

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

VICENTE DEMETRIUS LOPEZ
(CRD No. 2216550),

Respondent.

Disciplinary Proceeding
No. 2006005998601

Hearing Officer – LBB

DEFAULT DECISION

May 23, 2008

For Respondent's failure to provide requested information, in violation of Procedural Rule 8210 and Conduct Rule 2110, Respondent is barred in all capacities. In light of the bar, no further sanction is imposed for Respondent's borrowing from a customer and concealing the loan from his member firm in violation of Conduct Rules 2370 and 2110.

Appearances

Lynn M. Kaseta, Senior Regional Counsel, FINRA, Woodbridge, NJ, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

The Department of Enforcement ("Enforcement") filed the Complaint in this proceeding on December 31, 2007, asserting two causes of action against Respondent Vicente Demetrius Lopez ("Respondent"). The first cause of action alleges that Respondent borrowed funds from a customer, failed to repay the customer in full, and falsely represented to his firm that he had not borrowed from any customers, in violation of Conduct Rules 2370 and 2110. The second cause of action alleges that Respondent failed to respond to a Procedural Rule 8210 request for information, thereby violating Procedural Rule 8210 and Conduct Rule 2110.

Despite being properly served with the Complaint, Notice of Complaint, and Second Notice of Complaint, Respondent has not filed an answer to the Complaint. On March 20, 2008, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions, to which Respondent did not respond. Accordingly, pursuant to NASD Procedural Rules 9215(f) and 9269, the allegations in the Complaint will be deemed admitted and Enforcement's motion will be granted.¹

I. Respondent's Default

Enforcement served the Complaint and Notice of Complaint on Respondent at his most current residential address as listed in the Central Registration Depository ("CRD") by first-class regular and certified mail on December 27, 2007. On January 28, 2008, the certified mailing to Respondent's CRD address was returned to FINRA's District Office by the U.S. Postal Service, marked "Unclaimed." The first-class mailing was not returned. Respondent failed to respond to the Complaint.

Enforcement served the Complaint and Second Notice of Complaint on Respondent by first-class regular and certified mail at his CRD address on January 28, 2008. On January 30, 2008, the FINRA District Office received the certified mailing return receipt, which was dated January 29 and signed "Lopez." The first-class mailing was not returned. Respondent again failed to respond to the Complaint.

Enforcement served the Complaint and the Notices of Complaint on Respondent in accordance with Procedural Rule 9134, giving him constructive notice, and apparently actual notice, of this proceeding. By failing to respond, he defaulted.

¹ The factual determinations in this decision are based on the allegations of the attached Complaint and the materials filed by Enforcement with its motion, including certain supplemental materials concerning Respondent's employment and registration history.

II. Jurisdiction

Respondent first became registered with FINRA on April 13, 1992. He was registered through member firm Royal Alliance Associates, Inc. ("Royal Alliance") from June 2, 2000 until August 2, 2006. On October 9, 2007, Respondent filed a Form U4 through member firm VFinance Investments, Inc., seeking registration. Respondent's employment with VFinance was terminated on January 7, 2008, before his registration was effective. Respondent is not currently registered with any member firm.

Respondent was associated with a FINRA member firm at the time the Complaint was filed and service was attempted. In addition, the First Cause of Action alleges violations that occurred while Respondent was associated with a member firm, and the second alleges that Respondent failed to respond to a request for information served within two years after his termination from a member firm. Accordingly, Respondent is subject to FINRA's jurisdiction.

III. Origin of the Investigation

The Department of Enforcement initiated this investigation after receiving a Uniform Termination Notice for Securities Registration (Form U5) and a related Rule 3070 filing, alleging that Respondent entered into an improper loan agreement with a client.

IV. Violations

A. Borrowing from a Customer and Misrepresentation to Firm

The Complaint alleges in the first cause of action that on September 14, 2004, while Respondent was associated with Royal Alliance, he borrowed \$22,000 from his customer, HW, promising to repay him with interest by payments of \$2,000 per month for 12 months. Royal

Alliance's Sales Practice Manual expressly prohibited its representatives from borrowing from customers.²

On September 30, 2004, Respondent completed the Royal Alliance "2004 Annual Compliance Questionnaire" and submitted it to the firm. In response to a question that asked if Respondent had borrowed money from a customer, Respondent answered "No." This answer was false. Respondent had borrowed \$22,000 from HW only 16 days earlier.

Except in very limited circumstances that are not applicable here, Rule 2370 prohibits a person associated with a member firm from borrowing from a customer. These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent borrowed funds from a customer, in violation of Conduct Rule 2370. By violating Rule 2370, Respondent also violated Rule 2110. *Dep't of Enforcement v. Kaweske*, No. C07040042, 2007 NASD Discip. LEXIS 5, at *14 n.8 (N.A.C. Feb. 12, 2007) ("A violation of another ... NASD rule ... is also a violation of NASD Conduct Rule 2110.") Respondent also violated Rule 2110 by misrepresenting to his firm that he had not borrowed funds from a customer. *Dep't of Enforcement v. Davenport*, No. C05010017, 2003 NASD Discip. LEXIS 4 (N.A.C. May 7, 2003).

