MOTION TO COMPEL COMPLETE DISCOVERY

FINRA Case No. 24-02286

This motion seeks to compel Oppenheimer to produce critical documentation that remains outstanding despite our narrowed discovery requests focused exclusively on Lawrence Weiner's accounts. Despite our good-faith efforts to streamline the discovery, Oppenheimer has not provided the necessary communications to confirm the fiduciary breach at both the independent contractor and supervisory levels.

Note: We are not seeking communications protected by attorney-client privilege between Oppenheimer staff and legal counsel. We seek only non-privileged communications and documentation related to the management of Mr. Weiner's wealth management accounts and the investigation of the breach of fiduciary duty, as well as the fraudulent misrepresentation and failure to supervise at the Oppenheimer complaint level.

OUTSTANDING DISCOVERY ITEMS

The following categories of documents were previously requested but remain unproduced. Each category is essential to establish the systematic breach of fiduciary duty perpetrated against Mr. Lawrence Weiner, a vulnerable senior investor with documented cognitive decline and terminal medical conditions.

Oppenheimer committed to breaking the 907.3 megabyte file down to 30 megabyte files. Mr. McGuire stated this would be done by March 21st, 2021, to date it has not been done.

Mr. McGuire stated Oppenheimer provided the Excel Spreadsheet detailing all commissions and fees for all Mr. Weiner's accounts from inception to termination. We stated we did not receive this file. Mr. McGuire stated this was an oversight that would be corrected – we still do not have this file.

I am requesting this missing discovery to not be combined with the discovery already provided. We want this in a separate batch of files no larger than 30 megabytes.

I. MR. HYMEN'S FIDUCIARY BREACH (INDEPENDENT CONTRACTOR LEVEL)

A. Client Interaction Documentation

1. All meeting notes, correspondence, and records documenting discussions between Mr. Hymen and Mr. Weiner regarding fee increases from 1.25% to 1.95%

2. All meeting notes, correspondence, and records documenting discussions between Mr. Hymen, Mr. Weiner, and Oppenheimer's management regarding why Account [redacted] was charged fees from Jan 2021 through Sept 2021 instead of being bundled with the other two accounts. And why it was decided to be bundled in with the wrongfully increased fee in Oct 2021.

3. Documentation showing Mr. Hymen's knowledge of and response to Mr. Weiner's medical conditions, including:

    - Records of any capacity assessments performed

- Notes regarding Mr. Weiner's Parkinson's disease and stage 4 lung cancer after he was informed of these by Jordan Tepper Weiner.
- Documentation of protective measures implemented based on these medical conditions
- Records showing consideration of the medical conditions in financial recommendations

4. Complete documentation of the "bonus" conversation, including:
    - Evidence supporting Mr. Hymen's claim that Mrs. Tepper attended meetings where rate increases were discussed
    - All emails or other communications establishing Mrs. Tepper's knowledge of the rate increase

B. Supervisory Oversight Records

1. Documentation of supervisory review and approval of the 64% fee increase for an 80-year-old client
2. Records showing what supervisory safeguards were implemented, if any, to protect Mr. Weiner from financial exploitation
3. Documentation of compliance review of the fee increase under Oppenheimer's senior investor protection protocols

II. OPPENHEIMER'S COMPLAINT DEPARTMENT DOCUMENTATION

A. Complaint Investigation Materials

1. The complete internal investigation file related to our complaint dated April 12th, 2024, including:
    - Interview notes with Mr. Hymen regarding the complaint
    - All internal communications discussing the complaint
    - Internal analysis of the fee increase and its justification
    - Documentation and methodology used to determine that "portfolio growth" was justification to dismiss exploitation concerns
2. Records showing how the complaint department's investigation adhered to or deviated from Oppenheimer's established protocols for handling complaints involving vulnerable senior investors

B. Decision-Making Documentation

1. All materials showing how Oppenheimer evaluated the expert testimony on cognitive decline that was provided with our complaint

2. Documentation of internal assessments regarding whether Oppenheimer's senior protection protocols were followed in Mr. Weiner's case
3. Minutes, notes, or records from all meetings where our complaint was discussed
4. The complete chain of approval showing who reviewed the complaint and who made the final decision to deny the complaint
5. Documentation showing the review process and chain of approval regarding Mr. Jordan Tepper Weiner's settlement offers:
    - Records related to the decision to reject the offer to settle for only the wrongful fees taken
    - Records related to the decision to reject the offer to settle for half of the wrongful fees taken

C. Relevant Policies and Procedures

1. Oppenheimer's senior investor protection protocols in effect during 2021-2023
2. Internal guidance and policies on handling fee increases for elderly clients with cognitive decline
3. Oppenheimer's procedures for complaint handling specifically related to allegations involving elderly clients

D. Compliance Oversight

1. Records of all compliance reviews of Mr. Hymen's handling of Mr. Weiner's accounts from 2018-2023
2. Documentation showing how the compliance department monitored adherence to fiduciary standards for Mr. Weiner's accounts
3. Any red flags, concerns, or notations in compliance records regarding Mr. Hymen's management of Mr. Weiner's accounts

ADDITIONAL DOCUMENTS REQUESTED

Per FINRA Rule 12514(a), which states that "at least 20 days before the first scheduled hearing date, all parties must provide all other parties with copies of all documents and other materials that they intend to use at the hearing."

