

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

STEVEN A. HACKETT
(CRD No. 4525059),

Respondent.

Disciplinary Proceeding
No. 2008013690201

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

December 28, 2009

Respondent violated Conduct Rules 2370 and 2110 by borrowing money from his customer and failing to repay the loan. He also violated Procedural Rule 8210 and Conduct Rules 2110 and 2010 by failing to respond to requests for information. For these violations, Respondent was barred from associating with any member firm in any capacity.

Appearances

Howard Alan Ginsberg, Senior Counsel, and Myles L. Orosco, Director,
New York, NY, for the Department of Enforcement.

No appearance by or for the Respondent.

DECISION

I. Introduction

The FINRA Department of Enforcement (“Enforcement”) filed the attached Complaint against Respondent Steven A. Hackett with the Office of Hearing Officers on September 16, 2009. The Complaint contains three causes of action. First, the Complaint alleges that Hackett violated NASD Conduct Rules 2370 and 2110 by borrowing money from a customer without his firm’s approval. Second, the Complaint alleges that Hackett

violated Procedural Rule 8210 and NASD Conduct Rule 2110 by failing to provide requested information to Enforcement in connection with its investigation into the customer loan. Third, the Complaint alleges that Hackett violated Procedural 8210 and FINRA Rule 2010 by failing to appear and provide testimony in connection with the same investigation.¹

Hackett did not answer or otherwise respond to the Complaint. Consequently, on December 4, 2009, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions, together with the supporting affidavit of Howard Alan Ginsberg, Esq., and 26 exhibits.² Hackett did not respond to the motion.³

II. Jurisdiction

Hackett joined PFS Investments Inc. in March 2002, and was registered with FINRA as an Investment Company and Variable Contracts Products Representative through PFS Investments, a FINRA member firm, from December 2, 2002, until June 5, 2008.⁴ PFS Investments terminated his employment on May 23, 2008, after the firm

¹ NASD consolidated with the member regulation and enforcement functions of NYSE Regulation in July 2007 and began operating under a new corporate name, the Financial Industry Regulatory Authority (FINRA). References in this decision to FINRA include, where appropriate, NASD. Following consolidation, FINRA began developing a new FINRA Consolidated Rulebook. The first phase of the new consolidated rules became effective on December 15, 2008. See Regulatory Notice 08-57 (Oct. 2008). In that process, FINRA renumbered NASD Conduct Rule 2110 as FINRA Conduct Rule 2010. This decision refers to and relies on the Conduct Rules that were in effect at the time of Respondent's alleged misconduct. In addition, because Enforcement filed the Complaint after December 15, 2008, FINRA's procedural rules govern this proceeding. The applicable rules are available at www.finra.org/rules.

² The exhibits attached to Ginsberg's affidavit are labeled CX-1 through CX-26.

³ Pursuant to Rules 9215(f) and 9269, the Hearing Officer deemed the factual allegations in the Complaint as admitted. The Hearing Officer based the factual findings in this decision on the allegations of the Complaint and the additional evidentiary materials Enforcement filed in support of its motion for entry of default decision.

⁴ CX-1, at 1.

learned that he had borrowed money from a customer in violation of its internal written procedures.⁵ He has not been associated with a FINRA member firm since then.⁶

Although Hackett is not currently associated with a FINRA member, FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years following the termination of his registration with a FINRA member firm and (2) the Complaint charges him with misconduct that occurred while he was registered with a FINRA member firm, and with failing to respond to FINRA's requests for information made during the two-year period following the termination of his FINRA registration.⁷

III. Respondent's Default

Hackett defaulted by failing to answer or otherwise respond to the Complaint. Enforcement served Hackett with notice of the Complaint by first-class and certified mail (return receipt requested) at his residential address recorded in the Central Registration Depository ("CRD Address") on September 16, 2009.⁸ Enforcement also sent the Notice of Complaint to two additional residential addresses: a previous address listed in CRD and one listed on the loan agreement that is the subject of the first cause of action in this proceeding.⁹ The certified mailing sent to the CRD Address was returned marked "Unclaimed."¹⁰ The certified mailings sent to the additional addresses were returned with

⁵ CX-1; CX-3.

