions.
- c. From May 14 to May 17, 2012, RS had multiple doctor visits, was out of contact with anyone from Morgan Stanley during that time, and did not communicate by telephone. Lawrence effected 42 transactions in the RS Accounts in this time, generating \$19,934 in commissions and sales credits.
- d. Neither Forte nor Lawrence was in contact with RS from June 20, 2012, forward. RS entered the hospital on June 20, 2012, and was not discharged until July 5, 2012. Among the “DISCHARGE DIAGNOSES” was “Severe Alzheimer dementia with acute worsening,” and the Discharge Summary noted that RS was “severely demented and required a lot of care at the bedside.” Between June 20 and 29, 2012, Lawrence effected 86 trades in the RS Accounts, generating \$137,953 in commissions and sales credits.

36. Forte and Lawrence exploited RS's vulnerable state and their control over RS's accounts by engaging in qualitatively and quantitatively unsuitable trading in his accounts.

37. Indeed, during the Relevant Period, which spanned just ten months, Forte and Lawrence effected more than 2,800 trades in the RS Accounts.

38. Over half of the 2,800 trades involved long-maturity bonds, including municipal bonds. Moreover, these bond trades accounted for over 80 percent of the dollar value of the trades in these accounts.

39. All of these bonds were income-producing products intended for customers with long-term investment time horizons and carried substantial commissions.

40. Nevertheless, Forte and Lawrence routinely sold these products after holding them for just weeks or months.

41. In many instances, Forte and Lawrence's trading activity included moving in and out of positions in the same bond in a matter of a few weeks. For example:

- a. From January 10, 2012 to February 28, 2012, the [RS] Revocable Trust (account no. XXX914) bought and sold millions of dollars of Santander UK PLC Bonds (maturity October 26, 2029) a total of six times — six buys and six sells — and generated almost \$140,000 in commissions. Had RS only purchased the bond once on January 10, 2012 and sold on February 28, 2012, the commissions would have been around \$18,000 (over seven times lower).
- b. From September 20, 2011 to January 10, 2012, the [RS] Revocable Trust account bought and sold millions of dollars in American International Group ("AIG") Bonds (maturity March 15, 2058) 11 times, for approximately 11 times the commission had the bonds been bought and sold once.

- c. From September 20, 2011 to January 31, 2012, the [RS] Revocable Trust account bought and sold millions of dollars in AIG Bonds (maturity March 15, 2037) six times, for approximately six times the commission had the bonds been bought and sold once.
- d. From January 17, 2012 to February 24, 2012, the [RS] Revocable Trust account bought and sold millions of dollars in AXA SA Bonds (maturity December 15, 2030) four times, for approximately four times the commission had the bonds been bought and sold once.

42. During the Relevant Period, Morgan Stanley had four categories of investment objectives, which were, in order of increasing aggressiveness, “income,” “capital appreciation,” “aggressive income,” and “speculation.” As of September 2011, the primary account objective for the RS Accounts was “income.” The short-term trading of bonds and overall frequency of trading effected by The Forte Group was not consistent with this objective.

43. Between March and July of 2012, RS’s account objectives were changed to riskier and more aggressive account objectives, including “speculation,” and the previous primary account objective, “income,” was made the secondary, tertiary or last objective.

44. RS never directed, authorized or consented to these changes to his investment objectives. Nevertheless, the trading that took place thereafter was unsuitable and excessive both under RS’s previously recorded account objectives and as modified in Morgan Stanley’s account records.

45. On June 20, 2012, RS was hospitalized for the last time. From this point until his death in August 2012, no one from The Forte Group had any contact with RS. Nevertheless,

trading in the RS Accounts continued until June 29, 2012 and included over \$14 million in transactions.

FIRST CAUSE OF ACTION
Excessive Trading (Quantitative Unsuitability)
(NASD Rule 2310, FINRA Rule 2010, and MSRB Rules G-17 and G-19)
(Forte and Lawrence)

46. The Department of Enforcement realleges and incorporates by reference all preceding paragraphs.

47. NASD Rule 2310² requires registered representatives to only recommend suitable investments to customers:

(a) In recommending to a customer the purchase, sale or exchange of any security, a member shall have reasonable grounds for believing that the recommendation is suitable for such customer upon the basis of the facts, if any, disclosed by such customer as to his other security holdings and as to his financial situation and needs.

