

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

DEPARTMENT OF ENFORCEMENT,	)	Disciplinary Proceeding
	)	No. <u>2008013190801</u>
Complainant,	)	
	)	Hearing Officer - RSH
v.	)	
	)	
~~ROBERT F. HOCKENSMITH, JR.~~	)	ORDER ACCEPTING OFFER
~~CRD No. 1798614~~	)	OF SETTLEMENT
	)	
Respondent.	)	Date: April 26, 2010

INTRODUCTION

Disciplinary Proceeding No. 2008013190801 was filed on March 16, 2010, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Robert F. Hockensmith, Jr. submitted an Offer of Settlement (Offer) to Complainant on April 21, 2010. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of

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Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

Respondent was associated with member firm H.D. Vest (the Firm) from November 5, 1999 through April 17, 2008, where he was registered as an investment company products and variable contracts representative. Respondent has not been associated with a FINRA member since April 17, 2008. Pursuant to Article V, § 4 of FINRA's By-Laws, FINRA has jurisdiction to issue this Complaint against Respondent through April 16, 2010. The misconduct that is the subject of the first two causes of action of the Complaint, *i.e.*, selling away and borrowing from a customer, occurred while Respondent was associated with H.D. Vest. With respect to the Complaint's third cause of action, the Rule 8210 violations raised therein occurred within two years of Respondent's last association with a member firm.

As discussed in greater detail below, in November 2009, an Order to Cease and Desist, Order for Restitution, of Revocation and Consent to the Same was entered against Respondent by the Arizona Corporation Commission. That Order rendered Respondent subject to a statutory disqualification. *See* FINRA By-Laws, Article III, Section 4; Exchange Act, Section 3(a)(39).

FINDINGS AND CONCLUSIONS

It has been determined that the Offer be accepted and that findings be made as follows:

A. Selling Away – NASD Conduct Rules 3040 and 2110

1. In 2006 and 2007, Respondent participated in transactions involving investment in a purported FOREX (foreign currency exchange) trading program by the name of FOMAC International, Inc. (FOMAC), in violation of NASD Conduct Rule 3040 and 2110. FOMAC was a security in the form of an investment contract. Respondent did not seek written authorization

from the Firm to participate in FOMAC, and the Firm was unaware of and did not authorize his participation.

2. The Securities and Exchange Commission deemed FOMAC to be a Ponzi scheme and instituted an emergency action against FOMAC, James Roberts (a FOMAC principal), and Consultores Las Tres Americas, S.A. (Consultores LTA) in August 2007. Litigation Release No. 20264, 2007 SEC LEXIS 1950 issued by the SEC on August 31, 2007, states:

... [SEC] filed an emergency action against [Roberts], [FOMAC] and [Consultores LTA] to halt an ongoing Ponzi scheme and freeze assets for the benefit of defrauded investors. The complaint filed by the SEC alleges that, since 2002, the defendants have raised at least \$50 million in principal from approximately 450 investors located primarily in the U.S. and Costa Rica. The complaint further alleges that as early as 2005, the defendants experienced significant losses while trading investor funds in the Forex markets, misappropriated at least \$3 million, and then used new investor money to pay returns and principal to existing investors. As a result, the complaint alleges, the defendants misrepresented to investors that these Ponzi payments were actually returns from their Forex trading.

The complaint charges Roberts, FOMAC and Consultores LTA with violating Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933, and Section 10(b) of the Securities Exchange Act of 1934 and 10b-5 thereunder....

3. In 2006 and 2007, Respondent approached certain of his Firm clients, clients of his accounting/consulting business, and friends about FOMAC. At least 37 of those Respondent approached (approximately 17 of whom were Firm clients) invested in FOMAC.

4. Respondent advised those he approached about FOMAC that he had personally invested in FOMAC and was generating large profits from his investment. He further advised these individuals that he had borrowed funds and mortgaged properties in order to personally invest in FOMAC and that there were tax advantages associated with investing in FOMAC. Respondent further represented that the minimum investment in FOMAC was \$100,000.00.

5. Respondent told the individuals he solicited that the FOMAC investment involved the pooling of investors' money that would then be traded by Roberts on the FOREX markets and that a percentage of the generated profits would then be distributed to the investors. Respondent described Roberts as a highly skilled and successful trader. With respect to investment returns, Respondent advised at least one investor that she would receive monthly returns of 5%.

