

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

RICHARD M. BERTELETTI, Jr.
(CRD No. 2508308),

Respondent.

Disciplinary Proceeding
No. 2007011310001

Hearing Officer – LBB

DEFAULT DECISION

March 4, 2009

Respondent is barred from association with any member firm for creating a false and misleading account summary and providing it to a client in violation of Conduct Rule 2110, and also barred for failure to respond to requests for information in violation of Procedural Rule 8210 and Conduct Rule 2110. In light of the bars, no additional sanctions are imposed for unauthorized trading or settling a customer complaint away from Respondent's firm.

Appearances

For the Department of Enforcement, Hugh C. Patton, Regional Counsel

No appearance by or for Respondent

DECISION

The Department of Enforcement filed the Complaint in this action on November 3, 2008. The Complaint asserts four causes of action against Respondent Richard M. Berteletti, Jr. ("Respondent"): unauthorized trading in violation of NASD Conduct Rule 2110; creating and providing to a client a false and misleading account summary in violation of NASD Conduct Rule 2110; settling a customer complaint away from his firm 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 January 28, 2009, Enforcement filed a Motion for Entry of Default and Imposition of Sanctions, to which Respondent did not respond. Accordingly, pursuant to Procedural Rules 9215(f) and 9269, the allegations in the Complaint will be deemed admitted and Enforcement's motion will be granted.²

I. Respondent's Default

Enforcement served Respondent with a copy of the Notice of Complaint and Complaint at Respondent's CRD address by first-class and certified mail on October 29, 2008. The return receipt card for the certified mailing was returned to Enforcement by the United States Postal Service, with an illegible signature indicating receipt of the mailing. The first-class mailing was not returned. Pursuant to Procedural Rules 9215(a) and (c), Respondent was required to serve his Answer to the Complaint on or before November 26, 2008. Respondent did not file an Answer or responsive pleading.

Enforcement served Respondent with the Second Notice of Complaint and Complaint on December 4, 2008, at Respondent's CRD address, by first-class and certified mail. The return receipt card for the certified mailing was returned to Enforcement by the Postal Service, with a signature indicating receipt by "F. Berteletti." The first-class mailing was not returned by the Postal Service. Pursuant to Procedural Rules 9215(f) and 9138(c), Respondent was required to serve his Answer to the Complaint on or before December 22, 2008. Respondent has not filed an Answer or responsive pleading.

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.

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.

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

II. Jurisdiction

Respondent first became registered as a general securities representative through a member firm on February 12, 1996, and was registered as general securities representative through various firms until November 26, 2007. He was registered through PHD Capital from June 25, 2007, to October 25, 2007, and through Fordham Financial Management, Inc., (“Fordham”) from September 27, 2007, to November 26, 2007. Respondent is not currently registered with a member firm.

The Complaint charges Respondent with violations that occurred while he was registered with member firms PHD Capital and Fordham, and with failure to respond to requests for information issued within two years after the termination of his registration with a member firm. While Respondent is not currently registered with a FINRA member firm, he was subject to FINRA’s jurisdiction at the time the Complaint was filed because the Complaint was filed within two years after the termination of his registration, and he remains subject to FINRA’s jurisdiction, pursuant to Article V, Section 4 of FINRA’s By-Laws.

III. Origin of the Investigation

The Complaint is the result of two investigations conducted by FINRA’s Member Regulation staff. The Member Regulation staff of FINRA’s District 10 office began the first investigation as the result of Respondent’s termination for cause from PHD Capital. Member Regulation staff began a second investigation as the result of Respondent’s termination for cause from Fordham.

IV. Violations

A. NASD Conduct Rule 2110 – Unauthorized Trading

The SEC has recently emphasized the seriousness of engaging in unauthorized trading in a customer's account:

As we have held, “[u]nauthorized trades are a serious breach of the duty to observe high standards of commercial honor and just and equitable principles of trade.” Such misconduct goes “to the heart of the trustworthiness of a securities professional,” and “is a fundamental betrayal of the duty owed by a sales[person] to his [or her] customers.”

