

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

RONALD W. JININGS
(CRD No. 1852470),

Respondent.

Disciplinary Proceeding
No. 2006003877901

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

August 7, 2007

Respondent is barred from associating with any member firm in any capacity for: (1) violating NASD Conduct Rules 2370 and 2110 by borrowing customer funds in violation of his employer's written policies and procedures; and (2) for failure to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2110. In addition, Respondent is ordered to pay restitution to his former customer.

Appearances

Cynthia A. Kittle, Regional Counsel, Los Angeles, CA (Rory C. Flynn, Chief Litigation Counsel, and Mark P. Dauer, Of Counsel) for the Department of Enforcement.

No appearance by or on behalf of Ronald W. Jinings.

DECISION

I. Introduction

On April 24, 2007, the Department of Enforcement ("Enforcement") filed the attached Amended Complaint against Ronald W. Jinings ("Jinings" or the "Respondent"). The Amended Complaint charges that Jinings borrowed money from a customer in violation of his employer's policies and procedures and NASD Conduct Rules 2370 and 2110, and that he failed to respond to requests for information, in violation of NASD Procedural Rule 8210 and NASD Conduct

Rule 2110.¹ Jinings did not answer or otherwise respond to the Complaint. On July 11, 2007, Enforcement filed a Motion for Entry of Default Decision, which is supported by the Declaration of Cynthia A. Kittle, Jr. and five exhibits. The Respondent did not reply to the motion.

II. Findings of Fact and Conclusions of Law

A. Respondent's Default

The Hearing Officer finds that Enforcement properly served the Respondent with the Complaint by mailing the Complaint and the First and Second Notices of Complaint to his most current residential address shown in the Central Registration Depository (the "CRD address") by first-class certified mail. Enforcement mailed the First Notice of Complaint on April 23, 2007, the Second Notice of Complaint on May 22, 2007. Jinings did not respond to either notice, and to date he has not filed an Answer with the Office of Hearing Officers. Accordingly, the Hearing Officer finds Jinings in default and, pursuant to Procedural Rules 9215(f) and 9269(a)(2), deems the allegations in the attached Complaint admitted.²

B. Jurisdiction

Jinings first entered the securities industry as a General Securities Representative (Series 7) in July 1988.³ Most recently, Jinings was registered as a General Securities Representative through FINRA member firm Pacific West Securities, Inc. ("Pacific West") from August 8,

¹ NASD is now the Financial Industry Regulatory Authority (FINRA). FINRA's rules, which include NASD Conduct and Procedural Rules, are available on FINRA's Internet site at <http://www.finra.org/RulesRegulation/FINRARules/index.htm>.

² *Department of Enforcement v. Reynolds Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (NASD Procedural Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (quoting *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

³ Ex. 1, at 7 (CRD record).

2003, until December 31, 2005, shortly after his association with Pacific West ended.⁴ Jinings has not since been associated with a FINRA member firm or registered with FINRA.

Nonetheless, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's Bylaws, because (1) the Complaint was filed within two years following the termination of his registration with FINRA and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA member firm and with failing to respond to FINRA's requests for information made during the two-year period following his registration termination.

C. Improper Loan Transaction with Customer

The First Cause of Action alleges that on or about January 11, 2005, Jinings entered into an oral loan agreement with one of his elderly customers, GEC. Pursuant to their agreement, GEC lent Jinings \$12,000. The loan agreement obligated Jinings to repay the principal balance, plus interest thereon calculated at the rate of 8% per year, in six months. Jinings defaulted on the terms of repayment. After GEC asked Pacific West for assistance in collecting the debt he was owed, Jinings gave GEC a promissory note for the principal outstanding balance due. Under the terms of the promissory note dated January 11, 2005, Jinings was to repay the entire principal balance of \$12,000, plus interest thereon at an unspecified rate, in one year. On January 25, 2006, Jinings paid repaid \$6,000 to GEC, leaving an outstanding balance due under the terms of the promissory note of \$6,996.82. But to date Jinings has not repaid the balance due GEC.⁵

The First Cause of Action further alleges that Pacific West had a written firm policy prohibiting its registered representatives from borrowing money from a customer without the

⁴ *Id.* at 4. Pacific West filed a Form U-5 on December 21, 2005, which indicated that Jinings had been terminated for failure to follow firm policies. FINRA staff initiated the investigation that led to the filing of the Complaint in this proceeding as a result of the information on the Form U-5.

