

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JOHN C. ROMANOFF
(CRD No. 3097147),

Respondent.

Disciplinary Proceeding
No. 2008014858101

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

August 30, 2010

Respondent is barred from associating with any FINRA registered firm in any capacity for borrowing money from customers, in violation of NASD Conduct Rules 2370 and 2110; and for failing to respond to requests for information, in violation of Procedural Rule 8210, NASD Conduct Rule 2110, and FINRA Conduct Rule 2010.

Appearances

Laura Leigh Blackston, Senior Regional Counsel, New Orleans, LA, for the Department of Enforcement.

No appearance by or on behalf of John C. Romanoff.

DECISION

I. Introduction

The FINRA Department of Enforcement ("Enforcement") filed the attached Complaint with the Office of Hearing Officers on April 16, 2010. The Complaint charges Respondent John C. Romanoff ("Romanoff") with borrowing funds from a customer, in violation of NASD Conduct Rules 2370 and 2110; and failing to respond to FINRA requests for information and

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documents, in violation of Procedural Rule 8210, NASD Conduct Rule 2110, and FINRA Conduct Rule 2010.¹

Romanoff did not answer or otherwise respond to the Complaint. Accordingly, on June 11, 2010, the Office of Hearing Officers issued an order setting a deadline for Enforcement to file a motion for entry of a default decision, which Enforcement filed on July 9, 2010, together with the declaration of Laura Leigh Blackston ("Blackston Decl.") and nine exhibits.² Enforcement served the motion by mailing it to Romanoff at his CRD address, as well as the forwarding address provided by the United States Postal Service. Romanoff did not file a response to the motion.

II. Findings of Fact and Conclusions of Law

A. Background

Romanoff entered the securities industry in October 1998 and became registered as a General Securities Representative with Raymond James & Associates, Inc. ("Raymond James"), a FINRA member firm, on December 14, 1998.³ In October 2001, Romanoff left Raymond James to work for another broker-dealer. On May 14, 2003, he returned to Raymond James, where he was registered as a General Securities Representative until January 16, 2007.⁴

¹ Following the consolidation of NASD and the member regulation, enforcement, and arbitration functions of NYSE Regulation into FINRA, FINRA began developing a new "Consolidated Rulebook" of FINRA Rules. The first phase of the new consolidated rules became effective on December 15, 2008. *See* FINRA Regulatory Notice 08-57 (Oct. 2008). Because the Complaint in this case was filed after December 15, 2008, the FINRA procedural rules apply. The conduct rules that apply are those that existed at the time of the conduct at issue. The applicable rules are available at www.finra.org/rules.

² Enforcement's exhibits are labeled DX-1 through DX-9.

³ DX-1, at 2.

⁴ DX-1, at 6.

Romanoff was last registered at another FINRA member firm until May 28, 2008.⁵ He has not been registered with FINRA or associated with a FINRA member firm since May 2008.

B. Jurisdiction

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 after May 28, 2008, the date FINRA terminated Romanoff's registration, and (2) the Complaint charges him with misconduct that occurred while he was associated with a FINRA member firm, and with failing to respond to Enforcement's requests for information made during the two-year period following the termination of his FINRA registration.⁶

C. Respondent Defaulted

On April 16, 2010, Enforcement served the Complaint and First Notice of Complaint on Romanoff by certified first-class mail sent to his most current residential address recorded in the Central Registration Depository ("CRD").⁷ The United States Postal Service returned the certified mailing to Enforcement because it was unclaimed.⁸

On May 17, 2010, Enforcement sent Romanoff the Second Notice of Complaint by certified first-class mail at his CRD address.⁹ The United States Postal Service returned the certified mailing to Enforcement with Romanoff's forwarding address.¹⁰ Enforcement then sent a copy of the First and Second Notices of Complaint to Romanoff by overnight courier and first-

⁵ DX-1, at 5; DX-2, at 5.

⁶ See Article V, Sec. 4(a), FINRA By-Laws, available at www.finra.org/Rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

⁷ Blackston Decl. ¶ 9.

⁸ *Id.* ¶ 10.

⁹ *Id.* ¶ 13.

¹⁰ *Id.* ¶ 14.

class mail at the forwarding address.¹¹ The first-class mailing sent to the forwarding address was not returned. The overnight courier reported that the forwarding address was incorrect.¹² The overnight courier did not provide Enforcement with an alternative address.

