

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ANDRE R. ROMAN
(CRD No. 4703018),

Respondent.

Disciplinary Proceeding
No. 2006007102001

DEFAULT DECISION

Hearing Officer – SNB

May 12, 2008

For failing to provide requested information, in violation of Rules 8210 and 2110, Respondent is barred from associating with any FINRA member in any capacity. In light of the bar, no further sanctions are imposed for falsifying a customer's signature, in violation of Rule 2110.

Appearances

Frank Sanclemente, Esq., Boston, MA, for the Department of Enforcement.

No appearance by Respondent.

DECISION

I. Background

On December 26, 2007, the Department of Enforcement ("Enforcement") filed a two-count Complaint in this proceeding, attached to this Decision as Exhibit A. The first count alleged that Andre R. Roman ("Respondent") violated Rule 2110 by signing a customer name on a switch authorization form. The second count alleged that Respondent violated Rules 8210 and 2110 by failing to respond to FINRA Staff requests for information. Respondent did not file an Answer to the Complaint. Accordingly, on March 4, 2008, Enforcement filed a motion for entry of default decision, supported by the

Declaration of Frank Sanclemente, Esq., and two 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 December 18, 2007, 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 January 15, 2008, Enforcement served the Complaint and Second Notice of Complaint on Respondent. 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, 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 September 2004 and November 2006, Respondent was registered as a General Securities Representative through BB&T Investment Services, Inc. ("BB&T" or "the Member"). Respondent is not currently associated with a member firm.

Although Respondent is not currently associated with a member firm, FINRA has jurisdiction to bring this proceeding, pursuant to Art. V, § 4 of FINRA's By-Laws, because (1) the Complaint charges Respondent with misconduct while he was a

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.

registered person 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. Falsification of Customer Signatures

The Complaint alleges that in October 2006, Respondent's customer agreed to transfer certain mutual fund holdings to a new provider. The customer signed some of the necessary paperwork, but Respondent did not present the customer with the switch authorization form required to process the transfer. BB&T's Trade Review Compliance Officer requested this form from Respondent, and gave him 30 days to obtain the customer's signature or he would be fined \$500. However, rather than obtaining the customer's signature, Respondent signed the customer's name on the required form, without the customer's authorization and consent.

It is well established that falsifying signatures 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 falsified his customer's signature on a switch authorization form, in violation of Rule 2110.

B. Failure to Respond

The Complaint also alleges that on December 20, 2006, FINRA Staff ("Staff") sent Respondent a request for information concerning the conduct charged in Cause One of the Complaint. Staff sent the request by first-class and certified mail to Respondent's

² See, e.g., Donald M. Bickerstaff, Exchange Act Release No. 35607 (Apr. 17, 1995).

CRD address. On January 9, 2007, January 29, 2007, February 13, 2007, February 27, 2007, March 27, 2007, and April 18, 2007, Staff again sent this request by first-class and certified mail to Respondent's CRD address, as well as several alternate addresses. 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 FINRA 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 FINRA's oversight function and allows FINRA to carry out its regulatory functions without subpoena power.³ Here, although Respondent received valid constructive notice of the Staff's request,⁴ he failed to respond. Respondent thereby violated Rules 8210 and 2110.

V. Sanctions

A bar is standard for failure to provide requested information. FINRA Sanction Guidelines ("Guidelines") at p. 35 (2007 ed.). There is no evidence of any mitigating circumstances that would justify a lesser sanction. Therefore, Respondent is barred from associating with any FINRA member in any capacity. In light of this bar, no additional sanctions are imposed for Respondent's falsification of a customer signature. However, if a sanction were to be imposed for that violation, the Hearing Officer finds that Enforcement's request that Respondent be suspended in all capacities for three months

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, Exch. Act Rel. 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).

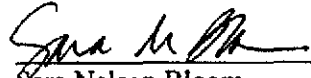
⁴ See David I. Cassuto, Exch. Act Rel. No. 48,087, 2003 SEC LEXIS 1496, at *9 (June 25, 2003).

and fined \$3,000 would be reasonable because, while Respondent's conduct was intentional, there was no evidence of customer harm, the conduct was limited to one form, and it involved a transaction that the customer had authorized.

VI. Conclusion

Respondent is barred from association with any member firm in any capacity for failing to respond to requests for information, in violation of Rules 8210 and 2110. In light of this bar, no further sanctions are imposed for Respondent's falsification of a customer signature. The bar shall become effective immediately if this Decision becomes the final disciplinary action of FINRA.

SO ORDERED.


Sara Nelson Bloom
Hearing Officer

Copies to:

Andre R. Roman (*via overnight and first-class mail*)
Frank Sanclemente, Esq. (*via facsimile and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)
Mark P. Dauer, Esq. (*via electronic mail*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

V.

Andre R. Roman,
CRD No. 4703018

Respondent.

DISCIPLINARY PROCEEDING
No. 20060071020

Hearing Officer -

COMPLAINT

The Department of Enforcement alleges:

1. On August 28, 2003, Respondent Andre R. Roman (Roman) became registered with FINRA (f/k/a National Association of Securities Dealers or NASD) as a General Securities Representative.
2. From September 1, 2004 to November 30, 2006, Roman was registered as a General Securities Representative through member firm BB&T Investment Services, Inc. (BB&T).
3. Roman has not been registered with any member firm since November 30, 2006. FINRA retains jurisdiction over Roman for the purposes of this Complaint pursuant to Article V, Section 4, of FINRA's By-Laws in that: the misconduct alleged in The First Cause of Action occurred while Roman was associated with BB&T and this Complaint was filed within, and the violations of NASD

switch authorization form. The Trade Review Compliance Officer gave Roman 30 days to obtain the signed form or he would be fined \$500 by the firm.