48. Among the obligations under FINRA’s suitability rule is “quantitative suitability,” which focuses upon whether the number of transactions within a given timeframe is suitable in light of the customer’s financial circumstances and investment objectives. Excessive trading occurs, and is unsuitable, when a registered representative has control over trading in an account and the level of activity in that account is inconsistent with the customer’s financial circumstances and investment objectives.

49. MSRB Rule G-19, which is MSRB’s suitability rule,³ imposed a similar suitability obligation with respect to municipal securities:

(c) *Suitability of Recommendations*. In recommending to a customer any municipal security transaction, a broker, dealer, or municipal securities dealer shall have reasonable grounds:

² Shortly after the Relevant Period, NASD Rule 2310 was superseded by FINRA Rule 2111.

³ In 2014, MSRB Rule G-19 was amended; the 2011–12 version of the Rule is quoted herein.

(i) based upon information available from the issuer of the security or otherwise, and

(ii) based upon the facts disclosed by such customer or otherwise known about such customer for believing that the recommendation is suitable.

50. Rule G-19 also contained a specific prohibition on excessive trading:

(e) *Churning*. No broker, dealer or municipal securities dealer shall recommend transactions in municipal securities to a customer . . . that are excessive in size or frequency in view of information known to such broker, dealer or municipal securities dealer concerning the customer's financial background, tax status, and investment objectives.

51. MSRB Rule G-17, with respect to municipal securities, imposes a duty upon brokers to "deal fairly with all persons and . . . not engage in any deceptive, dishonest, or unfair practice." Similarly, FINRA Rule 2010 requires members and associated persons, in the conduct of their business, to "observe high standards of commercial honor and just and equitable principles of trade."

52. Forte and Lawrence controlled the trading in the RS Accounts.

53. The trading in the RS Accounts was excessive. During the Relevant Period, which spanned just ten months, Lawrence and Forte effected more than 2,800 trades in the RS Accounts, generating over \$9 million in commissions.

54. In addition, as alleged above, the trading in the RS Accounts included numerous instances of in-and-out trading, in which a security was purchased and sold within a short time. Indeed, on numerous occasions, Forte and Lawrence purchased, sold and then repurchased the same security in the RS Accounts within weeks. Often these securities were income-producing bonds, including municipal bonds, intended for customers with long-term investment time horizons, and carried substantial commissions.

55. This trading was calculated to generate commissions for Forte and The Forte Group and was inconsistent with RS's investment objectives and financial situation.

56. As a result of the foregoing conduct, Respondents Forte and Lawrence violated NASD Rule 2310, FINRA Rule 2010, and MSRB Rules G-17 and G-19.

SECOND CAUSE OF ACTION
Unsuitable Recommendations (Qualitative Unsuitability)
(NASD Rule 2310, FINRA Rule 2010, and MSRB Rules G-17 and G-19)
(Forte and Lawrence)

57. The Department of Enforcement realleges and incorporates by reference all preceding paragraphs.

58. Forte and Lawrence effected short-term purchases and sales of bonds without having reasonable grounds to believe that such purchases and sales were suitable for RS in view of the nature and frequency of the transactions and the transactions costs incurred, and in light of RS's financial situation, investment objectives, circumstances and needs.

59. As alleged above, the bonds that Forte and Lawrence recommended were higher-cost, long-term investments that were not appropriate vehicles for short-term trading. Further, some of these short-term transactions involved in-and-out trading, whereby Forte and Lawrence bought and sold the same bonds multiple times over a short period, which resulted in higher commissions and provided little or no economic benefit to RS.

60. As a result of the foregoing conduct, Respondents Forte and Lawrence violated NASD Rule 2310, FINRA Rule 2010, and MSRB Rules G-17 and G-19.