6. Specifically, on July 19, 2006, LB (who ultimately invested in FOMAC) sent the following email to Respondent:

Hi Bob,
I tried to send an e-mail to www.taxquest.com, but would not work so hope this one gets to you. If this works call me at ... when you get time Thursday.

I guess I am still not getting it. 5% interest on a \$100,000 investment only gives me apx \$500 per month (\$5,000 a year), or did you say 5% per month? That would be 60% per year and that sounds impossible.

Rick figured out that my loan payments would be apx \$4,900 a month on the 2 homes. That would be if I took \$100k out for (jpm coes investment) and another \$90k for furniture, etc., that would leave \$100k still in the home I now own for equity. The loans would be for 5 year arms at 6.75% for interest only payments. The loan on the new home at \$400k and my home at \$400k.

I know we were talking about the jpm making my payment each month, but not sure we were right about that.

Thx for your time on this matter,

Respondent responded to LB by email on July 19, 2006 as follows:

YES L_____, I DID SAY 5% PER MONTH!!!! THAT IS RIGHT, \$5,000 PER MONTH CHECK ON A \$100,000. INVESTMENT!!!! LIKE I SAID I THOUGHT THAT IT WAS TOO GOOD TO BE TRUE AS WELL!!!! THAT IS WHY I WAITED 3 YEARS TO GET IN.

I ALSO SAID THAT THE \$5000 PER MONTH WOULD PAY YOUR MORTGAGES, BOTH OF THEM; AND I WAS RIGHT!!!!

7. Individuals approached by Respondent who agreed to invest in FOMAC typically received and executed the FOMAC application forms at Respondent's office. Once the paperwork was completed, Respondent's office forwarded it to Roberts at FOMAC.

8. The FOMAC application forms consisted of the following: i) Client Registration and Deposit Form; ii) Letter of Intent & Non-Circumvention and Non-Disclosure Agreement; iii) International Bank Wiring Instructions for Your Bank Account; iv) FOMAC Last Will and Testament; and v) Rules and Regulations.

9. The first paragraph of the Rules and Regulations provides:

FOMAC Managed Accounts has been created with a view to the needs of depositors who wish to take advantage of the lucrative international Foreign Currency Exchange (FOREX), heretofore available only to large banks and business corporations. It will give the small working class depositor the opportunity to take advantage of the attractive high yields possible through FOREX trading and realize a steady monthly income to supplement his or her regular income or retirement income.

10. The Rules and Regulations further provide that: there is no membership fee; "[f]unds deposited will be utilized in the FOREX international trading market and the proceeds realized will be divided 50% - 50% between the client and FOMAC international; and that "[e]ach depositor will be expected to maintain a quiet and low profile regarding registration with FOMAC."

11. Consistent with the Rules and Regulations, the Letter of Intent & Non-Circumvention and Non-Disclosure Agreement provides, in relevant part:

It is strictly understood and agreed by the party(ies) hereafter, that the information about bank(s), the establishment of FOMAC, the business opportunities, the services and benefits of FOMAC sources and the supporting documentation and commerce contemplated herein, is of a highly confidential nature. No party(ies) may disclose to any non-pertinent entity, the bank, contract, source, details, business or private

information regarding any transaction, which may fall under the terms and conditions of this agreement.”

12. Additionally, Respondent caused those investing in FOMAC to execute a letter to Roberts stating that one percent of the investors’ assets in the FOMAC account were to be deposited into Respondent’s account each month. These investors invested over \$4.5 million dollars in FOMAC.

13. In May 2007, Respondent became involved with the administration of FOMAC and began communicating with FOMAC investors on the behalf of FOMAC. His involvement is summarized below.

14. On July 7, 2007, Respondent sent the following email to FOMAC investors.

SOME OF YOU ALREADY KNOW ME, AND THE REST WILL SOON KNOW WHO I AM. MY NAME IS ROBERT HOCKENSMITH. I AM A CPA, CFP, MBA, AND HAVE A LEGAL STUDIES DEGREE TOO. I HOLD SECURITIES LICENSES 6 & 63, AND INSURANCE LICENSE AS WELL.

I HAVE MY OWN LEGAL SERVICES, TAX, ACCOUNT, AND SECURITIES FIRM IN PHOENIX, AZ & LAS VEGAS, AND I AM A FELLOW MEMBER IN FOMAC.

[JIM] ROBERTS HAS ASKED ME TO ASSIST IN THE ADMINISTRATION OF THE FOMAC PROGRAM TO BETTER ALLOW HIM TO TRADE MORE OFTEN WITH LESS INTERRUPTION.