Romanoff defaulted by failing to answer the Complaint.¹³ Accordingly, pursuant to Procedural Rules 9215(f) and 9269(a)(2), the Hearing Officer deems the allegations in the attached Complaint admitted and grants Enforcement's motion for entry of a default decision.

D. Borrowing from Customer

The First Cause of Action alleges that in May 2006 Romanoff borrowed \$70,000 from customers WF and MF. The purpose of the loan was to finance Romanoff's purchase of a residence in Florida. The loan was evidenced by a promissory note, payment of which was secured by the Florida real estate.¹⁴ At the time, Raymond James' written procedures prohibited its registered representatives from borrowing from customers of the firm.¹⁵ Romanoff did not notify Raymond James of the loan or obtain permission to borrow funds from WF and MF.¹⁶

Romanoff defaulted on the promissory note by July 2008, and the customers complained to Raymond James.¹⁷ Romanoff did not repay any of the principal balance due WF and MF.¹⁸

The Hearing Officer finds that the foregoing facts establish that Romanoff violated NASD Conduct Rules 2370 and 2110 by borrowing money from WF and MF without Raymond

¹¹ *Id.* ¶ 17.

¹² *Id.* ¶ 18; DX-9.

¹³ *Department of Enforcement v. Reynolds Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (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)).

¹⁴ Compl. ¶¶ 5-6.

¹⁵ *Id.* ¶ 8.

¹⁶ *Id.* ¶ 11; Blackston Decl. ¶ 29.

¹⁷ Blackston Decl. ¶ 27.

¹⁸ *Id.* Romanoff made interest only payments on the loan for several months.

James' approval in violation of the firm's written procedures that prohibited such loans. In addition, Romanoff thereby violated NASD Conduct Rule 2370, which provides, in pertinent part, that "(a) [n]o 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 borrowing and lending of money between such registered persons and customers of the member"¹⁹

E. Failure to Respond to Requests for Information

The Second Cause of Action alleges that Romanoff failed to respond to three written requests for information in connection with FINRA staff's investigation of WF and MF's complaint about his default on the payment of the loan. FINRA staff issued the requests pursuant to Rule 8210 on November 24, 2008, January 7, 2009, and February 18, 2009.²⁰ The staff sent each request to Romanoff's CRD address by certified and first-class mail. FINRA staff received signed delivery receipts for the first two certified mailings.²¹ The United States Postal Service returned the third certified mailing to the staff because it had not been claimed by the addressee.²² Romanoff did not respond to any of the requests.

The facts alleged in the Second Cause of Action establish that Romanoff violated Rule 8210, NASD Conduct Rule 2110, and FINRA Conduct Rule 2010 by failing to respond to the information requests.²³

¹⁹ Rule 2370 contains other conditions under which borrowing from customers is permissible; however, they are not relevant here because Raymond James did not permit borrowing under any circumstances.

²⁰ Compl. ¶¶ 14-16.

²¹ Compl. ¶¶ 14-15. The signatures on the receipt cards were not legible.

²² Compl. ¶ 16.

²³ NASD Rule 2110 and FINRA Rule 2010 that replaced it each rule requires members to observe high standards of commercial honor and just and equitable principles of trade in the conduct of its business.

III. Sanctions

A. Borrowing Money from a Customer

The FINRA Sanction Guidelines (“Sanction Guidelines”) do not provide specific guidance for borrowing money from a customer in violation of Conduct Rule 2370. However, an NASD Notice to Members provides guidance on Rule 2370’s importance: “Loans between registered persons and their customers are of legitimate interest to NASD and member firms because of the potential for misconduct. NASD has brought disciplinary action against registered persons who have violated just and equitable principles of trade by taking unfair advantage of their customers by inducing them to lend money in disregard of the customers’ best interests, or by borrowing funds from, but not repaying, customers.”²⁴

According to the General Principles Applicable to All Sanction Determinations (“General Principles”), adjudicators should impose sanctions that are designed to deter future misconduct and improve overall business standards. In addition, adjudicators are directed to consider whether the respondent attempted to conceal his misconduct, whether he accepted responsibility for and acknowledged the misconduct to his employer or a regulator prior to detection and intervention by the employer or regulator, and whether he engaged in the misconduct over an extended period of time.²⁵

The Hearing Officer finds that Romanoff’s misconduct was egregious and a bar is warranted. Romanoff borrowed \$70,000 from his customers, which he failed to repay. In addition, on July 27, 2006, Romanoff provided Raymond James with a Financial Advisor Compliance Questionnaire, which falsely represented that he had not entered into any loan with a

²⁴ NASD Notice to Members 03-62, October 2003.

