

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DAVID ALEXANDER RICCA
(CRD No. 3202131),

Respondent.

Disciplinary Proceeding
No. 2006004672701

COMPLAINT

The Department of Enforcement alleges:

JURISDICTION

1. Respondent David Alexander Ricca ("Respondent") first became registered with NASD as a General Securities Representative ("GSR") on February 29, 2000.
2. From August 2000 to October 2004, Respondent was registered as a GSR through a member firm.
3. From on or about October 29, 2004 through May 18, 2006, Respondent was registered as a GSR through his association with Citigroup Global Markets, Inc. ("CGMI") (BD No. 7059).¹
4. On May 25, 2006, CGMI filed a Uniform Termination Notice for Securities Industry Registration ("Form U-5") concerning Respondent.
5. Under the heading, "Reason for Termination," the Form U-5 stated, "Management discretion, unrelated to sales practice." Because this narrative was a result of an

¹ Respondent is technically employed by Smith Barney Citigroup, a division of Citigroup Global Markets Inc.

administrative error, on June 1, 2006, the firm filed an amendment to Respondent's Form U-5 to amend the reason for his termination. According to the amendment, Respondent was "permitted to resign...Management discretion following a complaint from a customer's attorney alleging a loan from the client to the FA."

6. Currently, Respondent is not associated with any member firm. However, NASD retains jurisdiction over Respondent pursuant to Article V, Section 4 of its By-Laws.

**FIRST CAUSE OF COMPLAINT
(Borrowing Funds from a Customer)
(Violation of NASD Conduct Rule 2370 and NASD Conduct Rule 2110)**

7. The Department realleges and incorporates by reference paragraphs 1 through 6 above.
8. Respondent was registered as a GSR through his association with member firm CGMI from October 2004 to May 2006. In or about December 2005, Respondent received \$10,000 in loans from customer LG. In or about March 2006, Respondent received another \$15,000 in loans from LG. On or about March 3, 2006, Respondent executed a loan agreement memorializing these two loans.
9. At the time Respondent borrowed the money, his employer had a written procedure that prohibited employees from borrowing or lending money to customers. Respondent did not notify his employer of the arrangement with LG.

By reason of the foregoing, Respondent violated NASD Conduct Rules 2370 and 2110.

**SECOND CAUSE OF COMPLAINT
(Misuse of Funds)
(Violation of Conduct Rule 2110)**

10. The Department realleges and incorporates by reference paragraphs 1 through 9 above.

11. In or about April 2006, while Respondent was registered with NASD and associated with CGMI, SBP gave Respondent \$25,000 to invest that money on behalf of himself and his family at CGMI.
12. On May 16, 2006, Respondent met with SBP where Respondent presented SBP with five (5) notarized letters in which Respondent promised to repay SBP, his wife, and a family friend, various amounts totaling \$37,500. As per these letters, Respondent would pay back these loans on various dates between June 2, 2006 and June 17, 2006. The \$37,000 represented the principal (\$25,000) as well as the interest.
13. The firm was unaware of the transactions between SBP and Respondent.
14. To date, Respondent has not repaid SBP, his wife, or the family friend any of the money.
15. Respondent did not set up a CMGI account for SBP, his wife, or for the family friend.
16. Respondent did not apply these funds as SBP had directed and converted the funds for his own use and benefit.

By reason of the foregoing, Respondent violated NASD Conduct Rule 2110.

THIRD CAUSE OF COMPLAINT
(Failure to Respond)
(Violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110)

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

First Request

18. By letter dated June 20, 2006, the staff of NASD's District 10 office (the "Staff") requested that Respondent provide certain information and documents concerning, among other things, the loans he received from LG. The letter was sent via regular mail to Respondent's current residential address as reflected in the records of the NASD Central Registration Depository, [REDACTED] (the "CRD Address").

The request was made pursuant to, and in accordance with, NASD Procedural Rule 8210, and required a response by July 5, 2006.

19. The letter was not returned to the Staff.

20. The Staff did not receive a response from Respondent.

Second Request

21. By letter dated July 7, 2006, the Staff once again requested that Respondent provide certain information and documents concerning, among other things, the loans he received from LG. The letter was sent via regular and certified mail to Respondent's CRD Address as well as an additional address obtained by the Staff: [REDACTED] [REDACTED] (the "Additional Address"). The request was made pursuant to, and in accordance with, NASD Procedural Rule 8210, and required a response by July 17, 2006.

22. The letters sent by regular mail were not returned to the Staff.

23. The certified mail return receipt for the mailing to the CRD Address was returned to the Staff with the designation, "Not Deliverable as Addressed – Unable to Forward."

24. The certified mail return receipt for the mailing to the Additional Address was received by Staff bearing the signature "Johanna Ricca."

25. The Staff did not receive a response from Respondent.

By reason of the foregoing, Respondent violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

PRAYER

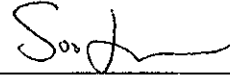
WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Rule 8310(a), including money 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 12, 2007



Soo H. Im, Senior Regional Attorney
David M. Jaffe, Regional Chief Counsel
NASD Department of Enforcement
District 10
One Liberty Plaza
New York NY 10006
Phone: (212) 858-4100
Fax: (212) 858-4770

NASD District Director

Hans Reich
NASD, District 10
One Liberty Plaza
New York, NY 10006
Phone: (212) 858-4100
Fax: (212) 858-4770

Of Counsel

Rory C. Flynn
NASD Department of Enforcement
1801 K Street, N.W., Suite 800
Washington, D.C. 20006
Phone: (202) 974-2974
Fax: (202) 721-8318