⁶ CX-1, at 1.

⁷ Article V, Sec. 4(a), FINRA By-Laws, available at www.finra.org/Rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

⁸ Ginsberg Aff. ¶ 29.

⁹ *Id.*

¹⁰ *Id.* ¶ 31. The mailing sent by first-class mail to the CRD Address was not returned. Ginsberg Aff. ¶ 32.

notations that they were not deliverable as addressed.¹¹ Hackett did not respond to the Complaint by October 14, 2009, the deadline specified in the Notice of Complaint.¹²

On October 15, 2009, Enforcement served Hackett with the Second Notice of Complaint by first-class and certified mail (return receipt requested) at his CRD Address and the two alternate addresses.¹³ The certified mailing sent to Hackett's CRD Address was returned marked, "Moved Left No Address."¹⁴ There is no evidence in the record that Hackett received any of the mailings sent to the two additional addresses.¹⁵ The Second Notice of Complaint instructed Hackett to file an answer to the Complaint by November 2, 2009.¹⁶ To date, Hackett has not filed an answer with the Office of Hearing Officers or otherwise responded to the Complaint.

Based on the foregoing, the Hearing Officer finds that Hackett received valid constructive notice of this proceeding and he therefore defaulted by failing to answer or otherwise respond to the Complaint.¹⁷ Accordingly, pursuant to Procedural Rule 9215(f), the Hearing Officer grants Enforcement's motion for entry of a default decision.

¹¹ Ginsberg Aff. ¶ 31.

¹² CX-20, at 2.

¹³ Ginsberg Aff. ¶ 34.

¹⁴ *Id.* ¶ 37. The mailing sent by first-class mail to the CRD Address was not returned. Ginsberg Aff. ¶ 37.

¹⁵ Ginsberg Aff. ¶ 38. The return receipt for the certified mailing sent to one of the additional addresses was returned signed by "Kyle Swensen," but there is no evidence in the record as to his identity. Ginsberg Aff. ¶ 36.

¹⁶ Ginsberg Aff. ¶ 39.

¹⁷ *Department of Enforcement v. Reynolds Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (Procedural Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (quoting *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

IV. Violations

A. Borrowing Money from Customer

The First Cause of Action alleges that Hackett violated NASD Conduct Rules 2370 and 2110 by borrowing \$9,000 from customer DI when he was associated with PFS Investments. The loan is evidenced by a letter Hackett signed and provided to DI dated February 11, 2005.¹⁸ The Complaint further alleges that PFS Investments had written procedures forbidding registered representatives from borrowing funds from customers, except in certain limited instances that were not applicable to the loan from customer DI.¹⁹

When Hackett failed to repay the loan in accordance with the loan agreement, DI filed a civil action against Hackett in the County Court for the County of Hillsborough County, Florida, to recover the balance due.²⁰ On or about April 22, 2008, the court entered final judgment against Hackett in the principal sum of \$9,000, plus court costs in the sum of \$285, and pre-judgment interest in the sum of \$7,990.²¹

The Hearing Officer finds that the allegations in the First Cause of Action are sufficient to establish that Hackett violated NASD Conduct Rule 2370 and thereby violated NASD Conduct Rule 2110. Any conduct that violates an NASD Conduct Rule is also a violation of NASD Conduct Rule 2110.²²

¹⁸ CX-4.

¹⁹ CX-4A.

²⁰ CX-5, at 1.

²¹ CX-5, at 2.

²² *Charles C. Fawcett, IV*, Exchange Act Rel. No. 56770, 2007 SEC LEXIS 2598, at *11-12 (Nov. 8, 2007) (stating that violations of NASD rules are inconsistent with just and equitable principles of trade and constitute a violation of Rule 2110); *Department of Enforcement v. Shvarts*, 2000 NASD Discip. LEXIS 6, at *12-13 (N.A.C. June 2, 2000).

