

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JEFF ROSS SPENCER
(CRD No. 5066973),

Respondent.

Disciplinary Proceeding
No. 2007009380301

Hearing Officer – Lawrence B. Bernard

DEFAULT DECISION

February 19, 2009

Respondent is barred for falsification of signatures on account opening and other documents submitted to his firm in violation of Conduct Rule 2110. Respondent is also barred for failure to respond to requests for information in violation of Procedural Rule 8210 and Conduct Rule 2110.

Appearances

William Brice LaHue, Senior Regional Counsel, Department of Enforcement, Atlanta, Georgia

No appearance by or for Respondent Jeff Ross Spencer.

DECISION

The Department of Enforcement filed the Complaint in this action on October 6, 2008, charging Respondent Jeff Ross Spencer (“Respondent”) with ten instances of falsification of signatures on account applications, disclosure documents, and other documents, in violation of NASD Conduct Rule 2110, and failure to provide information in violation of NASD Procedural Rule 8210 and Conduct Rule 2110.¹ 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 December 30, 2008, Enforcement filed a Motion for Entry of Default Decision

¹ Effective December 15, 2008, NASD Procedural Rule 8210 and NASD Conduct Rule 2110 were incorporated into the FINRA Consolidated Rules as FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010, respectively. See NTM 08-57. There was no substantive change.

and Request for Sanctions, to which Respondent did not respond. Accordingly, pursuant to Procedural Rules 9215(f) and 9269, the allegations in the Complaint are deemed admitted and Enforcement's motion is granted.²

I. Respondent's Default

On October 6, 2008, Enforcement served Respondent with the Complaint and Notice of Complaint by first-class regular and certified mail at his residential address as reflected in the Central Registration Depository ("CRD"), and at an alternative address in Charlotte, North Carolina. The mailing to his CRD address by regular first-class mail was not returned, and the certified mail receipt sent to that address was returned with the signature of "Jean W. Spencer." The mailings to the Charlotte address were returned to FINRA's office, with stamps indicating that they were undeliverable.

On November 4, 2008, a Second Notice of Complaint and Complaint were served on Respondent by first-class regular and certified mail at his CRD address and the Charlotte address, as well as a second alternative address in Charlotte. The packages sent by certified mail were returned to FINRA's office by the Postal Service. The package sent by first-class mail to one of the Charlotte addresses was returned by the Postal Service. The other two packages sent by first-class mail were not returned.

Respondent has not answered or otherwise responded to the Complaint. Enforcement served the Complaint and the Notices of Complaint on Respondent in accordance with Procedural Rule 9134, giving him constructive notice of this proceeding. By failing to respond, he defaulted.

² The factual determinations in this decision are based on the allegations of the attached Complaint and the materials filed by Enforcement with its motion.

II. Jurisdiction

Respondent was employed by FINRA member firm Ameriprise Financial Services, Inc. from November 2005 until June 2007. Respondent was registered as a general securities representative in March 2006.

Although Respondent is not currently associated with a FINRA member firm, he remains subject to FINRA jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years after the termination of his registration with a member firm, and it charges him with falsifying documents while he was registered with a member firm and with failing to respond to Rule 8210 requests issued within two years following the termination of his registration with a member firm.

III. Origin of the Investigation

FINRA's investigation began in response to the filing of an amended Uniform Termination Notice for Securities Industry Registration ("Form U5"), filed on June 27, 2007, by Ameriprise on Respondent's behalf. The amended Form U5 alleged that Respondent had photocopied a customer's signature on a variety of account application and disclosure documents.

IV. Violations

A. Respondent Violated Rule 2110 by Falsifying Signatures

Conduct Rule 2110 requires that members "shall observe high standards of commercial honor and just and equitable principles of trade." Falsification of documents is unethical conduct that violates Rule 2110. *Geoffrey Ortiz*, Exchange Act Rel. No. 58416, 2008 SEC LEXIS 2401, at *17 (Aug. 22, 2008). "Falsifying documents is a prime example of misconduct that adversely reflects on a person's ability to comply with regulatory requirements and has been held to be a

practice inconsistent with just and equitable principles of trade.” *Dep’t of Enforcement v. Taylor*, No. C8A050027, 2007 NASD Discip. LEXIS 11, at *22 – *23 (N.A.C. Feb. 27, 2007).

S.S. signed certain documents necessary to open an account with Ameriprise, but never funded the account. Subsequently, on or about June 6, 2007, Respondent photocopied S.S.’s signature onto ten documents, including account applications, disclosure documents, and other documents necessary to open multiple accounts with Ameriprise. By falsifying documents and submitting the documents to his firm, Respondent violated Conduct Rule 2110.