10. Roman did not obtain PE's signature on the form. Instead, on or about November 24, 2006, Roman signed PE's name on the switch authorization form without her authorization or consent. He then submitted it to BB&T for processing.
11. By signing PE's name on the switch authorization form without her authorization or consent, Roman violated NASD Conduct Rule 2110.

SECOND CAUSE OF ACTION

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

12. The Department realleges and incorporates by reference paragraphs 1 through 11 above.
13. By a letter dated December 20, 2006, staff requested, pursuant to NASD Procedural Rule 8210, that Roman provide information concerning allegations that he had signed a customer's name on a switch authorization form without her authorization or consent. The letter, which requested a written response by January 4, 2007, was sent by certified and first class mail to his Central Registration Depository address at [REDACTED] (CRD address). The letter sent by first class mail was not returned. The letter sent by certified mail was returned with the envelope marked "unclaimed."
14. Roman failed to respond to the staff's December 20, 2006 request for information.
15. By a letter dated January 9, 2007, staff again requested, pursuant to NASD Procedural Rule 8210, that Roman provide information concerning allegations that he had signed a customer's name on a switch authorization form without her

authorization or consent. The letter, which requested a written response by January 23, 2007, was sent by certified and first class mail to the CRD address and to a variant address at [REDACTED] (Townes Place address). It advised Roman that if he failed to respond he could be the subject of a disciplinary action. The letter sent by first class mail to the CRD address was not returned. The receipt for the letter sent by certified mail to the CRD address was returned without a signature. The letter sent by first class mail to the Townes Place address was not returned. The receipt for the letter sent by certified mail to the Townes Place address was returned without a signature.

16. Roman failed to respond to the staff's January 9, 2007 request for information.
17. By a letter dated January 29, 2007, staff again requested, pursuant to NASD Procedural Rule 8210, that Roman provide information concerning allegations that he had signed a customer's name on a switch authorization form without her authorization or consent. The letter, which requested a written response by February 12, 2007, was sent by certified and first class mail to Roman's CRD address and to the Townes Place address. It advised Roman that if he failed to respond he could be the subject of a disciplinary action. The letter sent by first class mail to the CRD address was not returned. The letter sent by first class mail to the Townes Place address was not returned. The letters sent by certified mail to both addresses were returned with the envelopes marked "unclaimed" and noting a new forwarding address of [REDACTED] (S. Fremont address).
18. Roman failed to respond to the staff's January 29, 2007 request for information.

19. By a letter dated February 13, 2007, staff again requested, pursuant to NASD Procedural Rule 8210, that Roman provide information concerning allegations that he had signed a customer's name on a switch authorization form without her authorization or consent. The letter, which requested a written response by February 27, 2007, was sent by certified and first class mail to Roman's CRD address and to the Townes Place address. It advised Roman that if he failed to respond he could be the subject of a disciplinary action. The letters sent by first class mail to both addresses were not returned. The letters sent by certified mail to both addresses were returned with the envelopes marked "unclaimed" and noting the S. Fremont address as a new forwarding address.
20. Roman failed to respond to the staff's February 13, 2007 request for information.
21. By a letter dated February 27, 2007, staff again requested, pursuant to NASD Procedural Rule 8210, that Roman provide information concerning allegations that he had signed a customer's name on a switch authorization form without her authorization or consent. The letter, which requested a written response by March 9, 2007, was sent by certified and first class mail to Roman's CRD address and to two other possible addresses for Roman identified by the staff: [REDACTED]
[REDACTED]
[REDACTED] (Taft Drive address). It advised Roman that if he failed to respond he could be the subject of a disciplinary action. The first class letter to the CRD address was not returned. The receipt for the letter sent by certified mail to Roman's CRD address was returned bearing the signature of Andre Roman and dated March 6, 2007. The letter sent by first class mail to the

Reagan Drive address was not returned. The letter sent by certified mail to the Reagan Drive address was returned with the envelope marked "unclaimed." The letter sent by first class mail to the Taft Drive address was returned with the envelope marked "unable to forward." The letter sent by certified mail to the Taft Drive address was returned with the envelope marked "unclaimed."

22. Roman failed to respond to the staff's February 27, 2007 request for information.
23. By a letter dated March 27, 2007, staff again requested, pursuant to NASD Procedural Rule 8210, that Roman provide information concerning allegations that he had signed a customer's name on a switch authorization form without her authorization or consent. The letter, which requested a written response by April 9, 2007, was sent by certified and first class mail to the S. Fremont address. It advised Roman that if he failed to respond he could be the subject of a disciplinary action. The letter sent by first class mail was not returned. The letter sent by certified mail was not returned nor was the receipt returned.
24. Roman failed to respond to the staff's March 27, 2007 request for information.
25. By a letter dated April 18, 2007, staff again requested, pursuant to NASD Procedural Rule 8210, that Roman provide information concerning allegations that he had signed a customer's name on a switch authorization form without her authorization or consent. The letter, which requested a written response by May 2, 2007, was sent by certified and first class mail to Roman's CRD address and to the S. Fremont address. The letters sent by first class mail to both addresses were not returned. The letter sent by certified mail to the CRD address was not returned nor was the receipt returned. The receipt for the letter sent by certified

mail to the S. Fremont address was returned bearing the signature of Andre Roman and dated April 23, 2007.

26. Roman failed to respond to the staff's April 18, 2007 request for information.
27. The staff is not aware of any more current residential or business addresses for Roman.
28. By failing to respond to the staff's requests for information, Roman 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

Date: Dec 18, 2007


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