B. Failure to Respond to Requests for Information

The Second and Third Causes of Action allege that Hackett failed to respond to five written requests, made pursuant to Procedural Rule 8210, for information concerning the loan he received from customer DI.

On July 1, 2008, FINRA Staff sent the first request for information by first-class and certified mail to Hackett at his CRD Address. Hackett accepted delivery of the certified mailing on July 9, 2008, nonetheless he did not respond in any manner to the July 1 request.²³

On July 25, 2008, FINRA Staff sent a second request to Hackett at his CRD Address by first-class and certified mail. The certified mailing was returned marked “Unclaimed.” The first-class mailing was not returned. Hackett did not respond to the July 25 request.²⁴

On September 22, 2008, FINRA Staff sent a third request to Hackett at his CRD Address by first-class and certified mail. The third request sought the same documents and information as the first two requests and required that he appear and provide testimony at FINRA’s office in New York City on November 6, 2008. The certified mailing was returned marked “Unclaimed.” The first-class mailing was not returned. Hackett did not respond to the September 22 request, and he did not appear for his on-the-record interview on November 6, 2008.²⁵

On January 12, 2009, FINRA Staff sent a fourth request to Hackett at his CRD Address and to a prior address Hackett had listed in CRD by first-class and certified mail.

²³ Ginsberg Aff. ¶¶ 11-12.

²⁴ *Id.* ¶¶ 13-14.

²⁵ *Id.* ¶¶ 15-18.

The fourth request required Hackett to appear and provide testimony at FINRA's office in New York City on January 23, 2009. The certified mailings were returned marked "Unclaimed." The first-class mailings were not returned. Hackett did not appear on January 23, 2009, for his on-the-record interview.²⁶

On May 4, 2009, FINRA Staff made a final attempt to secure information from Hackett in connection with its ongoing investigation into his loan with DI. FINRA Staff sent a fifth request to Hackett at his CRD Address, his previous CRD address, and the address that appeared on the loan agreement with customer DI. FINRA Staff sent each mailing by first-class and certified mail. The fifth request required Hackett to appear and provide testimony at FINRA's office in New York City on May 29, 2009. The certified mailing sent to his CRD Address was returned marked "Unclaimed." The other two certified mailings were returned marked "Not Deliverable as Addressed. Unable to Forward." None of the first-class mailings was returned. Hackett did not appear on for his on-the-record interview on May 29, 2009.²⁷

The Hearing Officer finds that the allegations in the Second and Third Causes of Action establish that Hackett violated Rule 8210 and NASD Conduct Rule 2110 by failing to respond in any manner to three requests for information FINRA Staff issued before December 15, 2008, and that he violated Rule 8210 and FINRA Conduct Rule 2010 by failing to respond in any manner to two additional requests FINRA Staff issued

²⁶ Ginsberg Aff. ¶¶ 20-23.

²⁷ *Id.* ¶¶ 24-27..

after December 15, 2008, the effective date for the first phase of the new FINRA consolidated rules.²⁸

V. Sanctions

A. Borrowing Money from Customer

FINRA Sanction Guidelines (“Guidelines”) do not suggest a specific sanction for violating Rule 2370. Nonetheless, the Hearing Officer concludes that a bar is the appropriate sanction under the egregious facts and circumstances of this case.²⁹ Hackett violated his firm’s express prohibition against borrowing from the firm’s customers. Further, Hackett failed to make any payments on the loan. Indeed, customer DI was forced to file a civil action in state court to enforce the terms of the loan agreement. Accordingly, the Hearing Officer will bar Hackett from associating with any member firm in any capacity for his violation of Rules 2370 and 2110.³⁰