1. All documents, exhibits, presentations, and other materials that Mr. McGuire and/or Oppenheimer intend to present or rely upon during the hearing, including but not limited to:

- Any expert witness reports or statements

- Charts, graphs, or visual aids depicting account performance

- Internal policies or procedures intended to be referenced

- **Any documents intended to rebut claimant's allegations**

- **Copies of all demonstrative exhibits planned for use during the hearing**

INTERROGATORIES FOR MR. HYMEN

In addition to the document production, we request that Mr. Hymen provide sworn written responses to the following interrogatories:

1. Please explain the discrepancy between your statement during the death benefits meeting that the total death benefits were $9,000 and Mr. McGuire's statement in arbitration documents that the death benefits total was $30,000.

2. What specific duty of care and investor protection measures did you implement on Mr. Lawrence Weiner's account after you learned of his terminal medical conditions from Mr. Jordan Tepper Weiner? Please provide a detailed timeline of all protective measures implemented.

3. Did you consider that any signed paperwork by Mr. Weiner might be invalid due to his senior citizen status at the time the authorization letter was signed?

4. Why did you return to Mrs. Weiner's house after being terminated from managing the portfolio to state "by the way, Lawre gave me a bonus" if, as you claim, she was already aware of the rate increase from a previous meeting?

5. Please explain why you raised rates on two fee-based accounts in January 2021 but delayed converting the commission-based account to a fee-based account until October 2021. During this period (January-October 2021), what was the total percentage of fees and commissions charged across all accounts?

6. What specific senior investor safety measures did you implement for Mr. Weiner? Please provide a detailed timeline of your duty of care process for Mr. Weiner's wealth management portfolio over the 48 months prior to his death.

7. Why weren't additional protective measures implemented after you learned of Mr. Weiner's:
    - Parkinson's disease
    - Stage 4 lung cancer
    - Advanced age

8. How did the 64% rate increase benefit Mr. Weiner rather than solely serving your interests?

9. Do you acknowledge that:
    - Increasing a client's fees provides no benefit to the client and harms long-term portfolio growth

- This harm is compounded when the client is a senior citizen
- The harm is further compounded when the senior citizen has cognitive decline
- Such fee increases violate fiduciary duty regardless of cognitive decline

INTERROGATORIES FOR MR. MCGUIRE RE: OPPENHEIMER'S COMPLAINT DEPARTMENT

1. How do you justify Oppenheimer's complaint department using portfolio performance as justification for dismissing concerns about the fee increase when portfolio performance is irrelevant to whether a fee increase was properly authorized by a client with capacity? Doesn't this constitute "deceptive misrepresentation" or "fraudulent misrepresentation" in violation of securities regulations?

2. Please explain why Oppenheimer's complaint department dismissed expert witness evidence regarding Mr. Weiner's cognitive decline without conducting a proper investigation. What specific steps were taken to evaluate this evidence?

3. Please explain why you tried to dismiss both our expert witness written testimony and why it is necessary to pull healthcare professionals away from patient care and needed rest, while also significantly increase Claimants expert witness fees, when their written testimony is crystal clear regarding their expertise, time spent with Mr. Weiner observing and diagnosing his terminal medical conditions that resulted in his death.

4. In your Amended Statement of Claim, you acknowledge that Mr. Hymen wasn't "informed of Mr. Weiner's medical ailments until late 2022." Why were Oppenheimer's stated policies about protecting vulnerable investors not activated for Mr. Weiner? What specific duty of care procedures were implemented and documented?

5. In your Amended Statement of Claim, Mr. McGuire stated the rate increase was Jan 2022, but it was Jan 2021 – please explain this important wrongful date discrepancy.

6. During our three-party meeting with FINRA, you stated that the increase in fees was due to "additional service of researching bonds." This conflicts with Mr. Hymen's "bonus" explanation and the complaint department's "portfolio growth" justification. Please explain these inconsistent explanations and provide documentation supporting your claim about bond research services.

2. Please supply a list of all witnesses Oppenheimer intends to call during the hearing, along with a brief summary of the expected subject matter of their testimony. REGULATORY AUTHORITY SUPPORTING THIS MOTION

This discovery is essential to establish violations of the following regulatory requirements:

1. FINRA Rule 2111: Suitability Requirements "This is based on the information obtained through reasonable diligence of the firm or associated person to ascertain the customer's investment profile. The rule states that the customer's investment profile "includes, but is not limited to, the customer's age"

2. FINRA Rule 2010: Standards of Commercial Honor and Principles of Trade "A member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade"

3. FINRA Rule 2165: Financial Exploitation of Specified Adults "(a) Definitions (1) For purposes of this Rule, the term "Specified Adult" shall mean: (A) a natural person age 65 and older"

4. FINRA Rule 3110: Supervision Requirements "(a) Supervisory System Each member shall establish and maintain a system to supervise the activities of each associated person that is reasonably designed to achieve compliance with applicable securities laws and regulations, and with applicable FINRA rules."