Wanda P. Sears, Exchange Act Rel. No. 58075, 2008 SEC LEXIS 1521, at *6 (July 1, 2008) (citations omitted). D.Y. opened an account with Respondent at National Securities in March 2006. As Respondent twice changed firms, D.Y. transferred his account to Respondent's new firms. In August 2007, while registered at PHD Capital, Respondent engaged in five securities transactions – one purchase and four sales – without D.Y.'s authorization or consent, and without discretionary authority. Respondent earned \$1,900 in commissions on these trades.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent violated Conduct Rule 2110.

B. NASD Conduct Rule 2110 – False and Misleading Account Summary

Misrepresentations to customers “are inconsistent with just and equitable principles of trade and violate NASD Conduct Rule 2110.” *Dane S. Faber*, 2004 SEC LEXIS 277, at *14, *18 (Feb. 10, 2004). “[C]reating a document that misrepresents the true state of a customer's account ‘is the antithesis of a registered representative's [duty to uphold] high standards of commercial honor.’” *Dep't of Enforcement v. Dunbar*, No. C07050050 2008, FINRA Discip. LEXIS 18, *16 (N.A.C. May 20, 2008) (citations omitted).

On September 21, 2007, D.Y. demanded an accounting of his portfolio. Respondent created an account summary that presented a false and misleading picture of D.Y.'s account, and

faxed it to D.Y. The summary included three equity positions that had already been sold and one option position that never existed. The facsimile, together with Respondent's verbal representation regarding D.Y.'s cash position, was inconsistent with the monthly statements and confirmations D.Y. received from PHD Capital.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent violated Conduct Rule 2110.

C. NASD Conduct Rule 2110 – Settling Customer Complaint Away from Member Firm

“Settling a customer complaint without the knowledge of the registered representative's employer is conduct that is inconsistent with just and equitable principles of trade under Rule 2110.” *Dep't of Enforcement v. Paratore*, No. 2005002570601, 2008 FINRA Discip. LEXIS 1, *13 (N.A.C. Mar. 7, 2008)

While Respondent was at National Securities, he and D.Y. had a dispute with respect to a transaction. As Respondent changed firms to another firm, PHD Capital, and then to Fordham, D.Y. transferred his account to Respondent's new firms because Respondent promised him that he would personally reimburse D.Y. for the difference between whatever D.Y. could recover from PHD Capital and D.Y.'s initial investment when Respondent had been with National Securities. In early October 2007, while at Fordham, Respondent provided D.Y. with two checks, each for \$12,500, drawn on the account of “Frances Berteletti,” to settle the dispute that arose with respect to the transaction at National Securities. D.Y. attempted to deposit the checks, but they were returned unpaid. The bank indicated that Frances Berteletti's account had been closed.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent violated Conduct Rule 2110 by settling a customer complaint away from his firm.

D. NASD Procedural Rule 8210 and Conduct Rule 2110 – Failure to Provide Information

Procedural Rule 8210 authorizes FINRA to require any person subject to its jurisdiction to provide information related to any matter under investigation. On January 11, 2008, the staff sent a letter to Respondent pursuant to Rule 8210 requesting that he provide a detailed statement responding to the allegations in the Uniform Termination Notice for Securities Industry Registration (Form U5) filed by PHD Capital on his behalf, namely that he “violated firm policies with respect to dissemination of unapproved outgoing correspondence,” and “misrepresented account balance in writing to customer on a self-prepared, unapproved fax transmission.” The request was sent via first-class mail and certified mail to Respondent’s CRD address. The staff received a return receipt card signed by “F. Berteletti.” The letter sent by first-class mail was not returned. Respondent’s response was due no later than January 28, 2008.

Also on January 11, 2008, the staff sent a request for information to Respondent pursuant to Rule 8210 in connection with the investigation relating to Respondent’s termination from Fordham. This request asked for a detailed statement responding to the allegations in the Form U5 filed by the firm on his behalf, namely that he “lied to the firm with regard to [his] arrest record and status of arrests and failed to provide supporting documentation (if it exists) on a timely basis,” and “failed to disclose arrests on his Form U-4.” The request was sent via first-class mail and certified mail to the CRD Address. The staff received a return receipt card signed by “F. Berteletti,” indicating delivery. The letter sent by first-class mail was not returned. Respondent’s response was due no later than January 28, 2008.