B. Failure to Respond to Requests for Information

A violation of Rule 8210 is serious because Rule 8210 is a key element in FINRA’s oversight function and allows FINRA to carry out its regulatory functions without subpoena power.³¹ When an individual fails to provide information, FINRA’s ability to perform its regulatory functions is subverted.³² For these reasons, the

²⁸ *Wanda P. Sears*, Exchange Act Rel. No. 58075, 2008 SEC LEXIS 1521, at *19 n.28 (July 1, 2008); *Anthony H. Barkate*, 57 S.E.C. 488, 489 n.1 (2004); *Department of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

²⁹ Enforcement did not recommend a sanction for this violation in light of its recommendation that Hackett be barred for his failure to respond to the five requests for information FINRA Staff issued in connection with its investigation into his dealings with customer DI.

³⁰ The Hearing Officer did not order restitution because customer DI obtained a final judgment in state court to recover the funds due her.

³¹ *Howard Brett Berger*, Exchange Act Rel. No. 58950, 2008 SEC LEXIS 3141 (Nov. 14, 2008); *Joseph G. Chiulli*, Exchange Act Rel. No. 42359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000).

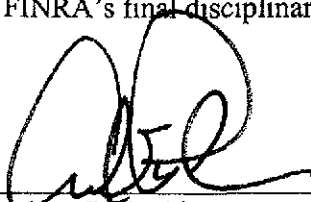
³² *Joseph P. Hannan*, Exchange Act Rel. No. 40438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998).

Guidelines recommend a bar when a respondent fails to respond in any manner to a request for information issued pursuant to Rule 8210.³³ Hackett failed to respond in any manner to five requests for information. There is no evidence of any mitigating facts that would justify a sanction of less than a bar.

Accordingly, the Hearing Officer finds that Hackett should be barred from associating with any FINRA member in any capacity for violating Rule 8210 and Conduct Rules 2110 and 2010.

VI. Order

Steven A. Hackett is barred from association with any member firm in any capacity for borrowing money from a customer of his firm, in violation of Conduct Rules 2370 and 2110, and for failing to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rules 2110 and 2010. The bars will become effective immediately if this Default Decision becomes FINRA's final disciplinary action in this proceeding.



Andrew H. Perkins
Hearing Officer

Copies to: Steven A. Hackett (*via overnight carrier and first-class mail*)
Howard Alan Ginsberg, Esq. (*via electronic and first-class mail*)
Myles L. Orosco, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

³³ *FINRA Sanction Guidelines* 35 (2007), www.finra.org/sanctionguidelines.

FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)

OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

V.

STEPHEN ALAN HACKETT (CRD#

4525059)

RESPONDENT.

DISCIPLINARY PROCEEDING

NO.2008013690201

COMPLAINT

The Department of Enforcement alleges:

RESPONDENT

1. Stephen Alan Hackett ("Hackett") has been registered with the Financial Industry Regulatory Authority ("FINRA") as a Series 7 general securities representative since March 2002 and was been employed with PFS Investments Inc ("PFS" or the "Firm"), until May 23, 2008.

2. Hackett remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws, which provides that a person who is no longer associated with a member is still subject to FINRA's rules for a period of two years after the effective date that the person ceases association with the member.

FIRST CAUSE OF ACTION

NASD Rules 2370 and 2110

Borrowing Funds from a Customer in Violation of Rule 2370

3. The Department realleges and incorporates by reference paragraphs 1 through 2 above.
4. In 2003, while employed with PFS Investments and without the knowledge or authorization of the Firm, Hackett borrowed \$9,000 from customer DI.
5. DI and Hackett agreed that the amount loaned would accrue interest based on the performance of the mutual funds that DI redeemed to loan Hackett the money.
6. Hackett failed to pay the accrued interest as well as the \$9,000 and a judgment was entered in civil court on April 30, 2008 awarding DI \$16,900.
7. Hackett's employer Firm's procedures prohibited borrowing from or lending to customers. According to the Firm's Compliance Manual (Chapter 9.1: Unacceptable Business Practices), lending to, or borrowing money or securities from a client is prohibited. Furthermore, Hackett signed Annual Certification and Acknowledgements wherein he acknowledged the reading the compliance manual.