B. Failure to Respond to Requests for Information

The second cause of action alleges that Respondent completely failed to respond to requests for information in violation of Procedural Rule 8210 and Conduct Rule 2110. Rule 8210 authorizes FINRA to require any person subject to its jurisdiction to provide information related to any matter under its investigation. A violation of Rule 8210 is also a

² Respondent defaulted on the loan after paying HW \$11,000. HW eventually hired an attorney to assist him in collecting the money that Respondent owed him. Royal Alliance settled with HW for \$13,000, the full amount that Respondent owed to the client.

violation of Rule 2110. *Dep't of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

Pursuant to Procedural Rule 8210, FINRA staff sent a request for information to Respondent on October 9, 2006. Enforcement requested documents and information related to the loan from customer HW to Respondent, including information concerning the facts and circumstances surrounding the loan agreement between HW and Respondent, as well as Respondent's termination from Royal Alliance. FINRA staff sent two follow-up requests to Respondent's CRD address and to two additional addresses obtained from Equifax. Someone with the same last name as Respondent signed the certified mail return receipt for the third request and returned it to FINRA staff from one of the additional addresses. Respondent never provided the information requested by the two follow-up requests for information, although he acknowledged in a telephone call with the staff that he had received both follow-up requests for information.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2110.

V. Sanctions

For failing to respond to requests for information pursuant to Procedural Rule 8210 and Conduct Rule 2110, the Guidelines recommend a bar. *FINRA Sanction Guidelines* at 35 (2007). Where there are mitigating factors, a suspension of up to two years should be considered. The Guidelines identify two principal considerations: (1) the nature of the information requested, and (2) whether the requested information has been provided and, if so, the number of requests made,

the time the respondent took to respond, and the degree of regulatory pressure required to obtain a response.

The information sought by the staff was important for the completion of the staff's investigation, and Respondent's failure to respond deprived the staff of valuable information for its investigation. A full response would have provided the staff with information that would be valuable in determining whether to file an enforcement action against Respondent, the nature of any violations, and the appropriate level of sanctions to seek if the evidence supported the commission of any violations. Respondent has not provided the information sought by the staff despite receipt of the staff's repeated requests.

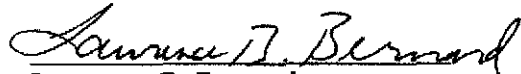
In light of the bar imposed for the failure to respond to FINRA's requests for information, no separate sanction is imposed for borrowing from a customer and concealment of the loan from Respondent's member firm. If a bar were not imposed for the failure to respond to the Rule 8210 request, a bar would be appropriate for borrowing from a customer. Respondent's firm expressly prohibited borrowing from customers. The customer would have been harmed by Respondent's conduct if Respondent's firm had not compensated the customer, because Respondent failed to repay \$13,000 of the funds borrowed. Respondent concealed his misconduct by responding falsely on a firm compliance questionnaire.

Restitution to HW is not ordered because Respondent's firm settled with HW for the full amount that Respondent owed to the client.

VI. Conclusion

For Respondent's failure to provide requested information, in violation of Procedural Rule 8210 and Conduct Rule 2110, Respondent is barred in all capacities. The bar will be effective immediately if this decision becomes FINRA's final disciplinary action.

SO ORDERED.


Lawrence B. Bernard
Hearing Officer

Copies to: Vicente Demetrius Lopez (*via overnight courier and first-class mail*)
 Lynn M. Kaseta, Esq. (*via electronic and first-class mail*)
 Mark P. Dauer, Esq. (*via electronic and first-class mail*)
 David R. Sonnenberg, Esq. (*via electronic and first-class mail*)

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DEPARTMENT OF ENFORCEMENT,

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V.

VICENTE DEMETRIUS LOPEZ
(CRD No. 2216550),

Respondent.

DISCIPLINARY PROCEEDING
No. 2006005998601

COMPLAINT

The Department of Enforcement alleges:

1. On April 13, 1992, Respondent Vicente Demetrius Lopez (Lopez) became registered with FINRA (f/k/a National Association of Securities Dealers or NASD) as a Limited Representative - Investment Company and Variable Contracts Products.
2. From June 2, 2000 until August 2, 2006, Lopez was registered through member firm Royal Alliance Associates, Inc. (Royal Alliance). In an August 2, 2006 Form U5, Royal Alliance noted that it had terminated Lopez for a "violation of firm policy: financial relationship with a customer outside of firm structure."
3. Since October 2007, Lopez has been registered with member firm Finance Investments, Inc. He is therefore subject to FINRA's jurisdiction.

OVERVIEW

4. In September 2004, Lopez improperly borrowed \$22,000 from Royal Alliance customer HW and then failed to repay all of that debt. Later that month, Lopez reported false information on a firm compliance questionnaire relating to that loan. This conduct violated NASD Conduct Rules 2370 and 2110.
5. On October 9, 2006, December 7, 2006, and January 8, 2007, FINRA staff (staff) sent, pursuant to NASD Procedural Rule 8210, written requests for information to Lopez seeking information regarding the loan he received from customer HW. Lopez failed to respond to those requests. This conduct violated NASD Procedural 8210 and NASD Conduct Rule 2110.

