HERSKOVITS PLLC

ATTORNEYS AT LAW

CLE – LexVid

Defense of FINRA Investigations and Disciplinary Proceedings

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I. What is FINRA

- Function of FINRA
- Regulatory Mandate
- Jurisdictional reach of FINRA

II. WHAT TRIGGERS A FINRA INVESTIGATION

- Cycle or Cause examinations
- Form U4/U5 filings
- Arbitration claims
- Whistleblower tips
- Self-reporting
- Authority to investigate matters outside the securities industry (outside business activity rule)

III. WHAT HAPPENS DURING A FINRA INVESTIGATION

- FINRA's toolbox (Rule 8210)
  - Requests for written information
  - Requests for document production
  - Sworn testimony (on-the-record interview)
- Opportunity to Resolve the Investigation
  - Cautionary Action letters
  - Letters of Acceptance, Waiver and Consent
  - Sanction considerations and discussion of FINRA's Sanction Guidelines
- Opportunity to file a Wells submission

IV. WHAT HAPPENS DURING A FINRA DISCIPLINARY PROCEEDING

- FINRA's Office of Hearing Officers
  - What is a hearing officer
  - Function of HO
- Procedure of a Disciplinary Proceeding
  - Complaint
  - Answer
  - Discovery
  - Motion practice
  - Hearing
- Appellate Procedure
  - FINRA's National Adjudicatory Council
  - SEC
  - U.S. Court of Appeals
  - U.S. Supreme Court

V. CONSEQUENCES OF AN ADVERSE OUTCOME

- Fines and suspension
- Bar
- Statutory Disqualification

Supplemental Materials

- Sample Letter of Acceptance, Waiver and Consent
- Sample Complaint by FINRA's Department of Enforcement
- Sample Case Management and Scheduling Order by Hearing Officer
- Sample Order Accepting Offer of Settlement
- Sample Decision by Office of Hearing Officers
- Sample Decision by National Adjudicatory Council
- FINRA Sanction Guidelines (October 2021)
- FINRA Lawyer Blog