

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MICHAEL T. HUANG
(CRD No. 4570554),

Respondent.

Disciplinary Proceeding
No. 2005000476101

Hearing Officer – SNB

Default Decision

April 17, 2006

For failing to provide requested information, in violation of Rules 8210 and 2110, Respondent is barred from associating with any NASD member in any capacity. In light of this bar, no further sanctions are imposed for Respondent's Rule 2110 violation for acting as an imposter in connection with the Firm Element of the Continuing Education Requirement.

Appearances

Laura Leigh Blackston, Esq., Regional Counsel, Boca Raton, FL, and Rory C.

Flynn, Esq., Washington, DC, Of Counsel, for the Department of Enforcement.

No appearance by Respondent.

DECISION

I. Background

On December 5, 2005, the Department of Enforcement ("Enforcement") filed a two-cause Complaint in this proceeding, attached to this Decision as Exhibit A. The Complaint alleges that Respondent Michael T. Huang ("Respondent") violated Rule 2110 by misrepresenting his identity. The Complaint also alleges that Respondent violated Rules 8210 and 2110 by failing to respond to NASD Staff ("Staff") requests for information. Respondent did not file an Answer to the Complaint. Accordingly, on

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February 27, 2006, Enforcement filed a Motion for Entry of Default Decision ("Motion"), supported by the declaration of Laura Leigh Blackston and 6 exhibits. Respondent did not reply to the Motion. For the reasons set forth below, the Motion is granted.¹

II. Respondent's Default

Enforcement sent the Complaint and Notice of Complaint to Respondent on December 2, 2005, by certified mail, to Respondent's last known residential address listed in the Central Registration Depository (the "CRD address"), and to an additional address provided by the United States Postal Service. In the same manner, Enforcement sent the Complaint and Second Notice of Complaint to Respondent at the same addresses on January 4, 2006. Respondent did not file an Answer to the Complaint.

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

III. Jurisdiction

Respondent became associated with Lehman Brothers, Inc. ("Lehman Brothers") in September 2003, and became registered as a General Securities Representative with Lehman Brothers in April 2004. His employment with Lehman Brothers terminated in January 2005. He is not currently registered with an NASD member firm.

¹ The factual determinations in this Decision are based on the allegations in the Complaint, which are deemed admitted, and Enforcement's Motion for Entry of Default Decision and supporting materials.

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. Misrepresentation of Identity - Rule 2110

The first cause of the Complaint alleges that on or about December 31, 2004, Respondent misrepresented his identity by using the computer password of another Lehman Brothers representative in order to complete a firm required continuing education session for the other registered representative.

The allegations of the Complaint are sufficient to establish, for purposes of this default decision, that Respondent misrepresented his identity in violation of Rule 2110.

B. Failure to Respond – Rules 8210 and 2110

The second cause of the Complaint alleges that, on April 7, 2005, April 26, 2005, and May 19, 2005, the Staff sent Respondent requests for information concerning the activity alleged in the first cause of the Complaint. The Staff sent these requests, via certified and regular mail, to Respondent's CRD address. The Staff also sent the May 19, 2005, mailing to an additional address provided by the United States Postal Service. The Staff served the requests in accordance with Rule 8210(d), and therefore Respondent is deemed to have received them. However, 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.² Here, although Respondent received valid constructive notice of the Staff's requests,³ he failed to respond. Respondent thereby violated Rules 8210 and 2110.

V. Sanctions

For failing to provide requested information, the Sanction Guidelines recommend a bar. NASD Sanction Guidelines at 35 (2005 ed.). There is no evidence of any mitigating circumstances that would justify a lesser sanction. Therefore, Respondent is barred from associating with any NASD member in any capacity for this violation of Rules 8210 and 2110. In light of this bar, no further sanctions are imposed for Respondent's Rule 2110 violation for acting as an imposter in connection with the Firm Element of the Continuing Education Requirement.⁴

VI. Conclusion

For failing to provide requested information, in violation of Rules 8210 and 2110, Respondent is barred from associating with any NASD member in any capacity. In light

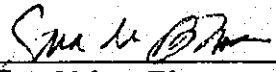
² See, e.g., Dep't of Enforcement v. Valentino, No. FPI010004, 2003 NASD Discip. LEXIS 15, at *12 (NAC May 21, 2003), aff'd, 2004 SEC LEXIS 330 (Feb. 13, 2004) ("It is well established that because NASD lacks subpoena power over its members, a failure to provide information fully and promptly undermines 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).

³ See David I. Cassuto, Exchange Act Release No. 48,087, 2003 SEC LEXIS 1496, at *9 (June 25, 2003).

⁴ There are Sanction Guidelines for "cheating, [or] using an impostor...in the *Regulatory* Element of Continuing Education," but not for *acting* as an impostor in the *Firm* Element of Continuing Education. NASD Sanction Guidelines at 43. In light of the bar, there is no need to determine whether the Guidelines provide an appropriate analogy under the facts of this case.

of this bar, no further sanctions are imposed for Respondent's Rule 2110 violation for acting as an imposter in connection with the Firm Element of the Continuing Education Requirement.