²⁵ FINRA Sanction Guidelines 6 (2007) (Principal Considerations in Determining Sanctions Nos. 2, 9, and 10), available at www.finra.org/sanctionguidelines.

client.²⁶ Romanoff's misrepresentation is an aggravating factor that supports the Hearing Officer's conclusion that a bar is necessary to protect the investing public. Accordingly, the Hearing Officer will bar Romanoff for this violation.

In addition, the Hearing Officer will order Romanoff to pay restitution to customers WF and MF in the principal sum of \$70,000, plus interest on the outstanding balance until it is paid in full.

B. Failure to Respond to Requests for Information

The Sanction Guidelines recommend a bar when a respondent fails to respond in any manner to a request for information and there are no mitigating factors.²⁷ Here, Romanoff failed to respond to requests that he provide information regarding the loan with WF and MF. There are no mitigating factors. Accordingly, the Hearing Officer will bar Romanoff for this violation as well.

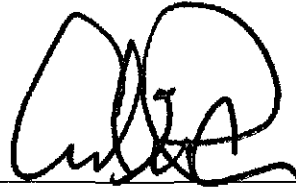
IV. Order

John C. Romanoff is barred from associating with any FINRA member firm in any capacity for: (1) borrowing money from customers, in violation of NASD Conduct Rules 2370 and 2110, as alleged in the First Cause of Action; and (2) failing to respond to requests for information, in violation of Procedural Rule 8210, NASD Conduct Rule 2110, and FINRA Conduct Rule 2010, as alleged in the Second Cause of Action. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.

²⁶ Blackston Decl. ¶ 30.

²⁷ FINRA Sanction Guidelines 35 (2007).

In addition, Romanoff is ordered to pay restitution to WF and MF in the principal amount of \$70,000, plus interest thereon at the rate established under Section 6621(a)(2) of the Internal Revenue Code from July 1, 2008, until paid.²⁸



Andrew H. Perkins
Hearing Officer

Copies to:

John C. Romanoff (*via FedEx, next day delivery, and first-class mail*)
Laura Leigh Blackston, Esq. (*via electronic and first-class mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

²⁸ 26 U.S.C. § 6621(a)(2). The interest rate, which is used by the Internal Revenue Service to determine interest due on underpaid taxes, is adjusted each quarter and reflects market conditions. The customers are identified in the addendum to this decision, which is served only on the parties.

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

John C. Romanoff
(CRD No. 3097147),

Respondents.

DISCIPLINARY PROCEEDING
No. 2008014858101

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. While Respondent John C. Romanoff (hereinafter "Respondent" or "Romanoff") was associated with a FINRA member, he solicited and borrowed \$70,000 from his customers, WF and MF, in violation of his employer firm's written procedures and of NASD Conduct Rules 2370 and 2110. Romanoff failed to repay the loan. Romanoff also failed to respond to FINRA requests for information and documents, in violation of NASD Procedural Rule 8210, NASD Conduct Rule 2110, and FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Romanoff first became registered with FINRA on October 23, 1998, as a General Securities Representative. In October 2001, Romanoff left Raymond James & Associates, Inc. ("Raymond James" or "firm") and associated with another firm. On

May 14, 2003, Romanoff re-registered with Raymond James. Romanoff, during all periods mentioned herein, was associated with Raymond James and was registered with FINRA under Article V of the By-Laws as a General Securities Representative. On January 16, 2007, Raymond James filed a Form U5 on behalf of Romanoff reporting his involuntary termination on January 4, 2007, due to his attendance problems and tardiness. Subsequently, Romanoff became registered with another FINRA firm from January 11, 2007 until May 14, 2008 as a General Securities Representative.

3. Romanoff is not currently registered with a FINRA member firm, but he remains subject to the jurisdiction of FINRA until May 13, 2010, pursuant to Article V, Section 4 of FINRA's By-Laws, which provides for a two-year period of retained jurisdiction over formerly registered persons following the effective date of termination of registration.