8. NASD Conduct Rule 2370 states: (a) No person associated with a member in any registered capacity may borrow money from or lend money to any customer of such person unless (1) the member has written procedures allowing the borrowing and lending of money between such registered persons and customers of the member; and (2) the lending or borrowing arrangement meets one of the following conditions: (A) the customer is a member of such person's immediate family; (B) the customer is a financial institution regularly engaged in the business of providing credit, financing or loans, or other entity or person that regularly arranges or extends credit in the ordinary course of business; (C) the customer and the registered person are both registered persons of the same member firm; (D) the lending arrangement is based on a personal relationship with the customer, such that the loan would not have been solicited, offered, or given had the customer and the associated person not maintained a relationship outside of the broker/customer relationship; or (E) the lending arrangement is based on a business relationship outside of the broker-customer relationship.

9. Hackett borrowed funds from his customer when (i) his firm prohibited such borrowing and (ii) the borrowing arrangement did not meet the conditions noted in NASD Rule 2370.

10. By virtue of the foregoing, Hackett violated NASD Conduct Rules 2370 and 2110.

SECOND CAUSE OF ACTION

NASD Rule 8210 and NASD Rule 2110

**Failure to Provide a Written Response and Failure to Appear and Testify in Violation
of NASD Rules 8210 and 2110**

11. The Department realleges and incorporates by reference paragraphs 1 through 10 above.

12. By letter dated July 1, 2008, sent via certified mail, return receipt requested and a copy by first class mail, to Hackett's address as reflected in FINRA's Central Registration Depository (CRD) [REDACTED] Enforcement staff notified Hackett that it was investigating allegations that, during his employment at the Firm, he had accepted a \$9,000 loan from customer DI. In the same letter, Enforcement staff requested, pursuant to then NASD Rule 8210, that Hackett provide a detailed written statement in response to the allegations no later than July 15, 2008.

13. Enforcement staff received the return receipt for the July 1, 2008 letter sent to Hackett via certified mail. The return receipt was signed "Steve Hackett" and was dated July 9, 2008. The copy of the July 1, 2008 letter sent to Hackett via first class mail was not returned to Enforcement. Hackett failed to respond to Enforcement's July 1, 2008 letter.

14. By letter dated July 25, 2008, sent to Hackett via certified mail, return receipt requested and a copy by first class mail to Hackett's CRD address, noted above, Enforcement staff notified Hackett that it had still not received his response to its letter dated July 1, 2008. Enforcement also renewed its request pursuant to then NASD Rule 8210 that Hackett respond in writing no later than August 8, 2008 to the allegations that, during his employment at the Firm, he accepted a \$9,000 loan from DI.

15. The July 25, 2008 letter advised Hackett that his failure to comply with Enforcement's written requests might subject him to disciplinary action.

16. The copy of the letter dated July 25, 2008 letter sent to Hackett via certified mail was returned to Enforcement by the Post Office marked "Unclaimed". The copy of the July 25, 2008 letter sent to Hackett by first class mail was not returned to Enforcement. Hackett failed to respond to Enforcement's letter dated July 25, 2008.

17. By letter dated September 22, 2008, sent to Hackett via certified mail, return receipt requested and a copy by first class mail to Hackett's CRD address, Enforcement staff notified Hackett that, it had not received from him the written explanation requested in the letters dated July 1, 2008 and July 25, 2008, and that pursuant to then NASD Rule 8210, Enforcement was renewing its request that Hackett provide a detailed written statement in response to the allegations that he borrowed \$9,000 from DI. Enforcement advised Hackett in this letter that he must submit the written statement no later than October 13, 2008.