⁵ Kittle Decl. ¶ 14.

firm's prior approval unless the customer was a member of the representative's immediate family. GEC was not related to Jinings, and Pacific West did not approve the loan. Accordingly, Jinings violated Pacific West's written policies and procedures when he entered into the oral loan agreement with GEC in January 2005.

The allegations in the First Cause of Action are sufficient to establish for purposes of this proceeding that Jinings improperly borrowed money from his customer GEC in violation of NASD Conduct Rule 2370, which prohibits registered representatives from borrowing money from a customer unless the member firm with which the representative is registered has written procedures permitting such loans and the loan arrangement meets one of five specified conditions, all of which were inapplicable in this case.⁶ The Hearing Officer further concludes that Jinings thereby violated Conduct Rule 2110, which requires that FINRA members shall "observe high standards of commercial honor and just and equitable principles of trade."⁷ A violation of another NASD rule is also a violation of Conduct Rule 2110.⁸

D. Failure to Respond to Requests for Information

The Second Cause of Action alleges that Jinings failed to respond to two requests for information issued by FINRA staff pursuant to, and in accordance with, Procedural Rule 8210 in connection with the staff's investigation of the facts and circumstances surrounding Jinings's loan from customer GEC. FINRA staff sent Jinings requests for information on March 22, 2006, and June 13, 2006. The staff sent each request to Jinings at his CRD address by first-class mail

⁶ See NASD Notice to Members 04-14 (Mar. 2004), "Borrowing from and Lending to Customers," available at http://www.finra.org/web/groups/rules_regs/documents/notice_to_members/p003255.pdf.

⁷ Conduct Rule 0115 makes all NASD rules, including Conduct Rule 2110, applicable to both FINRA members and all persons associated with FINRA members.

⁸ See, e.g., *Chris Dinh Hartley*, Exchange Act Release No. 50,031, 2004 SEC LEXIS 1507, at *9 (July 16, 2004).

and first-class certified mail. To date Jinings has not supplied the requested information or otherwise responded to the requests.⁹

The foregoing allegations are sufficient to establish for purposes of this proceeding that Jinings failed to respond in any manner to FINRA staff's requests for information and so violated NASD Procedural Rule 8210. A violation of Procedural Rule 8210 is also a violation of Conduct Rule 2110.¹⁰

III. Sanctions

The FINRA Sanction Guidelines do not contain a specific recommended sanction for violations of NASD Conduct Rule 2370. Enforcement recommended that the Respondent be barred due to the egregious nature of his conduct. Enforcement argued that the Respondent's failure to repay the loan had the same result as a conversion of funds.¹¹

The Hearing Officer rejects Enforcement's conversion argument. Conversion involves an improper taking of another's property. Here, however, the record shows that the Respondent obtained the loan pursuant to an oral agreement with his customer GEC. Thus, the Respondent obtained the loan lawfully, albeit not in compliance with his member firm's written policies and procedures regarding borrowing from and lending money to customers.

On the other hand, the Hearing Officer agrees with Enforcement's conclusion that this is an egregious case. Not only did the Respondent violate his firm's policies against entering into such loan transactions with customers and NASD Conduct Rule 2370, but also he failed to repay GEC. As a result, GEC, who was 87 years old at the time of the events in question, lost more

⁹ Kittle Decl. ¶¶ 22, 25.

¹⁰ *Department of Enforcement v. Baxter*, No. C07990016, 2000 NASD Discip. LEXIS 3, at *25 (N.A.C. Apr. 19, 2000); *Joseph P. Hannan*, Exchange Act Release No. 40,438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998).

¹¹ Complainant's Mot. for Entry of Default and Default Decision at 3.

than \$6,000. Accordingly, the Hearing Officer concludes that a bar is the appropriate remedial sanction for this violation.

In addition, the Hearing Officer finds that a bar is the appropriate sanction for the Respondent's failure to respond in any manner to FINRA staff's requests for information. The FINRA Sanction Guidelines recommend a bar as the standard sanction.¹² There is no evidence of any mitigating facts that would justify a lesser sanction in this case.