MY ASSISTANT & I ARE NOW, HANDLING THE PAPERWORK FOR EACH ACCOUNT, SCANNING AND KEEPING YOUR INFORMATION UP TO DATE, KEEPING TRACK OF EACH ACCOUNTS BALANCES, POSTING DEPOSITS AND WITHDRAWALS, KEEPING TRACK OF HOW YOU WANT YOUR EARNINGS PAID OR HANDLED, ADVISING JIM ON LEGAL & TAX IMPACT ON THE PROGRAM, AND SOON, WE WILL BE OFFERING TO EACH OF YOU, ADVICE ON HOW TO HANDLE FOMAC OPERATIONS FOR YOUR SPECIFIC SITUATION, PROVIDING MONTHLY NEWSLETTERS ON TAX, LEGAL, PROBATE, & FINANCIAL PLANNING TIPS, AND MANY OTHER SERVICES AS MEMBERS OF FOMAC.

WE ARE ALSO THE OFFICE WHO WILL NOW HANDLE ANY & ALL INQUIRIES FOR YOUR SPECIFIC ACCOUNTS AS WELL. OUR OFFICE ADDRESS AND PHONE NUMBER IS LISTED HEREIN. EMAILING IS THE BEST WAY TO CONTACT ME, AS NOT EVERYONE IN MY FIRM IS AWARE OF THE FOMAC PROGRAM. ONLY KAYLA AND MYSELF ARE UP TO SPEED. AND WE ALL AGREE THAT DISCRETION IS OF PARAMOUNT IMPORTANCE. SO IF YOU CALL, BE SURE YOU ASK FOR KAYLA OR ME. MY EXTENSION IS

15. On July 12, 2007, Respondent sent another email to the FOMAC investors regarding late payments by FOMAC.

Dear fellow members,

This is a status note of what to expect for payments this month. We were informed today by the finance company FINALTA that the line of credit has been approved. We sent the bank the necessary funds to authorize this line of credit and pay we members for last month earnings. We are being told the soonest the funds will be available to pay members is Monday next week. We are being told that now the line of credit is approved, there should be no more delay in future payments. This is because we will have access to the line of credit to pay members even if future money is delayed from being released. While we would prefer to receive our money sooner than later, at least we know it is coming!!!!!! We ask for your patience and understanding while we set up the parameters for a more efficient future. Next month should be like it has been so many years in the past. Timely, quick, and complete. Thank you for your understanding during this transition."

16. Respondent sent a follow-up email to FOMAC investors on July 17, 2007 regarding FOMAC payment issues. The subject line for this email reads, "FOMAC WIRES ARE COMING, WE PROMISE!!!!!"

17. On or about July 21, 2007, Respondent sent a message to FOMAC investors stating that the foreign currency market, which had previously been generating returns of approximately 5% per month, was flat.

18. On or about that same day, Respondent sent another message regarding delinquencies on posting profits/losses for investors' accounts. Therein, Respondent wrote:

DEAR MEMBERS,

MANY OF YOU HAVE ASKED WHY YOUR ACCOUNT HAS NOT BEEN POSTED YET THIS WEEK. WE EXPLAINED LAST MONTH THAT POSTING WOULD OCCUR ONCE EACH FRIDAY OR WHEN WE CLOSE OUR POSITION. THIS MEANS IT COULD POST ON SATURDAY OR THE FOLLOWING MONDAY.

THE FOREX MARKET IS OPEN MONDAY – SATURDAY. WE EXPLAINED THAT THE MARKET HAS BECOME FLAT LAST MONTH, WHEN WE SENT YOU THE RESULTS OF THE PAST YEARS' RETURNS. TO COMPENSATE FOR THE FLAT MARKET, WE EXPLAINED THAT WE WERE TAKING LONGER POSITIONS IN TRADING, RATHER THAN DAY TRADING ONLY. THIS IS BEING DONE TO KEEP THE RETURNS HIGHER, THAN JUST DAY TRADING WOULD OFFER.

SINCE WE ARE TAKING LONGER POSITIONS, WE CAN NOT POST UNTIL THE SALE TAKES PLACE, AND WE CAPTURE OUR GAINS. SO, WE EXPLAINED THAT WE WOULD POST THE GAINS/LOSSES AFTER THE POSITIONS CLOSES.

BE ASSURED WE WILL POST THE RESULTS REGULARLY, EITHER EACH FRIDAY OR WHEN THE POSITION CLOSES.