5. FINRA Rule 4512: Customer Account Information Requirements "The Essential Senior Investor Protection Tools: FINRA Rules 2165 and 4512

   Every year, millions of seniors become victims of financial exploitation, resulting in billions of dollars in losses. That's why FINRA worked to update Rule 4512 and implement Rule 2165 to help broker-dealer firms and their representatives protect their senior and other vulnerable adult customers."

6. SEC Regulation Best Interest: Care Obligation "Under SEC Regulation Best Interest (Reg BI), the "Care Obligation" requires broker-dealers to exercise reasonable diligence, care, and skill when making recommendations to retail customers, ensuring those recommendations are in the customer's best interest, not the broker-dealer's"

7. SEC Rule 204-2(a)(10): Requirements for maintaining valid client communications "SEC Rule 204-2(a)(10) requires investment advisers to maintain copies of all written agreements, or any agreements entered into with clients or otherwise related to their business, for a minimum of five years, with the first two years in an easily accessible place"

8. Investment Advisers Act Section 206: Fiduciary Obligations "Section 206 of the Act (generally referred to as the "anti-fraud" provision) makes it unlawful for an investment adviser to engage in fraudulent, deceptive, or manipulative conduct"

9. Oppenheimer Code of Conduct:

   - Section 2 (Page 1): Basic Principles requiring honest and ethical conduct

     "• adhere to the law wherever Oppenheimer does business;
     • avoid putting yourself or Oppenheimer in a conflict of interest;
     • conduct yourself honestly and with integrity;
     • avoid impropriety and the appearance of impropriety;"

   - Section 3.D (Page 2): Record-Keeping Requirements

     "It is a violation of law (in most, if not, all jurisdictions where Oppenheimer conducts business) and Oppenheimer policy for any employee to attempt to improperly influence or mislead any person engaged in auditing or reviewing our financial accounts and statements. Oppenheimer is committed to full

compliance with all requirements applicable to its regulatory and public disclosures."

- Section 4 (Page 3): Conflicts of Interest

  "A conflict of interest occurs when your private interests interfere, or appear to interfere, in any way, with the interests of Oppenheimer." Raising Mr. Weiner's rates significantly when he was a senior with cognitive decline harmed his portfolio and the only person to gain from this was Mr. Hymen – this is a conflict of interest "Engaging in any conduct that represents a conflict of interest is prohibited."

- Section 7 (Page 6): Fair Dealing obligations

  "You may not take unfair advantage of anyone through unethical or illegal measures, such as manipulation, concealment, abuse of privileged information, misrepresentation of material facts, or any other unfair practices."

  AND "**You, your associates or members of your family may not, directly or indirectly, accept or receive bonuses,** fees, gifts, frequent or excessive entertainment, or any similar form of consideration that is of more than nominal value from any person or entity with which Oppenheimer does, or seeks to do, business." – Mr. Hymen stating he received a "bonus" from Mr. Weiner is 100% against Oppenheimer's code of conduct. The "bonus" was not "nominal value" it was tens of thousands of dollars.

- Section 11 (Page 10): Duty to Report Problems

  "If you believe that you may have breached the Code or a supplemental code or guideline that applies to you, or have observed:

  • a breach of the Code or a supplemental code or guideline by another Oppenheimer employee; or
  • a serious weakness or deficiency in Oppenheimer's policies, procedures or controls which might enable breaches to occur or go undetected;

  you have a responsibility to Oppenheimer, your fellow Oppenheimer employees and yourself to report it immediately to your manager, that employee's Manager, a Senior Officer, the Chief Compliance Officer or the General Counsel. Any Manager in receipt of such a report should immediately escalate it one of the individuals listed in Section 14 of the Code." …. And "Failure to report a known breach of the Code may result in serious consequences. If a problem or irregularity has been referred to you, you must resolve the issue or refer to it appropriately using the chain of communication referred to below. Oppenheimer's complaint department violated this." Oppenheimer's complaint department 100% violated this code of conduct "reporting problems or irregularities".

CONCLUSION

The requested discovery is narrowly tailored, relevant, and essential to establish Oppenheimer's breach of fiduciary duty at both the individual representative and supervisory levels. Without this documentation, we cannot fully present our case regarding the exploitation of a vulnerable senior investor with cognitive decline and terminal medical conditions.

We respectfully request that the arbitrator compel Oppenheimer to produce all outstanding discovery items within 14 days.

Respectfully submitted,

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