THIRD CAUSE OF ACTION
Churning
(Section 10(b) of the Securities Exchange Act of 1934,
Exchange Act Rule 10b-5, FINRA Rules 2020
and 2010, and MSRB Rules G-17 and G-19)
(Forte and Lawrence)

61. The Department of Enforcement realleges and incorporates by reference all preceding paragraphs.

62. Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) provides:

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange . . . to use or employ, in connection with the purchase or sale of any security . . . any manipulative or deceptive device or contrivance.

63. Rule 10b-5 of the Exchange Act provides:

It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange,

- (a) To employ any device, scheme or artifice to defraud,
- (b) To make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or
- (c) To engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person,

in connection with the purchase or sale of any security.

64. FINRA Rule 2020 provides that “[n]o member shall effect any transaction in, or induce the purchase or sale of, any security by means of any manipulative, deceptive or other fraudulent device or contrivance.”

65. By engaging in unsuitable excessive trading with scienter, Forte and Lawrence, directly or indirectly, engaged in a manipulative, deceptive and fraudulent scheme by churning the RS Accounts.

66. By engaging in unsuitable excessive trading with scienter, Forte and Lawrence, directly or indirectly, engaged in an act, practice, or course of business that operates as a fraud or deceit.

67. Forte and Lawrence acted with intent to defraud and/or with reckless disregard of RS's interests. Among other things, they: (i) executed an extraordinary number of transactions in the RS Accounts that, in turn, generated exorbitant commissions; and (ii) engaged in short-term, in-and-out trading of bonds, which are long-term investments.

68. In addition to Forte's direct and primary liability for violations of Section 10(b) and Rule 10b-5, Forte also is liable for Lawrence's violations of Section 10(b) and Rule 10b-5 under the control person provisions of Section 20(a) of the Exchange Act.

69. The acts and transactions at issue were accomplished by the use or means of the instrumentalities of interstate commerce and through the mail and involved securities transactions on a national securities exchange.

70. The acts and transactions at issue were all in connection with the purchase or sale of any security.

71. As a result of the foregoing conduct, Respondents Forte and Lawrence willfully violated Section 10(b) of the Exchange Act and Exchange Act Rule 10b-5, willfully violated MSRB Rules G-17 and G-19, and violated FINRA Rules 2020 and 2010.

FOURTH CAUSE OF ACTION
(Alternative to the Third Cause of Action)
Aiding and Abetting Violations of Section 10(b) of the Securities
Exchange Act of 1934, Exchange Act Rule 10b-5, and FINRA Rule 2020
(FINRA Rule 2010 and MSRB Rule G-17)
(Forte)

72. The Department of Enforcement realleges and incorporates by reference all preceding paragraphs.

73. Aiding and abetting a violation of Exchange Act Section 10(b), Exchange Act Rule 10b-5 and FINRA Rule 2020, violates FINRA Rule 2010 and MSRB Rule G-17.

74. As alleged above, Lawrence, in his position as a member of The Forte Group servicing Forte's client, RS, engaged in primary violations of Exchange Act Section 10(b), Exchange Act Rule 10b-5 and FINRA Rule 2020 by churning the RS Accounts, by use of the means or instrumentalities of interstate commerce, or of the mails, or of a facility of a national securities exchange, and in connection with the purchase or sale of a security.

75. Forte knowingly or recklessly rendered substantial assistance to Lawrence's violations by (i) hiring Lawrence for the purpose of executing the excessive trading in the RS Accounts; (ii) assisting Lawrence in exercising control over the RS Accounts by exploiting her personal and business relationships, and resulting position of trust and confidence, with RS; and (iii) directing and condoning the excessive trading activity that Lawrence executed.

76. Forte was aware that her role was part of an overall activity that was improper.

77. As a result of the foregoing conduct, Forte aided and abetted Lawrence's violations of Section 10(b) of the Exchange Act and Rule 10b-5 thereunder and FINRA Rule 2020 in that she knowingly or recklessly rendered substantial assistance to Lawrence in committing these violations, and thereby violated FINRA Rule 2010 and willfully violated MSRB Rule G-17.