IV. Order

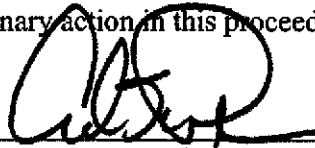
Ronald W. Jinings violated NASD Conduct Rules 2370 and 2110 by borrowing money from one of his customers in violation of his member firm's written policies and procedures, and Procedural Rule 8210 and Conduct Rule 2110 by failing to respond to requests for information issued in connection with the investigation of the facts and circumstances surrounding the loan transaction. For each violation, Jinings is barred from associating with any member firm in any capacity.

In addition to the bars, Jinings is ordered to reimburse customer GEC \$6,996.82, plus interest thereon from January 25, 2006, until paid, calculated at the rate set forth in Section 6621(a)(2) of the Internal Revenue Code, 26 U.S.C. 6621(a)(2).

These sanctions will become effective on a date set by FINRA, but not before the expiration of 30 days after the date this Default Decision becomes FINRA's final disciplinary

¹² FINRA Sanction Guidelines 35 (2007), available at <http://www.finra.org/web/groups/enforcement/documents/enforcement/p011038.pdf>.

action in this proceeding; provided, however, that the bars will become effective immediately if this Default Decision becomes FINRA's final disciplinary action in this proceeding.

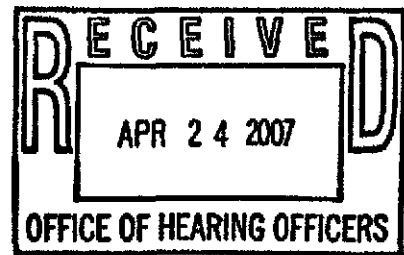


Andrew H. Perkins
Hearing Officer

Copies to:

Ronald W. Jinings (by FedEx, next day delivery, and first-class mail)
Cynthia A. Kittle, Esq. (by electronic and first-class mail)
Rory C. Flynn, Esq. (by electronic and first-class mail)
Mark P. Dauer, Esq. (by electronic and first-class mail)

**NASD
OFFICE OF HEARING OFFICERS**



DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

**RONALD W. JININGS
(CRD No. 1852470),**

RESPONDENT.

**DISCIPLINARY PROCEEDING
No. 2006003877901**

AMENDED COMPLAINT

The Department of Enforcement alleges:

1. From August 8, 2003 through December 31, 2005, Respondent Ronald W. Jinings was associated with NASD member Pacific West Securities, Inc. as a General Securities Representative. Jinings currently is not associated with an NASD member firm. Pursuant to Article V, Section 4 of NASD's By-Laws, however, NASD retains jurisdiction over Jinings for purposes of this complaint.

SUMMARY

2. In January 2005, without his NASD firm's knowledge or consent, Jinings borrowed \$12,000 from GEC, an 87-year-old customer. This loan was contrary to the written policy of Pacific West Securities. In addition, Jinings failed to respond to requests, issued pursuant to NASD Procedural Rule 8210, to provide information to NASD staff in connection with its investigation of this activity. This Complaint alleges that Jinings's conduct comprises violations of Conduct Rules 2370 and 2110 and Procedural Rule 8210.

FIRST CAUSE OF ACTION
[Borrowing From Customer (Rule 2370)]

3. The Department realleges and incorporates by reference paragraphs 1 and 2 above.
4. On or about January 11, 2005, while associated with Pacific West Securities in a registered capacity, Jinings entered into an oral agreement with GEC, an elderly customer of Pacific West Securities for whom Jinings was the assigned registered representative. Pursuant to that agreement, GEC loaned Jinings \$12,000 for a period of six months at an interest rate of eight percent per annum. The loan was funded by GEC's personal check in the amount of \$12,000, made payable to "Ron Jinnings [sic]."
5. On or about January 12, 2005, Jinings endorsed and negotiated the check.
6. During the period in or about January through July 2005, Jinings failed to make any payments to GEC of principal or interest.
7. In or about June 2005, GEC contacted Pacific West Securities to seek the firm's assistance in collecting the principal and interest owed to him by Jinings.
8. In or about July 2005, Jinings gave GEC a document entitled "PROMISSORY NOTE Balloon Payment," dated January 11, 2005. The promissory note provides that, commencing January 11, 2005, Jinings promises to pay GEC the sum of \$12,000, with interest, in one payment to occur no later than twelve months after January 11, 2005. The promissory note does not specify a rate of interest. The promissory note reflects Jinings' signature.