FIRST CAUSE OF ACTION

Borrowing Funds from Customer - NASD Conduct Rules 2370 and 2110,
Against Respondent Romanoff

4. The Department realleges and incorporates by reference paragraphs 1-3 above.
5. In May 2006, while employed by and registered through Raymond James, Romanoff solicited and borrowed \$70,000 from customers WF and MF, a husband and wife.
6. The loan from WF and MF was evidenced by a notarized promissory note dated May 8, 2006, executed by "Borrowers John C. Romanoff and Lindy D. Romanoff and Lenders WF Trust and MF Trust." Per the note, the purpose of the loan was to secure the payment of the purchase price of the following security (the 'Security'):

Residents[sic] [REDACTED]. Title to the Security will be retained by WF and MF until all payments due under this note are paid in full.” The loan also required payment of interest at a rate of 10 percent per annum and repayment of the principal balance in sixty months. However, the note terms also provided that if the Romanoffs defaulted in the performance of any obligation under the Note, then the WF and MF could immediately declare the principal amount owing and interest due under the Note and after a ten-day demand, the security collateralizing the Note would be immediately provided to WF and MF with WF and MF granted all rights of possession as the owner.

7. For several months, Romanoff paid interest on the loan but failed to pay any principal owed. By July 2008, Romanoff had defaulted on the agreed-upon terms of the promissory note. WF and MF made a demand on Romanoff and then complained to the firm.
8. When Romanoff received the loan from WF and MF, Raymond James had written procedures forbidding registered representatives from borrowing funds from customers of the firm.
9. The loan was not approved by his employer firm and was in violation of the firm’s written policy on borrowing funds from customers. Romanoff had attested that he had read the firm’s Compliance Manual and reviewed and understood the firm’s Financial Advisor Compliance Questionnaire and that he had answered the questions truthfully. The firm’s “Generally Prohibited Practices” included “Borrowing money from clients.”

10. On July 27, 2006 Romanoff completed and answered a firm Financial Advisor Compliance Questionnaire. Romanoff responded “No,” when asked “Are you involved in any outside business relationships with clients including but not limited to the giving or receiving of loans.” (emphasis in original)
11. Romanoff did not notify Raymond James of the loan or seek or obtain the firm’s approval prior to accepting the loan. Romanoff has also failed to repay the loan. By accepting a loan from WF and MF, Romanoff violated NASD Rules 2370 and 2110.
12. Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rules 2370 and 2110 by John C. Romanoff.

SECOND CAUSE OF ACTION

Failure to Respond to FINRA Requests for Information and Documents –
NASD Rule 8210, NASD Conduct Rule 2110, FINRA Rules 8210 and 2010,
Against Respondent Romanoff

13. The Department realleges and incorporates by reference paragraphs 1-12 above.
14. On or about November 24, 2008, FINRA staff sent a letter via certified mail and first class mail to Romanoff’s residential address, according to the Central Registration Depository (CRD), notifying Romanoff that FINRA staff was investigating allegations by WF and MF involving the \$70,000 loan discussed above in the First Cause of Action. The letter requested, pursuant to NASD Procedural Rule 8210, that Romanoff provide a written statement and documents in response to the allegations. The certified receipt was returned to FINRA with an illegible signature and dated “11/28/08.” The correspondence sent via first class mail was not returned to FINRA.

The requested information and documents were to be provided on or before December 8, 2008. Romanoff did not provide a statement or documents to FINRA staff.

15. On January 7, 2009 FINRA staff sent a second request for information and documents, pursuant to FINRA Rule 8210, via certified mail and first class mail to Romanoff's CRD address. The correspondence also requested Romanoff to provide a statement and documents related to the First Cause of Action. The certified receipt was returned to FINRA with an illegible signature and dated "1/10/09." The first class mailing was not returned to FINRA. The requested information and documents were to be provided on or before January 21, 2009. Romanoff did not provide a statement or documents to FINRA staff.

16. On February 18, 2009 FINRA staff sent a third request for information and documents, pursuant to FINRA Rule 8210, via certified mail and first class mail to Romanoff's CRD address. The correspondence also requested Romanoff to provide a statement and documents related to the First Cause of Action. The correspondence sent by certified mail was returned to FINRA with a U.S. Postal Service label "Return to Sender - Unclaimed Unable to Forward." The first class mailing was not returned to FINRA. The requested information and documents were to be provided on or before February 24, 2009. Romanoff did not provide a statement or documents to FINRA staff.

17. To date, Romanoff has failed to respond in any manner to the requests to provide information and documents.

18. Such acts, practices, and conduct constitute separate and distinct violations of NASD
Procedural Rule 8210, NASD Conduct Rule 2110, and FINRA Rules 8210 and 2010
by John C. Romanoff.

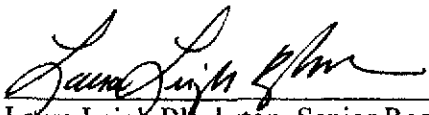
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a) 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 FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: April 16, 2010



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