On Friday, January 18, 2008, at 10 p.m., Respondent called the examiner who had sent the Rule 8210 request letters and left a voicemail message saying that he received the letter regarding Fordham and wanted to “file a complaint with compliance.” The examiner received the message on Tuesday, January 22, 2008, after Martin Luther King, Jr., Day on Monday, January 21, and called Respondent back that day, leaving a message with the person who answered to the effect that she was returning Respondent’s call and asking that Respondent call her back. Respondent did not call the examiner back.

On January 30, 2008, the staff sent separate second request letters to Respondent pursuant to Rule 8210 in connection with both investigations. The letters were again sent via first-class mail and certified mail to the CRD Address. The staff received return receipt cards in both cases – one card signed by “F. Berteletti,” and the other signed by “Frances Berteletti.” The letters sent by first-class mail were not returned.

Respondent has not responded to any of the staff’s requests for information sent pursuant to Rule 8210. By failing to respond to 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).

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent violated Procedural Rule 8210 and Conduct Rule 2110 by failing to respond to FINRA’s requests for information.

V. Sanctions

For forgery and falsification of records, FINRA’s Sanction Guidelines recommend a fine of \$5,000 to \$100,000 and, in cases in which mitigating factors exist, a suspension for up to two years. In egregious cases, the Sanction Guidelines recommend consideration of a bar. One

principal consideration is the nature of the falsified document. *FINRA Sanction Guidelines* at 39. The nature of the document here is an aggravating factor. Account summaries are “critically important” documents, and they were used to conceal losses resulting from Respondent’s unauthorized trading. *See Dunbar* at *34 – *36. This is an egregious case, and a bar is appropriate for Respondent’s falsification of records.

The Sanction Guidelines 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 principal considerations are the nature of the information requested and whether the requested information has been provided. The nature of the information is an aggravating factor. One request related to allegations of the failure to disclose Respondent’s arrest record on his Form U4, which could have resulted in a statutory bar if the evidence showed that Respondent had willfully provided false information on the Form U4. The other related, in part, to allegations that Respondent had misrepresented account balances to a customer, a very serious allegation. The second principal consideration also supports the imposition of the bar – Respondent has not provided the information requested. A bar is the appropriate sanction under the facts and circumstances of this case.

In light of the imposition of a bar for creating the false account summary and submitting it to his customer, and for the failure to respond to requests for information, no additional sanctions are imposed for unauthorized trading or settling a customer complaint away from Respondent’s firm. The Department of Enforcement has not sought restitution for these transactions. Because PHD Capital reimbursed D.Y. with respect to the unauthorized trading,

the violations charged in the Complaint did not result in customer losses.³ Accordingly, restitution is not ordered.

VI. Conclusion

Respondent Richard M. Berteletti, Jr., is barred from association with any member firm for creating a false and misleading account summary and providing it to a client in violation of Conduct Rule 2110, and also barred for failure to respond to requests for information in violation of Procedural Rule 8210 and Conduct Rule 2110. In light of the bars, no additional sanctions are imposed for unauthorized trading or settling a customer complaint away from Respondent's firm. The bars will become effective immediately if this default decision becomes FINRA's final disciplinary action in this proceeding.

SO ORDERED.


Lawrence B. Bernard
Hearing Officer

Copies to: Richard M. Berteletti, Jr. *(via overnight courier and first-class mail)*
Hugh C. Patton, Esq. *(via email and first-class mail)*
David R. Sonnenberg, Esq. *(via email)*
Mark P. Dauer, Esq. *(via email)*

³ The two bounced checks relate to a dispute that arose in connection with Respondent's conduct while at National Securities. The Complaint does not charge Respondent with a violation based on the events that led to the dispute or the bouncing of the checks.