SO ORDERED.


Sara Nelson Bloom
Hearing Officer

Copies to:

Michael T. Huang (*via certified and first class mail*)
Laura Leigh Blackston, Esq. (*via electronic and first class mail*)
Rory C. Flynn, Esq. (*via electronic and first class mail*)
Roger D. Hogoboom, Esq. (*via electronic and first class mail*)

Notice of Complaint
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Enclosure: Complaint

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**NASD
OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant

v.

Michael T. Huang
General Securities Representative
[CRD No. 4570554],

Respondent

Disciplinary Proceeding
No. 2005000476101

Hearing Officer _____

COMPLAINT

Upon information and belief, Complainant alleges as follows:

1. Michael T. Huang ("Huang") entered the industry in April 2004 as a General Securities Representative of member firm Lehman Brothers Inc. ("Lehman Brothers"). Huang was associated with Lehman Brothers until his termination on January 13, 2005. Lehman Brothers filed the Uniform Termination Notice for Securities Industry Registration ("Form U-5") on January 13, 2005. Huang was registered with NASD, under Article V of the By-Laws, as a General Securities Representative. Huang is not currently associated with a member firm of NASD and has not previously been the subject of a formal disciplinary action by any regulatory body. Although Huang is not currently registered, he remains subject to the jurisdiction of NASD, pursuant to Article V, Section 4 of the NASD's By-Laws, which provides for a two-year period of retained jurisdiction over formerly registered persons.

FIRST CAUSE OF COMPLAINT
NASD Conduct Rule 2110, Misrepresentation of Identity, Against Huang

2. On or about December 31, 2004, Huang used another registered representative's password to log onto Lehman Brother's computer system and complete a firm element continuing education session for another registered representative. In doing so, Huang misrepresented his identity and compromised the integrity of the firm's established systems for meeting the requirements set forth in NASD Membership and Registration Rule 1120.
3. Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rule 2110 by Respondent Huang.

SECOND CAUSE OF COMPLAINT
NASD Conduct Rule 2110 and Procedural Rule 8210,
Failure to Respond to Requests for Information, Against Respondent Huang

4. By letters dated April 7, 2005, April 26, 2005, and May 19, 2005, the NASD District staff requested that Huang provide certain information to the staff concerning the activities described in the First Cause of Complaint. These requests for information were sent pursuant to, and in accordance with, the provisions of Procedural Rule 8210, all as more fully detailed on Exhibit "A," attached hereto.
5. Respondent Huang failed to respond to the above requests.
6. Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rule 2110 and Procedural Rule 8210 by Huang.

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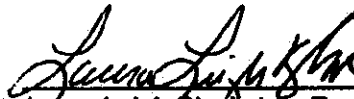
PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- 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

Date: December 2, 2005



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CHRONOLOGY OF MATTER'S REQUESTS FOR INFORMATION
 SENT TO MICHAEL T. NEAL

DATE SENT	ADDRESS	SOURCE	METHOD	INFORMATION REQUESTED	DATE	DATE RECEIVED BY ADDRESSEE	RESPONSE RECEIVED	COMMENTS
18-Apr-05	[REDACTED]	CFO	Regular Mail	Response to the circumstances surrounding his termination and whether he logged on as a colleague in order to complete a continuing education session.	1-Apr-05	N/A	None	Returned by the post office marked "Return to sender-no one at this address"
7-Apr-05	[REDACTED]	CFO	Certified & Regular Mail No.: 7003 3110 0000 2619 6316	Response to the circumstances surrounding his termination and whether he logged on as a colleague in order to complete a continuing education session.	21-Apr-05	Unknown	None	Returned by the post office marked "undelivered". The letter mailed via regular mail was not returned.
26-Apr-05	[REDACTED]	CFO	Certified & Regular Mail No.: 7004 1350 0000 5643 0914	Response to the circumstances surrounding his termination and whether he logged on as a colleague in order to complete a continuing education session.	10-May-05	Unknown	None	Certified copy returned on May 24, 2005 marked "undelivered". Copy sent via regular mail was returned marked "undeliverable as addressed"
19-May-05	[REDACTED]	CFO	Certified & Regular Mail No.: 7004 1350 0000 5643 1004	Response to the circumstances surrounding his termination and whether he logged on as a colleague in order to complete a continuing education session.	2-Jun-05	Unknown	None	Certified copy returned on June 13, 2005. Copy sent via regular mail was not returned.
18-May-05	[REDACTED]	Post office	Certified & Regular Mail No.: 7004 1350 0000 5643 1041	Response to the circumstances surrounding his termination and whether he logged on as a colleague in order to complete a continuing education session.	3-Jun-05	Unknown	None	Certified copy returned on June 13, 2005. Copy sent via regular mail was not returned.

*Note: On the copy returned by the post office on May 2, 2005, the staff noted that Apt. 1104 was marked through and Apt. 1105 was noted. Accordingly, the staff determined that an additional request should be sent to both apartment numbers

EXHIBIT A