18. The September 22, 2008 letter also requested that Hackett appear and testify concerning these matters on November 6, 2008 at 10:00 a.m. at Enforcement's offices at 14 Wall Street, 14th Floor, New York, NY. Enforcement informed Hackett that if the date and time for his testimony was inconvenient, he should contact Enforcement by Monday, October 6, 2008 in order to reschedule the proceeding to a mutually convenient time.

19. The copy of the September 22, 2008 letter sent to Hackett via certified mail was returned to Enforcement, with a notation marked "Unclaimed." The copy of the September 22, 2008 letter sent to Hackett by first class mail was not returned to Enforcement.

20. Hackett failed to provide a written response to the allegations and failed to appear and testify on November 6, 2008, as requested in Enforcement's September 22, 2008 letter. To date, Enforcement staff has neither received any communication from Hackett nor from anyone else on his behalf.

21. Pursuant to then NASD Rule 8210, "a member, person associated with a member, or person subject to the Association's jurisdiction to provide information orally, in writing, or electronically (if the requested information is, or is required to be, maintained in electronic form) and to testify at a location specified by Association staff, under oath or affirmation administered by a court reporter or a notary public if requested, with respect to any matter involved in the investigation, complaint, examination, or proceeding." NASD Conduct Rule 2110 requires that members and associated persons "observe high standards of commercial honor and just and equitable principles of trade." In this matter, Hackett

failed to comply with multiple requests for his testimony and for a written response to the allegations relevant to Enforcement's investigation.

22. By virtue of the foregoing, Hackett violated NASD Conduct Rule 2110 and NASD Rule 8210.

THIRD CAUSE OF ACTION

FINRA Rule 8210 and FINRA Rule 2010

Failure to Appear and Testify in Violation of FINRA Rules 8210 and 2010

23. The Department realleges and incorporates by reference paragraphs 1 through 22 above.

24. By letter dated January 12, 2009, sent to Hackett via certified mail, return receipt requested and a copy by first class mail to Hackett's CRD address, noted above, and to a residential address that Hackett had previously listed on his CRD prior to changing his CRD address to the P.O. BOX [REDACTED] Enforcement notified Hackett that, it had not received any response to the staff's requests pursuant to the letters dated July 1, 2008, July 25, 2008 and September 22, 2008.

25. The January 12, 2009 letter also requested, pursuant to FINRA Rule 8210 that Hackett appear and testify on Friday, January 23, 2009 at 10:00 a.m. at Enforcement's offices at 14 Wall Street, 14th Floor, New York, New York. The letter further stated that,

if the requested date and time for his testimony was inconvenient for Hackett, he should telephone Enforcement by Monday, January 19, 2009 in order to reschedule the proceeding to a mutually convenient time.

26. The copies of the January 12, 2009 letters sent to Hackett via certified mail to his CRD address and to the aforementioned additional residential address were returned to Enforcement. Both letters were marked as "Unclaimed". The copies of the January 12, 2009 letters sent to Hackett by first class mail to the two addresses were not returned to Enforcement.

27. Hackett failed to appear and testify on January 23, 2009, as requested in Enforcement's January 12, 2009 letter.

28. By letter dated May 4, 2009, sent to Hackett via certified mail, return receipt requested and a copy by first class mail to Hackett's CRD address, noted above, and to a residential address that Hackett had previously listed on his CRD prior to changing his CRD address to the P.O. BOX [REDACTED] and to a residential address that Hackett listed in his correspondence with DI [REDACTED] Enforcement notified Hackett that, it had not received any response to the staff's requests pursuant to the letters dated July 1, 2008, July 25, 2008 and September 22, 2008.

29. The letter dated May 4, 2009 letter also requested, pursuant to FINRA Rule 8210 that Hackett appear and testify on Friday, May 29, 2009 at 10:00 a.m. at Enforcement's offices at 14 Wall Street, 14th Floor, New York, New York. The letter further stated that, if the requested date and time for his testimony was inconvenient for Hackett, he should telephone Enforcement by Friday, May 22, 2009 in order to reschedule the proceeding to a mutually convenient time.