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

**RICHARD M. BERTELETTI, JR.
(CRD No. 2508308),**

RESPONDENT.

**DISCIPLINARY PROCEEDING
No. 2007 011 3100**

Hearing Officer _____

COMPLAINT

The Department of Enforcement alleges:

Summary

1. In August 2007, while Berteletti was registered through PHD Capital (BD No. 38785), he executed five unauthorized trades – one purchase and four sales – in customer DY's account.
2. On or about September 21, 2007, while Berteletti was registered through PHD Capital, DY demanded an accounting of his portfolio and Berteletti created and transmitted a false and misleading one-page facsimile to DY, entitled "DY Portfolio." The facsimile included three equity positions that had already been sold and one option position that never existed.
3. After Berteletti was terminated from PHD Capital, he became registered through Fordham Financial Management, Inc. (BD No. 20996), and DY transferred his account to Fordham Financial Management to remain with Berteletti. In early

October 2007, without the knowledge or consent of Fordham Financial Management, Berteletti sent DY two personal checks to settle complaints stemming from events at previous firms. Both checks were returned unpaid because the bank account on which they were drawn had been closed.

4. On or about January 11 and January 30, 2008, FINRA Staff sent letters to Berteletti, pursuant to and in accordance with NASD Procedural Rule 8210, requesting that he provide detailed statements responding to the allegations in the Uniform Termination Notices for Securities Industry Registration (Forms U-5) filed by PHD Capital and Fordham Financial Management on his behalf. The Staff received return receipt cards signed by "F. Berteletti" or "Frances Berteletti" indicating proof of delivery of the letters sent by certified mail. The letters sent by first class mail were not returned. On January 18, 2008, Berteletti called a FINRA examiner and left a voicemail message referencing one of the Rule 8210 request letters. Berteletti never responded to any of the Staff's requests for information sent pursuant to Rule 8210.
5. By reason of the foregoing, Berteletti violated NASD Procedural Rule 8210 and Conduct Rule 2110.

Respondent

6. Respondent Berteletti first became registered as a general securities representative (GSR) through a member firm on or about February 12, 1996.
7. Berteletti has been registered as a GSR through a total of 11 firms.

8. From on or about August 1, 2005 to on or about March 7, 2007, Berteletti was registered as a GSR through National Securities Corporation (BD No. 7569) (National Securities).
9. From on or about March 13, 2007 to on or about July 12, 2007, Berteletti was registered as a GSR through a member firm.
10. From on or about June 25, 2007 to on or about October 25, 2007, Berteletti was registered as a GSR through PHD Capital.
11. From on or about September 27, 2007 to on or about November 26, 2007, Berteletti was registered as a GSR through Fordham Financial Management.
12. Berteletti is not currently registered with a member firm, but remains subject to FINRA's jurisdiction pursuant to FINRA Bylaws, Article V, Section 4.

Background

13. DY first met Berteletti and opened an account with him at National Securities in or about March 2006, depositing \$66,000 in the account.
14. DY's account at National Securities initially increased in value, but near the end of 2006 DY and Berteletti had a dispute over a transaction.
15. When Berteletti became registered through another member firm in March 2007, and then through PHD Capital in June 2007, DY transferred his account each time so that he could remain with Berteletti. DY followed Berteletti to the other member firm and then to PHD Capital because Berteletti promised to make him whole with respect to the problems that had occurred at National Securities.