9. On or about January 25, 2006, Jinings paid \$6,000.00 to GEC.
10. As of January 25, 2006, the amount remaining due on the loan was approximately \$6,996.82, which includes principal and interest as of that date.
11. To date, Jinings has not made any further payments to GEC of principal or interest on the loan.
12. NASD Conduct Rule 2370, which went into effect in November 2003, prohibits a registered person from borrowing from a customer unless the firm which the representative is registered has written procedures allowing the borrowing and lending of money between its registered persons and customers of the member; and the lending or borrowing arrangement meets one of the following conditions:
 - (A) the customer is a member of such person's immediate family;
 - (B) the customer regularly engages in the business of extending credit;
 - (C) the customer and the registered person both are registered with the same member;
 - (D) the lending arrangement is based on a personal relationship with the customer outside of the broker-customer relationship; or,
 - (E) the lending arrangement is based on a business relationship outside of the broker-customer relationship.
13. During 2005 and 2006, Pacific West Securities' written policies provided that its registered representatives might obtain a loan from a customer without the firm's prior approval only if the customer was a member of the representative's immediate family. The firm's policies further provided that its registered representatives might obtain a loan from a customer upon the firm's prior approval only if the customer was in the business of lending money, was a registered

person with the firm, or had a personal or business relationship with the representative outside of the firm's business relationship with the customer.

14. GEC was not a member of Jinings' immediate family. GEC did not regularly arrange or extend credit in the ordinary course of business; was not a registered person; and did not have a relationship with Jinings other than as a customer of the firm.

15. Jinings did not request or obtain written or oral permission from Pacific West Securities to borrow money from GC.

16. The acts, practices and conduct alleged above constitute separate and distinct violations of NASD Conduct Rules 2370 and 2110 by Jinings.

SECOND CAUSE OF ACTION

[Failure to Respond to Requests for Information (Rule 8210)]

17. The Department realleges and incorporates by reference paragraphs 1 through 16 above.

18. In or about January 2006, NASD initiated an investigation concerning GEC's loan to Jinings. The investigation focused, among other things, on whether Jinings had obtained a loan from a customer without prior written approval of the NASD member firm with which Jinings was registered, and whether the loan was repaid. In connection with that investigation, NASD staff requested information and documents from Jinings.

19. Jinings's residential address as reflected in NASD's Central Registration Depository (CRD) is [REDACTED] (the CRD Address).

First Request for Information

20. On or about March 22, 2006, pursuant to Procedural Rule 8210, NASD staff requested that Jinings provide certain information to the staff concerning the activities alleged in the First Cause of Complaint. The request specified that the information be provided by April 5, 2006.

21. The request was sent by regular first class and certified mail to Jinings' last known residential address as reflected in the CRD.

22. The mailing sent to the CRD Address via first class mail was not returned by the U.S. Postal Service.

23. The mailing sent to the CRD Address via certified mail was returned by the U.S. Postal Service, indicating "Unclaimed."

24. To date, NASD has not received any response from Jinings to the request for information sent on March 22, 2006.

Second Request for Information

25. On or about June 13, 2006, the staff sent another request for information pursuant to Procedural Rule 8210, via U.S. Postal Service first class mail and certified mail, return receipt requested, to Jinings at the CRD Address. Copies of the request dated March 22, 2006, were enclosed. The June 13, 2006, request letter required a response on or before June 20, 2006.

26. The mailing sent to the CRD Address via first class mail was not returned by the U.S. Postal Service.

27. The mailing sent to the CRD Address via certified mail was returned by the U.S. Postal Service, indicating "Unclaimed."

28. To date, NASD has not received any response from Jinings to the request for information sent on June 13, 2006.

29. The acts, practices and conduct alleged above constitute separate and distinct violations of NASD Procedural Rule 8210 and Conduct Rule 2110 by Jinings.

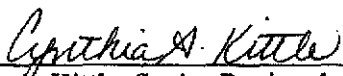
PRAYER

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Rule 8310(a), including monetary sanctions, be imposed.
- B. order that the Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

NASD DEPARTMENT OF ENFORCEMENT

Date: April 23, 2007


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