FIFTH CAUSE OF ACTION
Unauthorized Use of Discretion
(NASD Rule 2510(b) and FINRA
Rule 2010 and MSRB Rules G-8(a)(xi)(I), G-17 and G-19(d))
(Lawrence)

78. The Department of Enforcement realleges and incorporates by reference all preceding paragraphs.

79. NASD Rule 2510(b) prohibits a broker from using discretion in a customer's account without prior written authorization:

No member or registered representative shall exercise any discretionary power in a customer's account unless such customer has given prior written authorization to a stated individual or individuals and the account has been accepted by the member, as evidenced in writing by the member or the partner, officer or manager, duly designated by the member, in accordance with Rule 3010.

80. MSRB Rule G-19(d) similarly requires that brokers obtain written authorization from the customer and written supervisory approval before effecting transactions in discretionary accounts:

(d) *Discretionary Accounts.* No broker, dealer or municipal securities dealer shall effect a transaction in municipal securities with or for a discretionary account

(i) except to the extent clearly permitted by the prior written authorization of the customer and accepted in writing by a municipal securities principal or municipal securities sales principal on behalf of the broker, dealer or municipal securities dealer; and

(ii) unless the broker, dealer or municipal securities dealer first determines that the transaction is suitable for the customer as set forth in section (c) of this rule or unless the transaction is specifically directed by the customer and has not been recommended by the dealer to the customer.

81. MSRB Rule G-8(a)(xi)(I) requires brokers to obtain and maintain the following records for customers with non-institutional accounts:

(I) with respect to discretionary accounts, customer's written authorization to exercise discretionary power or authority with respect to the account, written

approval of municipal securities principal or municipal securities sales principal who supervises the account, and written approval of municipal securities principal or municipal securities sales principal with respect to each transaction in the account, indicating the time and date of approval.

82. The Morgan Stanley Compliance Manual in effect during the Relevant Period prohibited use of discretion, including time and price discretion, unless approved in writing by both the customer and the Firm.

83. The RS Accounts were non-discretionary accounts, and the only person authorized to trade them was RS.

84. During the Relevant Period, Lawrence had responsibility for entering trades in the RS Accounts and for obtaining RS's authorization for trading activity.

85. During the Relevant Period, Lawrence did not obtain written authorization for discretionary power from RS, supervisory approval of the authorization, or supervisory approval of each use of discretion in the RS Accounts.

86. Nevertheless, during the Relevant Period, Lawrence entered trades in the RS Accounts without obtaining prior authorization from RS.

87. As a result of the foregoing conduct, Respondent Lawrence violated NASD Rule 2510(b), FINRA Rule 2010, and MSRB Rules G-8(a)(xi)(I), G-17, and G-19(d).

SIXTH CAUSE OF ACTION
Unethical Business Conduct
(FINRA Rule 2010 and MSRB Rule G-17)
(Forte)

88. The Department of Enforcement realleges and incorporates by reference all preceding paragraphs.

89. During the Relevant Period, Forte was aware of RS's declining health and severe cognitive impairment.

90. Forte did not report RS's condition to Morgan Stanley.

91. Instead, Forte abused her position of trust and confidence with RS to exploit RS by causing the RS Accounts to be unsuitably and excessively traded for the purpose of generating excessive commissions for herself.

92. A member who, for financial gain, abuses a position of trust and confidence with an elderly customer suffering from severe cognitive impairment, fails to observe high standards of commercial honor and just and equitable principles of trade, and thereby violates FINRA Rule 2010.

93. As a result of the foregoing conduct, Respondent Forte violated FINRA Rule 2010 and willfully violated MSRB Rule G-17.

RELIEF REQUESTED

WHEREFORE, the Department of Enforcement respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondents committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed, including that Respondents be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- C. order that Respondents bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and
- D. make specific findings that Respondents willfully violated Exchange Act Section 10(b), Exchange Act Rule 10b-5, and willfully violated MSRB Rules G-17 and G-19.

FINRA DEPARTMENT OF ENFORCEMENT

Date: December 20, 2018



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FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Ami Kathryn Forte (CRD No. 2457536)

and

Charles Joseph Lawrence (CRD No.
3131566),

Respondents.

DISCIPLINARY PROCEEDING
No. 2016049321302

HEARING OFFICER:

CERTIFICATE OF SERVICE


I certify that on December 20, 2018, I sent copies of the foregoing Complaint and Notice of Complaint to the parties listed below as follows:

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