B. Respondent Violated Rules 8210 and 2110 by Failing to Provide a Written Statement in Response to FINRA’s Requests

Procedural Rule 8210 authorizes FINRA to require any person subject to its jurisdiction to provide information related to any matter under its investigation. On August 1, 2007, FINRA staff sent a letter by first-class mail to Respondent’s residential CRD address, pursuant to Rule 8210, requesting a written statement from Respondent concerning the allegations of falsifying documents noted in the amended Form U5. Respondent failed to respond to this request.

FINRA staff sent a second letter to Respondent on September 24, 2007, again requesting, pursuant to Rule 8210, that he provide a written statement regarding the signatures of customer S.S. on certain documents. This letter was sent to Respondent at his CRD address by first-class regular and certified mail. The letter sent by first-class mail was not returned. A receipt for the letter sent by certified mail was returned to FINRA, signed “Jean W. Spencer.” Respondent failed to respond to this request.

On February 1, 2008, FINRA staff sent a third request for a written statement to Respondent, pursuant to Rule 8210. The third request was sent to Respondent by first-class mail at his CRD address and an alternative address for Respondent in Charlotte, North Carolina. Respondent did not respond to this request.

FINRA staff sent a fourth request to Respondent on February 25, 2008, via first-class regular and certified mail at the CRD and Charlotte addresses, again requesting a written statement concerning the allegations of falsifying documents. The regular first-class letters were not returned to FINRA. FINRA received a return receipt, signed "Anna Ray," for the certified letter sent to the Charlotte address. Although FINRA received no return receipt for the certified mailing to Respondent's CRD address, a printout from the U.S. Postal Service website indicates that the letter was delivered. Respondent did not respond to this request.

By failing to respond to four requests for information, Respondent violated Procedural Rule 8210. A violation of Rule 8210 is also a violation of Conduct Rule 2110. *Dep't of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

V. Sanctions

For falsification of documents, FINRA's Sanction Guidelines recommend a suspension of up to two years, or, in egregious cases, a bar. *FINRA Sanction Guidelines* at 39. The principal considerations are the nature of the documents, and whether Respondent had a good-faith but mistaken belief that he had express or implied authority to sign the documents. Here, the falsified documents authorized the opening of a new customer's account and contained material disclosures. Respondent could not have believed that S.S. had authorized him to photocopy S.S.'s name onto these important documents. Enforcement requests that Respondent be barred from association with any FINRA member firm. Under these circumstances, a bar is appropriate.

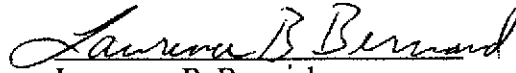
The Sanction Guidelines also recommend a bar where a respondent fails to respond in any manner to a request for information issued pursuant to Rule 8210. *Sanction Guidelines* at 35. Where mitigation exists, the Guidelines recommend consideration of a suspension in all

capacities of up to two years. The record reflects that Respondent failed to respond in any manner, and there are no mitigating factors that would justify imposition of a lesser sanction. A bar is the appropriate sanction under the facts and circumstances of this case for failing to respond to requests for information.

VI. Conclusion

Respondent Jeff Ross Spencer is barred from association with any FINRA member firm in any capacity for falsification of signatures on account opening and other documents submitted to his firm in violation of Conduct Rule 2110. Respondent is also barred for failure to respond to requests for documents and information in violation of Procedural Rule 8210 and Conduct Rule 2110. If this decision becomes FINRA's final disciplinary action, the bars shall become effective immediately.

SO ORDERED.


Lawrence B. Bernard
Hearing Officer

Copies to: Jeff Ross Spencer (*via overnight courier and first-class mail*)
William Brice La Hue, Sr., Esq. (*via email and first-class mail*)
Mark P. Dauer, Esq. (*via email*)
David R. Sonnenberg, Esq. (*via email*)

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COMPLAINT

The Department of Enforcement alleges:

RESPONDENT AND JURISDICTION

1. Respondent Jeff Ross Spencer ("Spencer") was first registered as a general securities representative in 2006, while associated with Ameriprise Financial Services, Inc. ("Ameriprise"), a FINRA member firm. Spencer was employed by Ameriprise from November 2005 until June 2007. Spencer is not currently employed by a FINRA member; however he remains subject to the jurisdiction of FINRA pursuant to Article V, Section 4 of the FINRA By-laws.

SUMMARY

2. Spencer falsified a customer's signature on at least ten documents, in violation of NASD Conduct Rule 2110. Additionally, Spencer failed to respond to requests for information made by FINRA, in violation of NASD Procedural Rule 8210 and Conduct Rule 2110.

