

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JEFFREY L. ADELL
(CRD No. 2638760),

Respondent.

Disciplinary Proceeding
No. 20050003867

DEFAULT DECISION

Hearing Officer – SNB

July 21, 2006

For forgery and falsification of documents, in violation of Rule 2110; for conversion of customer funds, in violation of Rules 2330(a) and 2110; and for failure to provide requested information, in violation of Rules 8210 and 2110, Respondent is barred from associating with any NASD member in any capacity.

Appearances

UnBo Chung, Esq., Senior Regional Counsel, NASD, Chicago, IL, and Rory C. Flynn, Esq., of Counsel, Washington, DC, for the Department of Enforcement.

No appearance by Respondent.

DECISION

I. Background

On March 6, 2006, the Department of Enforcement ("Enforcement") filed a three-cause Complaint in this proceeding, attached to this Decision as Exhibit A. The first cause of the Complaint alleges that Jeffrey L. Adell ("Respondent") violated Rule 2110 by forging and falsifying letters of instruction. The second cause alleges that Respondent violated Rules 2110 and 2330(a) by converting customer funds. The third cause alleges that Respondent violated Rules 8210 and 2110 by failing to respond to NASD Staff requests for information.

000000224 2011

Respondent did not file an Answer to the Complaint. Accordingly, on May 26, 2006, Enforcement filed a motion for entry of default decision, supported by the Declaration of UnBo Chung and ten exhibits. Respondent did not file a response to the motion.

For the reasons set forth below, Enforcement's motion is granted.¹

II. Respondent's Default

On March 2, 2006, Enforcement served the Complaint and Notice of Complaint on Respondent by first class and certified mail, sent to Respondent's current residential address as reflected in the Central Registration Depository (the CRD address). Respondent did not file an Answer. In the same manner, on March 30, 2006, Enforcement served the Complaint and Second Notice of Complaint on Respondent at the CRD address, as well as an alternative address ("Alternative Address"), as indicated on the return envelope of the certified mailing. Respondent again did not file an Answer.

Enforcement complied with Rule 9134(b)(1) by mailing the Complaint and Notices of Complaint to Respondent's CRD address and the Alternative Address, thereby giving Respondent constructive notice of this proceeding. By failing to file an Answer, Respondent defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), the allegations in the Complaint are deemed admitted.

III. Jurisdiction

Between August 2002 and January 2005, Respondent was registered as an investment company and variable contracts products representative with NASD member firm New England Securities. Respondent is not currently associated with a member firm.

¹ The factual determinations in this Decision are based on the allegations of the attached Complaint, which are deemed admitted, and the declaration and exhibits filed by Enforcement with its motion.

Although Respondent is not currently associated with a member firm, NASD has jurisdiction to bring this proceeding, pursuant to Art. V, § 4 of NASD's By-Laws, because (1) the Complaint charges Respondent with misconduct while he was registered and with failing to comply with requests for information made during the two-year period following termination of his last registration, and (2) the Complaint was filed within that two-year period.

IV. Violations

A. Forgery and Falsification of Documents

The first cause of the Complaint alleges that between June 2003 and July 2004, Respondent forged the signature of a customer ("JP") on fourteen letters of instruction. These letters, which were prepared without the permission or knowledge of JP or his estate, instructed New England Securities to liquidate funds from JP's securities account and send the proceeds to a third party address, which was, in reality, Respondent's home address. Respondent falsely certified to New England Securities that the forged signatures were authentic.

It is well established that forgery is not consistent with high standards of commercial honor and just and equitable principles of trade as required by Rule 2110.² These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent forged a customer's signature on falsified letters of instruction, without the knowledge or consent of the customer or his estate, in violation of Rule 2110.

² See, e.g., Donald M. Bickerstaff, Exchange Act Release No. 35,607, 1995 SEC LEXIS 982 (Apr. 17, 1995).

B. Conversion

The Complaint alleges that between June 2003 and July 2004, Respondent converted approximately \$29,460 from JP's securities account through the use of the forged letters of authorization discussed above. Respondent deposited the funds into his personal account, and used the funds for his personal benefit, without JP's knowledge or consent. These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent converted customer funds, in violation of Rules 2330(a) and 2110.

C. Failure to Respond

The Complaint also alleges that, on February 18, 2005, NASD Staff sent Respondent a request for information pursuant to Rule 8210. That request was sent by first class and certified mail to Respondent's CRD address. In the same manner, on March 15, 2005, NASD Staff sent a second request for information to Respondent. The Staff served the requests in accordance with Rule 8210(d), and therefore Respondent is deemed to have received them. Respondent did not respond.