**FIRST CAUSE OF ACTION
(Unauthorized Trading)
NASD Conduct Rule 2110**

16. The Department realleges and incorporates by reference paragraphs 1 through 15, above.
17. In August 2007, while he was registered through PHD Capital, Berteletti executed five unauthorized trades – one purchase and four sales – in customer DY's account.
18. Berteletti sold 1,000 shares of United Rentals, Inc. (URI) on August 3, 2007. DY never authorized Berteletti or anyone else to sell the shares of URI.
19. Berteletti sold 5,000 shares of Smf Energy Corporation (FUEL) on August 22, 2007, and 5,000 shares on August 24, 2007. DY never authorized Berteletti or anyone else to sell the shares of FUEL.
20. Berteletti purchased 1,000 shares of Countrywide Financial Corporation (CFC) on August 27, 2007, and 750 shares on August 31, 2007, when DY had authorized the purchase of only 1,000 shares.
21. Berteletti sold all 1,750 shares of CFC on September 12, 2007. DY never authorized Berteletti or anyone else to sell the CFC shares.
22. Berteletti did not have discretionary authority with respect to DY's account at PHD Capital.
23. Berteletti earned \$1,900 in commissions on these trades.
24. By reason of the foregoing, Berteletti violated NASD Conduct Rule 2110.

SECOND CAUSE OF ACTION
(False and Misleading Account Summary)
NASD Conduct Rule 2110

25. The Department realleges and incorporates by reference paragraphs 1 through 24, above.
26. On or about September 21, 2007, while Berteletti was registered through PHD Capital, DY demanded an accounting of his portfolio.
27. In response, Berteletti created and transmitted a false and misleading one-page facsimile to DY, entitled "DY Portfolio" and dated September 21, 2007, which purported to represent the positions in DY's account.
28. On or about September 21, 2007, Berteletti also told DY verbally that he had \$12,000 to \$14,000 in cash in his account.
29. The facsimile, together with Berteletti's verbal representation regarding DY's cash position, was inconsistent with the monthly statements and confirmations DY received from PHD Capital. For example, DY's August 2007 monthly account statement from PHD Capital indicates that the cash portion of the account had a debit balance, and that the total value of DY's account – including all securities, cash, and margin debt – was approximately \$14,000.
30. The facsimile sent by Berteletti included three equity positions that had already been sold and one option position that never existed. Below is a comparison of the positions in the facsimile with information from DY's monthly account statements:

Positions listed in Berteletti's September 21 facsimile	Information from DY's PHD Capital monthly account statements
100 Calls URI OCT \$35 @25	This position did not appear on the August or September 2007 statement. There is no indication that it was ever purchased in DY's account.
10,000 FUEL \$1.30	This position had been sold by the date of the facsimile: 5000 shares sold on August 24, 2007 and 5000 shares sold on August 27, 2007.
2,500 NCOC \$2.75 (National Coal Corporation).	This is correct.
1,000 URI \$31.75	This position had been sold by the date of the facsimile: on August 3, 2007.
1,000 CFC \$18.80	This position had been sold by the date of the facsimile: on September 12, 2007.

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

THIRD CAUSE OF ACTION
(Settling Customer Complaint Away from Member Firm)
NASD Conduct Rule 2110

32. The Department realleges and incorporates by reference paragraphs 1 through 31, above.
33. Berteletti was terminated from PHD Capital on or about September 26, 2007. On or about September 27, 2007, Berteletti became registered through Fordham Financial Management.
34. DY transferred his account to Fordham Financial Management on or about October 3, 2007 to remain with Berteletti. DY followed Berteletti to Fordham Financial Management because Berteletti promised that he would personally reimburse DY for the difference between whatever DY could recover from PHD Capital and DY's initial \$66,000 investment made with Berteletti back at National Securities.

35. In early October 2007, Berteletti sent DY two checks to settle complaints stemming from events at previous firms. The checks were dated October 5, 2007 and October 12, 2007, each for \$12,500.
36. The checks were drawn on the account of Frances Berteletti. Berteletti told DY the checks were drawn on the account of Frances Berteletti because Berteletti did not want to leave a paper trail leading back to himself.
37. DY deposited the two checks into his bank account, but they were returned unpaid because Frances Berteletti's account was closed.
38. Berteletti did not notify Fordham Financial Management when he sent the two checks to DY, and Fordham Financial Management was unaware that he had done so.
39. By reason of the foregoing, Berteletti violated NASD Conduct Rule 2110.