WE TRUST THIS HELPS EXPLAIN WHY THE GAINS/LOSSES HAVE NOT BEEN POSTED THIS WEEK.

THANK YOU

19. Shortly after the issuance of the above message, FOMAC stopped making payments and the SEC commenced the action referenced in paragraph 2 above.

20. In or about March 2008, the Firm learned of Respondent's involvement with FOMAC. At that time, the Firm learned that customer GM had been making inquiries of an affiliate bank regarding obtaining loans because she had lost money in an investment with Hockensmith. The Firm commenced an investigation during which time it found that Hockensmith had introduced FOMAC to approximately 37 investors, of who, 17 were Firm clients.

21. In November 2009, the Arizona Corporation Commission entered an Order to Cease and Desist, Order for Restitution, of Revocation and Consent to the Same against Respondent stemming from his involvement with FOMAC. Under that Order, Respondent's Arizona securities salesman registration was revoked.

22. At all relevant times, the Firm's written procedures advised representatives that, prior to engaging in a private securities transaction, representatives must submit a written request to the compliance department fully describing the proposed transactions and that written authorization from the compliance department must be received before a representative could engage in such conduct. The procedures further advised that representatives could only solicit and sell securities products and investments through the Firm and that a selling agreement must exist between the Firm and the sponsor/vendor of the product. The procedures further advised:

Many companies are now contacting individual Registered Representatives directly and trying to persuade them to sign selling agreements for their products. Some may go as far as to assure the Registered Representative that their product is not a security or does not need to be registered with the SEC. **The NASD offers a broad and general definition of a security in Notice to Members 01-79 (see www.nasd.com) stating if a customer makes an investment of any type in the hopes to make a profit or return on the investment, then the product should be considered a security.** If a Registered Representative is contacted by such a company, the Registered Representative must submit, in writing, a request for approval and receive written permission from [the Firm] before offering the product to any clients. (Emphasis added).

23. In 2001, 2002, 2003, 2004, 2005, 2006 and 2007, Respondent completed and executed Representative Affirmations. Each of these Affirmations addressed the Firm's policies and procedures regarding private securities transactions and contained Respondent's attestation that he would abide by the same.

24. With respect to private securities transactions, the 2001 Representative

Affirmation provided, in relevant part:

Prior to participating in any private securities transactions, an associated person shall provide written notice to the member with which he is associated describing in detail the proposed transaction and the person's proposed role therein and stating whether he has received or may receive selling compensation.

That Affirmation further noted that representatives must receive written permission from the compliance department before engaging in any private securities transaction and that representatives are prohibited from selling any product that the Firm does not have a selling agreement with. By executing the 2001 Affirmation, Respondent attested that he was familiar with the rules discussed therein, understood that he needed written permission prior to engaging in any private securities transactions, and that he had read and agreed to abide by the Firm's written procedures.

25. The 2002, 2003, 2005, 2006 and 2007 Affirmations provided as follows with respect to selling away/private securities transactions:

I am aware that all securities I sell must be sold through [the Firm], and be approved by [the Firm]. Furthermore, I realize that if I don't know whether a product is considered a security or not, I must contact the [Firm's] Compliance department for an official determination.

I understand that I must supply a written request to [the Firm] with ample documentation as notification of my intent to participate in any securities transaction. Furthermore, I understand that I must receive written approval from [the Firm] before engaging in such a transaction. Finally, I am aware that I am prohibited from selling promissory notes, viatical settlements, or any other product for which [the Firm] does not have a selling agreement.

I have a complete understanding of the following definition with regard to selling away/private securities transactions:

(1) Selling away/private securities transactions are transactions that occur outside of the regular scope of my relationship with [the Firm]. These

transactions include, but are not limited to, offerings that are not registered with the SEC. Transactions among immediate family members for which I receive no direct or indirect compensation, and personal transactions in investment companies and variable insurance, are excluded.

By executing the 2002, 2003, 2005, 2006 and 2007 Affirmations, Respondent again affirmed his familiarity with the rules, the need to obtain written permission prior to engaging in any private securities transaction, and that he had read and agreed to abide by the firm's procedures.

26. Similarly, the 2004 Affirmation executed by Respondent discussed the need for representatives to obtain written permission prior to engaging in any private securities transactions and that he had read and agreed to abide by the Firm's procedures.

27. Additionally, throughout Respondent's association with the Firm, the Firm issued compliance bulletins/notices regarding private securities transactions/selling away to its representatives and addressed the topic at multiple annual compliance meetings.