Rule 8210 authorizes NASD to require any person subject to its jurisdiction to provide information related to any matter under investigation. The Rule serves as a key element in NASD's oversight function and allows NASD to carry out its regulatory functions without subpoena power.³ Here, although Respondent received valid

³ See, e.g., *Dep't of Enforcement v. Valentino*, No. FPI010004, 2003 NASD Discip. LEXIS 15, at *12 (NAC May 21, 2003), *aff'd*, 2004 SEC LEXIS 330 (Feb. 13, 2004) ("It is well established that because NASD lacks subpoena power over its members, a failure to provide information fully and promptly undermines NASD's ability to carry out its regulatory mandate.") (citation omitted); *Joseph G. Chiulli*, Exchange Act Release No. 42,359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000) (noting that Rule 8210 provides a means for the NASD effectively to conduct its investigations, and emphasizing that NASD members and associated persons must fully cooperate with requests for information).

constructive notice of the Staff's requests,⁴ he failed to respond to them. Respondent thereby violated Rules 8210 and 2110.

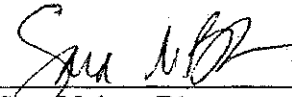
V. Sanctions

For forgery, the Sanction Guidelines recommend a bar in egregious cases. NASD Sanction Guidelines ("Guidelines") at 39 (2006 ed.). Respondent forged fourteen letters of instruction in order to convert customer funds to his own use. Respondent's misconduct is egregious and warrants a bar. For conversion, the Guidelines recommend a bar, regardless of the amount converted. A bar is also standard for failure to provide requested information. Id. at 35, 38. There is no evidence of any mitigating circumstances that would justify a lesser sanction for these violations. Therefore, Respondent is barred from associating with any NASD member in any capacity.

VI. Conclusion

For forgery and falsification of documents, in violation of Rule 2110; for conversion of customer funds, in violation of Rules 2330(a) and 2110; and for failure to provide requested information, in violation of Rules 8210 and 2110, Respondent is barred from associating with any NASD member in any capacity. These bars shall become effective immediately if this Decision becomes the final disciplinary action of NASD.

SO ORDERED.



Sara Nelson Bloom
Hearing Officer

⁴ See David I. Cassuto, Exchange Act Release No. 48,087, 2003 SEC LEXIS 1496, at *9 (June 25, 2003).

Copies to:

Jeffrey L. Adell (via overnight and first class mail)

UnBo Chung, Esq. (via electronic and first class mail)

Rory C. Flynn, Esq. (via electronic and first class mail)

Mark P. Dauer, Esq. (via electronic and first class mail)

**NASD
OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

v.

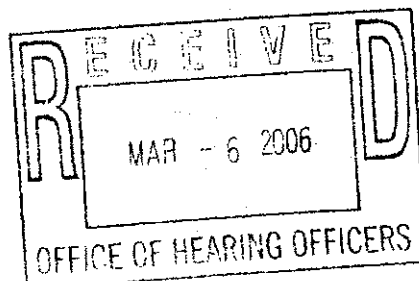
Jeffrey L. Adell,
CRD No. 2638760

Respondent.

Disciplinary Proceeding
No. 20050003867

Hearing Officer

COMPLAINT



Upon information and belief, Complainant alleges as follows:

1. Respondent Jeffrey L. Adell ("Respondent") became registered with NASD on September 21, 1995 as an Investment Company Products/Variable Contracts Representative. On January 19, 1999, Respondent became a General Securities Representative. Between the time period of August 2002 and January 2005, Respondent was registered in these capacities with New England Securities ("Member"), a member of NASD. Respondent is not currently registered with any NASD members. NASD has jurisdiction over Respondent pursuant to Article V, Section 4 of the Association's By-Laws, which provides for a two-year period of retained jurisdiction over formerly associated persons.