30. The copies of the May 4, 2009 letters sent to Hackett via certified mail the two previous residential addresses were returned to Enforcement. Both letters were marked as "Not Deliverable as Addressed. Unable to Forward". The copy of the May 4, 2009 letter sent to Hackett via certified mail to his CRD Post Office Box address was returned to Enforcement marked as "Unclaimed". The copies of the May 4, 2009 letters sent to Hackett by first class mail to all three addresses were not returned to Enforcement.

31. Hackett failed to appear and testify on May 29, 2009, as requested in Enforcement's May 4, 2009 letter.*

32. FINRA Rule 8210(a)(1) requires "a member, person associated with a member, or person subject to the Association's jurisdiction to provide information orally, in writing, or electronically (if the requested information is, or is required to be, maintained in electronic form) and to testify at a location specified by Association staff, under oath or affirmation administered by a court reporter or a notary public if requested, with respect to any matter

* Incorporated in this Complaint is the attached chart, Exhibit A, that sets forth the dates of the 8210 notices and the nature of Hackett's failures to comply.

involved in the investigation, complaint, examination, or proceeding.” FINRA Conduct Rule 2010 requires that members and associated persons “observe high standards of commercial honor and just and equitable principles of trade.” In this matter, Hackett failed to comply with a request for his testimony. By virtue of the foregoing, Hackett violated FINRA Conduct Rule 2010 and FINRA 8210(a) (1).

RELIEF REQUESTED

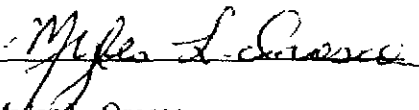
WHEREFORE, the Department respectfully requests that the Panel:

- A. Order that one or more of the sanctions provided under FINRA 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 FINRA Rule 8330.
- C. Make specific findings that Respondent, as alleged in the First Cause of Action, without the knowledge or authorization of his Firm, borrowed funds from a customer in violation of NASD Rules 2370 and 2110.
- D. Make specific findings that Respondent, as alleged in the Second Cause of Action, failed to respond to requests to for information and to appear and testify in violation of NASD Rule 8210 and NASD Rule 2110.

E. Make specific findings that Respondent, as alleged in the Third Cause of Action, failed to respond to a request to appear and testify in violation of FINRA Rule 8210 and FINRA Rule 2010.

FINRA DEPARTMENT OF ENFORCEMENT

Date: September 16, 2009

By: 

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Director
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Exhibit A

Chart of the Dates of the 8210 Notices and the Nature of Hackett's Failures to Comply

<u>Date</u>	<u>Address</u>	<u>Mailed</u>	<u>Information Requested</u>	<u>Delivery Received</u>
7/1/08		Certified and First Class	Written Response	Certified receipt received signed "Steve Hackett" Dated 7/9/08 First class not returned
7/25/08		Certified and First Class	Written Response	Certified "unclaimed" First class not returned
9/22/08		Certified and First Class	Written Response & OTR for 11/6/08	Certified "unclaimed" First class not returned
1/12/09		Certified and First Class	Written Response & OTR for 1/23/09	Certified "unclaimed" First class not returned
1/12/09		Certified and First Class	Written Response & OTR for 1/23/09	Certified "unclaimed" First class not returned
5/4/09		Certified and First Class	OTR for 05/29/09	Certified "undeliverable" First class not returned
5/4/09		Certified and First Class	OTR for 05/29/09	Certified "undeliverable" First class not returned
5/4/09		Certified and First Class	OTR for 05/29/09	Certified "unclaimed" First class not returned

The letters sent on 7/1/08, 7/25/08 and 9/22/08 were sent pursuant to then NASD Rule 8210. The letters sent on 1/12/2009 and May 4, 2009 were sent pursuant to FINRA Rule 8210.