**FOURTH CAUSE OF ACTION
(Failure to Respond to Requests for Information)
NASD Procedural Rule 8210 and Conduct Rule 2110**

40. The Department realleges and incorporates by reference paragraphs 1 through 39, above.
41. FINRA Staff opened two examinations regarding Berteletti – Examination No. 2007 011 0887 and Examination No. 2007 011 3100 – and sent out requests for information in connection with each.
42. On or about January 11, 2008, the Staff sent a letter to Berteletti, pursuant to and in accordance with NASD Procedural Rule 8210, requesting that he provide a detailed statement responding to the allegations in the Form U-5 filed by PHD

Capital on his behalf, namely that he, “violated firm policies with respect to dissemination of unapproved outgoing correspondence,” and “misrepresented account balance in writing to customer on a self-prepared, unapproved fax transmission.” This Rule 8210 request was sent in connection with Examination No. 2007 011 0887.

43. The request was sent by first class mail and certified mail to Berteletti’s last known residential address as listed in FINRA’s Central Registration Depository (CRD): [REDACTED]
44. The Staff received a return receipt card signed by “F. Berteletti,” indicating proof of delivery of the letter sent by certified mail. The letter sent by first class mail was not returned.
45. Berteletti’s response was due no later than January 28, 2008.
46. Also on January 11, 2008, the Staff sent a different request for information to Berteletti, pursuant to and in accordance with NASD Procedural Rule 8210, in connection with Examination No. 2007 011 3100. This Rule 8210 request asked for a detailed statement responding to the allegations in the Form U-5 filed by Fordham Financial Management on his behalf, namely that he, “lied to the firm with regard to [his] arrest record and status of arrests and failed to provide supporting documentation (if it exists) on a timely basis,” and “failed to disclose arrests on his Form U-4.”

47. The request was sent via first class mail and certified mail to Berteletti's last known residential address as listed in CRD: [REDACTED]
[REDACTED]
48. The Staff received a return receipt card signed by "F. Berteletti," indicating proof of delivery of the letter sent by certified mail. The letter sent by first class mail was not returned.
49. Berteletti's response was due no later than January 28, 2008.
50. On Friday, January 18, 2008 at approximately 10 p.m., Berteletti called the FINRA examiner who had sent the Rule 8210 request letters and left a voicemail message saying that he received the letter regarding Fordham Financial Management and that he wanted to file a complaint with compliance.
51. On Tuesday, January 22, 2008, following Martin Luther King, Jr. Day on Monday, January 21, 2008, the examiner returned Berteletti's call. The examiner left a message with the woman who answered, telling the woman she was returning Berteletti's telephone call, and asking that Berteletti call her back.
52. Berteletti never contacted the examiner again.
53. On January 30, 2008, the Staff sent two separate second request letters to Berteletti, pursuant to and in accordance with Rule 8210, in connection with both examinations: 2007 011 0887 and 2007 011 3100. Each letter sought the same information as had been sought in the corresponding request letter sent on January 11, 2008.

54. The letters were again sent by first class mail and certified mail to Berteletti's last known residential address as listed in CRD: [REDACTED]
[REDACTED]
55. With respect to the letters sent by certified mail, the Staff received return receipt cards in both cases – the card for the letter sent in connection with Examination No. 2007 011 0887 was signed by "F. Berteletti," and the card for the letter sent in connection with Examination No. 2007 011 3100 was signed by "Frances Berteletti." The letters sent by first class mail were not returned.
56. Berteletti never responded to any of the Staff's requests for information sent pursuant to Rule 8210.
57. By reason of the foregoing, Berteletti violated NASD Procedural Rule 8210 and 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) be imposed, including that the Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest; 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: October 28, 2008



Hugh C. Patton, Senior Regional Counsel
Jon S. Batterman, Deputy Regional Chief Counsel
FINRA Department of Enforcement
One Liberty Plaza
165 Broadway
New York, NY 10006
Tel: 212-858-3998, Fax: 212-858-4770
Email: hugh.patton@finra.org

Of Counsel

David M. Jaffe, Regional Chief Counsel
FINRA Department of Enforcement
One Liberty Plaza
165 Broadway
New York, NY 10006
Tel: 212-858-4762, Fax: 212-858-4770