28. Notwithstanding the above, in 2006 and 2007, Respondent participated in private securities transactions by facilitating investments by at least 37 individuals/entities in FOMAC. The 37 individuals/entities include the following: JA; DA; AP, LLC; DC Irrevocable Trust; JB; LB; AB; HB; B Family Trust; LB; PC; H Family Trust; JC; KDC; DD; FFLP; SF; RG; MG; GL; MH; RI Partnership; SF, LLC; CH; JL; DL; GM; TP; R&JS Trust; JR; SS; DS; WS; MT; WT; MW; and, JW, and their combined investments in FOMAC (which were made between September 2006 and July 2007) totaled in excess of \$4.5 million. Six of the above investors were over the age of 65 at the time of investment; one investor was less than three months shy of her 65th birthday.

29. FOMAC is a security. The FOMAC investments were investment contracts involving the pooling of investor funds which were then traded on the FOREX market. Per the FOMAC application paperwork, investment proceeds were to be divided 50% - 50% between the investors and FOMAC.

30. The FOMAC investor paperwork is discussed and identified at paragraphs 8-11. Additionally, Respondent had investors execute letters instructing Roberts/ FOMAC to deposit into Respondent's account, on a monthly basis, 1% of the investors' accounts assets. Accordingly, Respondent's participation in these private securities transactions was for compensation.

31. Prior to engaging in the above private securities transactions, Respondent failed to give written notice of his intention to participate in the proposed transactions to the Firm. The Firm never provided written authorization allowing Respondent to engage in such conduct. Moreover, FOMAC was not an approved Firm product and the Firm did not have a selling agreement with FOMAC.

32. The acts, practices and conduct described above constitute separate and distinct violations of NASD Conduct Rules 3040 and 2110 by Respondent.

B. Borrowing from a Customer – NASD Conduct Rules 2370 and 2110

33. During the course of the firm's investigation of Respondent, Respondent admitted to borrowing funds from a client, FJF, an act that is prohibited under the Firm's procedures, in order to invest in FOMAC.

34. At all relevant times, the Firm's written procedures prohibited representatives from borrowing from a customer. Specifically, "Borrow[ing] money or securities from clients or

loan[ing] the same to clients” is classified as a “Prohibited Activity” under Section 2.2 of the firm’s Compliance Manual.

35. During the years 2001, 2002, 2003, 2004, 2005, 2006 and 2007, Respondent executed Representative Affirmations. Therein Respondent declared under penalty of perjury that he had received, read, and agreed to abide by the Firm’s Compliance & Supervisory Procedures Manual and the Firm’s Advisory Compliance & Supervisory Procedures Manual (Advisor Representatives only).

36. The Representative Affirmations submitted by Respondent in 2006 and 2007 further provided, with respect to “Prohibited Activities,” “I agree to adhere to the [Firm’s] policies on prohibited activities in section 2.2 of the [Firm’s] Compliance Manual.”

37. Notwithstanding the above, in 2007, Respondent borrowed funds in the amount of \$200,000.00 from Firm customer FJF.

38. Respondent acted without the Firm’s knowledge or consent with respect to the borrowing of these funds.

39. In 2008, after the Firm began investigating Respondent’s involvement in FOMAC, Respondent represented to the Firm that he borrowed the funds from FJF to invest in FOMAC.

40. The above acts, practices and conduct constitute a violation of NASD Conduct Rules 2370 and 2110.

C. Failure to Respond to Rule 8210 Requests for Information – NASD Rule 8210 and NASD Conduct Rule 2110/FINRA Rules 8210 and 2010

41. Between April 2008 and March 2009, FINRA staff sent three written requests for information pursuant to Rule 8210 to Respondent regarding his involvement in FOMAC. After the issuance of the first request, Respondent’s attorney told FINRA staff that Respondent did not

intend to remain in the financial services industry and would not provide the information requested by staff. Consistent with the attorney's representation, Respondent failed to provide any of the requested information.

42. Based on the information FINRA staff obtained, the staff determined that Respondent may have engaged in additional violations of the securities laws and FINRA rules, including outside business activities, unsuitable recommendations, negligent and/or fraudulent misrepresentations and omissions to disclose material information, the offer and sale of unregistered securities, borrowing from additional Firm customers, and improperly representing that an investment would generate a certain rate of return. However, as a consequence of Respondent's refusal to comply with his Rule 8210 obligations, staff was unable to fully investigate these issues.