**FIRST CAUSE OF COMPLAINT
NASD Conduct Rule 2110:
Forgery and Falsification**

2. Paragraph number 1, above, is re-alleged and incorporated herein by reference.

3. Between the approximate dates of June 17, 2003 and July 29, 2004, Respondent created approximately fourteen fake letters of instruction purportedly created and signed by Customer JP. Respondent forged Customer JP's signature on these documents. These letters instructed the Member to liquidate funds from Customer JP's securities account and to send the proceeds to a third party address. This third party address was Respondent's home address. Additionally, Respondent falsely certified to the Member that the forged signatures were authentic. Furthermore, Respondent falsely endorsed the checks with Customer JP's signature. Respondent falsified these documents without the permission or knowledge of Customer JP or his estate.
4. The acts, practices and conduct above constitute separate and distinct violations of NASD Conduct Rule 2110 by Respondent.

SECOND CAUSE FOR COMPLAINT
NASD Conduct Rules 2110 and 2330(a):
Conversion

5. Paragraphs 1 through 4, above, are re-alleged and incorporated by reference herein.
6. Between the approximate dates of June 17, 2003 and July 29, 2004, Respondent converted approximately \$29,461.43 from Customer JP's securities account by having approximately 14 checks from this account sent to Respondent's home. Respondent deposited these funds into his personal account and used to funds for his personal expenses and not for the benefit of Customer JP, without the knowledge or consent of Customer JP.

7. The acts, practices and conduct above constitute separate and distinct violations of NASD Conduct Rules 2110 and 2330(a) by Respondent.

THIRD CAUSE FOR COMPLAINT
NASD Conduct Rule 2110 and NASD Procedural Rule 8210
Failure to Respond to Requests for Information

8. Paragraphs 1 through 7, above, are re-alleged and incorporated herein by reference.
9. On or about February 18, 2005, NASD Staff sent to Respondent a request that he provide certain information, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. That request for information was sent by first class and certified mail to Respondent's address of record as contained in the records of the Central Registration Depository ("CRD address"). The first class mailings to the CRD address was not returned to the NASD Staff, and receipt for the certified mail was returned back to NASD signed by "J Adell."
10. On or about March 15, 2005, NASD Staff sent to Respondent a second request that he provide the information initially requested on February 18, 2005, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. This request for information was sent by first class and certified mail to Respondent's CRD address. The first class mailing to the CRD address was not returned but the certified mailing to the CRD address was returned, marked "Unclaimed." Also on March 15, 2005, NASD Staff sent the request for information to an alternative address via certified and regular mail. Both the certified and regular mailings sent to the alternative address were returned, marked "Forward Expired."

11. On or about April 25, 2005, NASD Staff sent to Respondent a third request for information initially requested on February 18, 2005, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. This request for information was sent by first class and certified mail to Respondent's CRD address. The first class mailing to the CRD address was not returned to the NASD Staff, but the certified mailing to the CRD address was returned, marked "Unclaimed." Also on April 25, 2005, NASD Staff sent the request for information to a second alternative address via certified and regular mail. The first class mailing to the second alternative address was not returned, and but the certified mailing to the second alternative address was returned, marked "Unclaimed."

12. Respondent has failed to respond to the requests for information described in Paragraphs 9, 10 and 11 above to date, and the dates for responding to the requests have passed.

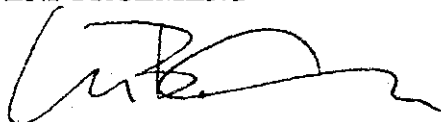
13. The acts, practices and conduct described above constitute separate and distinct violations of NASD Conduct Rule 2110 and Procedural Rule 8210 by Respondent.

PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent committed the violations alleged within this Complaint;
- B. An order imposing sanctions upon the Respondent in accordance with NASD Rule 8310;
- C. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330; and
- D. An order imposing any other fitting sanction.

**NASD DEPARTMENT OF
ENFORCEMENT**



UnBo Chung, Senior Regional Attorney
Mark Koerner, Regional Chief Counsel
NASD Department of Enforcement
55 W. Monroe Street, Suite 2700
Chicago, IL 60603
(312) 899-4641; Fax No. (312) 899-4600

Date: March 2, 2006

NASD Regional Director

Carlotta Romano, Senior Vice President
NASD, District 8
55 W. Monroe Street, Suite 2700
Chicago, IL 60603
(312) 899-4324; Fax No. (312) 606-0742

Of Counsel

Rory C. Flynn, Of Counsel
NASD Department of Enforcement
1801 K Street, N.W., Suite 800
Washington, D.C. 20006
(202) 974-2974; Fax No. (202) 721-8318

Roger D. Hogoboom, Of Counsel
NASD Department of Enforcement
370 17th Street, Suite 2900
Denver, CO 80202
(303) 446-3114; Fax No. (303) 620-9540