FIRST CAUSE OF ACTION

Borrowing Funds from a Customer and Concealing the Loan (NASD Conduct Rules 2370 and 2110)

6. The Department realleges and incorporates by reference paragraphs 1-5 above.
7. In or about 2000, HW became one of Lopez's customers at Royal Alliance.
8. Throughout 2004, Royal Alliance expressly prohibited its registered representatives from borrowing money from customers. Royal Alliance's Sales Practice Manual, which was distributed to all registered representatives, stated in pertinent part:

Under no circumstances may an R[egistered] R[epresentative]
engage in any type of financial relationship or arrangement outside
of the established Firm commission structure. Prohibited practices

include, but are not limited to... [l]ending to or borrowing from a customer.

9. Nevertheless, on September 14, 2004, Lopez borrowed \$22,000 from HW. According to the terms of the loan, Lopez agreed to pay HW \$2,000 in interest and repay the loan within one year by making monthly installment payments of \$2,000.
10. Lopez, however, defaulted on the loan after paying HW only \$11,000.
11. Moreover, on September 30, 2004, Lopez completed the "2004 Annual Compliance Questionnaire" (Questionnaire) and submitted it to Royal Alliance. The Questionnaire included a question whether Lopez had borrowed money from a customer. Lopez falsely answered "No" to that question, failing to report that, only 16 days earlier, he had borrowed \$22,000 from HW.
12. By improperly borrowing \$22,000 from Williams, Lopez violated NASD Conduct Rules 2370 and 2110. By failing to disclose the loan on the Questionnaire, Lopez violated NASD Conduct Rule 2110.

SECOND CAUSE OF ACTION

Failure to Respond (NASD Procedural Rule 8210 and NASD Conduct Rule 2110)

13. The Department realleges and incorporates by reference paragraphs 1-12 above.
14. On October 9, 2006, FINRA staff, pursuant to NASD Procedural Rule 8210, sent a letter to Lopez at [REDACTED], his Central Registration Depository address of record (CRD address), requesting that he provide information regarding the improper loan from the Royal Alliance

customer. The letter, which requested that Lopez respond by October 30, 2006, was sent via first-class mail. The first-class envelope was not returned to the staff.

15. Lopez failed to respond to the staff's requests for information referenced in paragraph 14.
16. On December 7, 2006, the staff, pursuant to NASD Procedural Rule 8210, again sent a letter to Lopez at his CRD address requesting that he provide information regarding the improper loan from the Royal Alliance customer. The staff also sent this letter to [REDACTED] (Grove Place address) and [REDACTED] (Rawson Circle address), possible current addresses for Lopez which were identified by the staff via an Equifax search. The letters, which were sent via first-class and certified mail, requested that Lopez respond by December 21, 2006 and advised him that, if he failed to respond, he might be subject to disciplinary action.
17. The certified mail envelope sent to the CRD address was returned to the staff marked "UNCLAIMED." The first-class envelope sent to the CRD address was not returned to the staff.
18. The certified mail envelope sent to the Grove Place address was returned to the staff marked "UNCLAIMED." The first-class envelope sent to the Grove Place address was not returned to the staff.

19. The first class and certified mail envelopes sent to the ■ Rawson Circle address were returned to the staff marked "NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD."
20. Lopez failed to respond to the staff's requests for information referenced in paragraph 16.
21. On January 8, 2007, the staff, pursuant to NASD Procedural Rule 8210, again sent a letter to Lopez at his CRD, Grove Place and Rawson Circle addresses requesting that he provide information regarding the improper loan from the Royal Alliance customer. The letters, which were sent via first-class and certified mail, requested that Lopez respond by January 22, 2007 and advised him that, if he failed to respond, he might be subject to disciplinary action.
22. The certified mail envelope sent to the CRD address was returned to the staff marked "UNCLAIMED." The first-class envelope sent to the CRD address was not returned to the staff.
23. The certified mail return receipt card for the letter sent to the Grove Place address was returned to the staff signed by "Alma Lopez." The first-class envelope sent to the Grove Place address was not returned to the staff.
24. The first class and certified mail envelopes sent to the ■ Rawson Circle address were returned to the staff marked "NOT DELIVERABLE AS ADDRESSED, UNABLE TO FORWARD."
25. On January 11, 2007, the staff receiving a telephone call from Lopez during which he acknowledged receiving the staff's requests for information dated

December 7, 2006 and January 8, 2007. Lopez failed to provide any information responsive to the staff's requests during this telephone call.

- 26. Lopez failed to respond to the staff's requests for information referenced in paragraph 21.
- 27. The staff is not aware of a more current residential address for Lopez.
- 28. Lopez failed to respond to the staff's requests for information.
- 29. By failing to respond to the staff's requests for information, Lopez violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

RELIEF REQUESTED

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; and
- 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.

FINRA DEPARTMENT OF ENFORCEMENT

Dated: December 27, 2007



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