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New Hampshire Secretary of State's Bureau of Securities Regulation Reaches Settlement with Merrill Lynch

A Bureau investigation confirmed Merrill Lynch violated telemarketing restrictions in NH.

CONCORD, NH (May 3, 2023): The New Hampshire Secretary of State, Bureau of Securities Regulation, has settled its case against New York based broker-dealer Merrill Lynch for violating telemarketing restrictions. New Hampshire has the highest number of active registrations per capita on the National Do Not Call Registry with 1,296,000 active registrations. A violation of Do Not Call occurs when a telemarketing call is placed to a Do Not Call number without the recipient's consent.

The Bureau began an investigation into these violations in 2022 and examined Merrill Lynch telemarketing calls placed by its agent trainees in their Financial Advisor Development Program (FADP). FADP agents placed telemarketing calls to develop their business. After examining FADP calls made in 2019 and 2020, the Bureau determined that Merrill Lynch's FADPs and supervisors did not engage in proper phone number screening prior to making the calls, violating the firm's policies and procedures.

When the violations were discovered, Merrill Lynch took disciplinary action against the offending agents and supervisors. It also instituted additional measures designed to improve the detection of unlawful agent telemarketing activities.

Following its investigation, the Bureau has determined that Merrill Lynch violated Financial Industry Regulatory Authority (FINRA) telemarketing restrictions, which prohibits companies and agents from making telemarketing calls to phone numbers registered on the firm's internal Do Not Call and National Do Not Call lists. Under New Hampshire law, the Bureau can cite a securities firm for violating FINRA Rules. Merrill Lynch has not admitted to nor denied the allegations.

As a result of the Bureau's action, Merrill Lynch has agreed to pay administrative penalties of \$650,000 and an additional \$50,000 for the investigation, totaling \$700,000 in penalties (see attached Consent Order). The Bureau also cited Merrill Lynch in 2014 for violating Do Not Call restrictions.

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The Bureau thanks FINRA for its cooperation and assistance with this investigation.