43. As referenced above, FINRA staff commenced an investigation of Respondent after receiving notification of his termination from the Firm for selling away, participating in the sale of unregistered securities, and impermissibly borrowing from a client.

44. To further its investigation, staff sought to obtain information regarding the above allegations from Respondent by means of written Rule 8210 requests.

45. On April 22, 2008, staff sent, by first class and certified mail, a written Rule 8210 request to Respondent at his residential CRD address, [REDACTED] (CRD Address). The letter directed Respondent to provide the information requested therein by May 6, 2008.

46. The signed delivery receipt for the certified mailing of the April 22, 2008 request letter was returned to FINRA with an illegible signature. The first class mailing was not returned to FINRA. Respondent did not respond to the April 2008 request letter.

47. On May 5, 2008, the staff investigator spoke with Respondent's attorney. During that conversation, the attorney represented that Respondent was not interested in pursuing a career in financial services, and that Respondent would not provide the information requested in FINRA's April 22, 2008 request letter. Consistent with his attorney's representation, Respondent failed to provide such information.

48. The staff investigator subsequently wrote to Respondent's attorney on October 2, 2008 requesting written confirmation that Respondent would not provide the information requested in FINRA's April 22, 2008 request letter. The attorney neither provided the requested confirmation nor responded to the investigator's letter.

49. Staff sent another Rule 8210 request to Respondent on February 23, 2009. That letter was sent by both certified and first class mail to the CRD Address and requested that, in addition to the information previously requested on April 22, 2008, Respondent provide, among other things: i) a narrative of his relationship and involvement with FOMAC; ii) a detailed description of the FOMAC Managed Account Program; iii) a list of all customers that he solicited to invest in the FOMAC Managed Account Program; iv) a list of all customers that invested money in FOMAC through him during his employment with the Firm (including the name of the investor, the date and dollar amount invested); v) a narrative explaining if and when he notified the Firm of his outside involvement with FOMAC; vi) a written narrative explaining whether or not he provided notification to the Firm prior to soliciting investors to invest in FOMAC during his employment at the Firm (Respondent was further requested to include in this narrative, the identity of the person(s) at the Firm that he notified as well as copies of all supporting documentation); and, vii) a list of all Firm customers that he solicited and/or received personal loans from during his employment with the Firm (Respondent was to include the name,

date of loan, loan amount and if the loan had been repaid). A courtesy copy of the February 23, 2009 Rule 8201 request letter was also sent to Respondent's attorney.

50. The letter directed Respondent to respond by March 6, 2009. The signed delivery receipt for the certified mailing of the February 23rd request letter was returned to FINRA with an illegible signature on March 9, 2009; the first class mailing was not returned to FINRA. Respondent failed to provide the information requested in the February 23rd Rule 8210 request.

51. On March 11, 2009, staff sent, by first class and certified mail, a third written Rule 8210 request to Respondent at his CRD address and a courtesy copy was sent to his attorney. The March 11th Request sought the same information identified in the February 23rd request. The letter directed Respondent to respond by March 25, 2009.

52. The first class mailing of the March 11th request has not been returned to FINRA. Similarly, neither the certified mailing nor the certified delivery receipt was returned to FINRA. Respondent failed to respond to the March 11th Rule 8210 request letter.

53. To date, Respondent has failed to provide information that was requested, pursuant to Rule 8210, on April 22, 2008, February 23, 2009, and on March 11, 2009. Respondent's failure to provide the requested information impeded staff's investigation and effectively prevented staff from determining the extent of his misconduct and whether Respondent violated additional securities laws, rules and/or regulations.

54. Each of the three Rule 8210 requests was sent during the period that Respondent was subject to FINRA's jurisdiction; therefore, he was required by Rule 8210 to provide the requested information.

55. Respondent's failure to provide the information requested in the April 22, 2008 request constitutes a separate and distinct violation of NASD Rule 8210 and NASD Conduct

Rule 2110. Respondent's failure to provide the information requested in the February 23, 2009 and March 11, 2009 requests constitutes separate and distinct violations of FINRA Rule 8210 and FINRA Rule 2010.

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

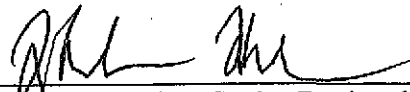
SANCTIONS

It is ordered that Respondent be barred from associating with any FINRA member firm in any capacity. Pursuant to FINRA Rule 8313(e), a bar or expulsion shall become effective upon approval or acceptance of this Order.

SO ORDERED.

FINRA

Signed on behalf of the
Director of ODA, by delegated authority



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