FIRST CAUSE OF ACTION

NASD Conduct Rule 2110

(Falsification of Signature)

3. The Department realleges and incorporates by reference paragraphs 1 and 2 above.
4. On or about June 6, 2007, Spencer photocopied customer S.S.'s signature and affixed it on ten documents, including account applications, disclosure documents and other documents necessary to open multiple accounts with Ameriprise.
5. Customer S.S. had previously signed certain account opening documents necessary to open an account with Ameriprise, but never funded the account.
6. Spencer admitted to photocopying customer S.S.'s signature, and affixing it to the ten account documents, without the knowledge or authorization of customer S.S.
7. Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rule 2110 by Respondent Spencer.

SECOND CAUSE OF ACTION

NASD Procedural Rule 8210 and Conduct Rule 2110

(Failure to Respond to FINRA's Requests)

8. The Department realleges and incorporates by reference paragraphs 1 through 7 above.
9. On or about June 27, 2007, FINRA's Atlanta District Office received an amended Uniform Notice of Termination for Securities Industry Registration ("Form U5") filed by Ameriprise on behalf of Spencer. The amended Form U5 alleged that Spencer had photocopied a customer's signature on a variety of account application and disclosure documents. FINRA initiated an investigation into the allegations.

10. By letter dated August 1, 2007, FINRA requested, pursuant to Procedural Rule 8210, that Spencer provide a written statement regarding the signatures of customer S.S. on certain specified documents. This request letter was sent to Spencer, via first class mail, at his residential address as listed in the Central Registration Depository ("CRD"). According to the terms of the August 1, 2007 letter, Spencer was requested to provide the information to FINRA no later than August 14, 2007.
11. The August 1, 2007 letter was not returned to FINRA. Spencer did not provide the requested information by the August 14, 2007 deadline.
12. FINRA sent a second letter to Spencer on September 24, 2007, requesting once again, pursuant to Procedural Rule 8210, that he provide a written statement regarding the signatures of customer S.S. on certain specified documents. This request letter was sent to Spencer, via first class and certified mail, at his CRD residential address. According to the terms of the September 24, 2007 letter, Spencer was requested to provide the information to FINRA no later than October 8, 2007.
13. The September 24, 2007 letter sent by first class mail was not returned. A receipt for the September 24, 2007 letter sent by certified mail was returned to FINRA, indicating that it had been signed by "Jean W. Spencer." Spencer failed to provide the requested information by the October 8, 2007 deadline.
14. FINRA then conducted a LexisNexis SmartLinx search for alternative addresses for Spencer. The search identified an alternate address for Spencer located in Charlotte, North Carolina.
15. Therefore, FINRA sent a third letter to Spencer on February 1, 2008, pursuant to Procedural Rule 8210, requesting that Spencer provide a written statement regarding the

signature of customer S.S. on certain specified documents. This request letter was sent to Spencer, via first class mail, at his CRD residential address and the Charlotte, North Carolina address. According to the terms of the February 1, 2008 letter, Spencer was requested to provide the information to FINRA no later than February 15, 2008.

16. The February 1, 2008 letters sent to both addresses have not been returned to FINRA. Spencer did not provide the requested information by the February 15, 2008 deadline.
17. FINRA sent a fourth letter to Spencer on February 25, 2008, requesting once again, pursuant to Procedural Rule 8210, that Spencer provide a written statement regarding the signatures of customer S.S. on certain specified documents. This request letter was sent to Spencer, via first class and certified mail, at his CRD residential address and the Charlotte, North Carolina address. According to the terms of the letter, Spencer was requested to provide the information to FINRA no later than March 7, 2008.
18. The February 25, 2008 letters sent by first class mail were not returned to FINRA. A receipt for the February 25, 2008 letter sent by certified mail to the Charlotte, North Carolina address was returned to FINRA, and appears to be signed by "Anna Ray." The February 25, 2008 letter sent by certified mail to Spencer's residential CRD address was not returned, but even though no receipt was returned to FINRA, a printout from the U.S. Postal Service website indicates that the letter was delivered.
19. Spencer failed to provide the requested information by March 7, 2008, and, as of the date hereon, has not responded.
20. Such acts, practices and conduct constitute separate and distinct violations of NASD Procedural Rule 8210 and NASD Conduct Rule 2110 by Respondent Spencer.

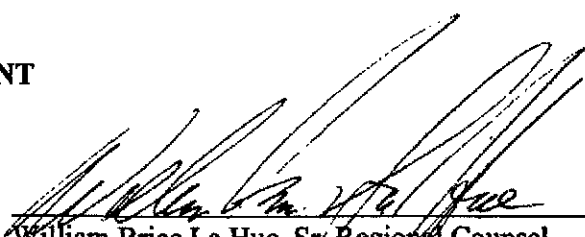
RELIEF REQUESTED

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.
- 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: Oct 6, 2008



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