

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DEVIN R. ANAND
(CRD No. 5160369),

Respondent.

Disciplinary Proceeding
No. 2009017302001

Hearing Officer – LBB

AMENDED DEFAULT DECISION *

Dated: June 24, 2011

Respondent is barred for misappropriation of customer funds, in violation of NASD Conduct Rule 2330(a) and FINRA Conduct Rule 2010. Respondent is also barred for misappropriation of funds from a non-customer and creating false books and records, in violation of FINRA Conduct Rule 2010 and NASD Conduct Rule 3110. Respondent is further barred for failure to respond to requests for information, in violation of FINRA Procedural Rule 8210 and Conduct Rule 2010.

Appearances

Michael S. Choi, Senior Counsel, New York, New York, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

The Department of Enforcement filed the three-cause Complaint in this disciplinary proceeding on February 7, 2011, charging Respondent Devin R. Anand ("Respondent") with (1) misappropriation of customer funds, in violation of NASD Conduct Rule 2330(a) and FINRA Conduct Rule 2010; (2) misappropriation of funds of a non-customer and causing Respondent's firm to have inaccurate books and records, in

* On June 23, 2011, the Department of Enforcement filed a Motion to Amend Caption and Reissue Default Decision to correct the omission of a number from the disciplinary action number which was made by Enforcement in the initial filing of this matter.

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violation of FINRA Conduct Rule 2010 and NASD Conduct Rule 3110; and (3) failure to respond to requests for information, in violation of FINRA Procedural Rule 8210 and Conduct Rule 2010. Respondent has not answered or otherwise responded to the Complaint. By failing to respond, Respondent defaulted.¹

Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions on April 28, 2011. Respondent has not filed a response to Enforcement's motion. Accordingly, pursuant to FINRA Procedural Rules 9215(f) and 9269, Enforcement's motion is granted, and the allegations of the Complaint are deemed admitted.²

I. Respondent's Default

On February 7, 2011, Enforcement served Respondent with the Complaint and Notice of Complaint by certified mail at his residential address, as listed in the Central Registration Depository ("CRD address"). Decl. ¶ 7; CX-2. The return receipt was returned to Enforcement on February 14, 2011, with an illegible signature. Decl. ¶ 8; CX-3. Respondent did not file an Answer or otherwise respond to the Complaint.

On March 9, 2011, Enforcement served the Complaint, Notice of Complaint, and Second Notice of Complaint on Respondent at his CRD address by certified mail.

¹ As of July 30, 2007, NASD consolidated with the member regulation and enforcement functions of NYSE Regulation 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, including certain conduct rules and procedural rules. *See* Regulatory Notice 08-57 (Oct. 2008). This decision refers to and relies on the Conduct and Procedural Rules that were in effect at the time of each alleged violation. The applicable rules are available at www.finra.org/rules.

² The factual determinations in this decision are based on the allegations of the attached Complaint and the materials Enforcement filed with its default motion, which included the Declaration of Michael S. Choi in Support of Motion for the Entry of Default Decision, and supporting documentation that was attached to counsel's declaration. Counsel's declaration is cited herein as "Decl. ¶ ____." The supporting documentation is cited as "CX-____."

Decl. ¶ 10; CX-4. Enforcement received the return receipt, bearing the signature of "Anand Raj," on March 15, 2011. Decl. ¶ 11; CX-5. Respondent has not filed an Answer or otherwise responded to the Complaint.

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

II. Jurisdiction

Respondent first entered the securities industry as an associated person of FINRA member firm Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch") in May 2006. From March 2008 until the termination of his employment on February 27, 2009, Respondent was a registered representative at Merrill Lynch. Complaint ¶ 4; CX-1.

Pursuant to Article V, Section 4 of FINRA's By-Laws, Respondent is subject to FINRA's jurisdiction because the Complaint was filed within two years after the termination of his registration with a member firm, and the Complaint charges him with violations that occurred while he was registered with a member firm, and with failure to respond to requests for information issued within two years after the termination of his registration with a member firm.

III. Violations

A. First Cause of Action: Misappropriation of Customer Funds (Conversion), in Violation of NASD Rule 2330(a) and FINRA Rule 2010

In November 2008, Respondent became the registered representative assigned to the Merrill Lynch account belonging to customer L.L. Complaint ¶ 7. On January 14, 2009, Respondent wired \$6,000 from L.L.'s account to an outside bank account belonging to a company in which Respondent had a business interest

("Respondent's Company"). Complaint ¶ 8. On January 22, 2009, Respondent wired \$4,000 from L.L.'s account to an outside bank account belonging to Respondent's Company. Complaint ¶ 9. On February 5, 2009, Respondent wired \$24,000 from L.L.'s account to an outside bank account belonging to L.R., an employee of RI, a business owned by Respondent's parents. Complaint ¶ 10. Also on February 5, 2009, Respondent wired \$17,289 from L.L.'s account to an outside bank account belonging to a company that leased property to RI. Complaint ¶ 11. On February 23, Respondent attempted to wire \$19,000 from L.L.'s account to L.R. and \$5,000 to Respondent's Company, but neither wire was completed by Merrill Lynch. Complaint ¶ 12. L.L. did not authorize and had no knowledge of any of the wire transfers referenced above. Complaint ¶ 13.

NASD Conduct Rule 2330(a) provides that "[n]o member or person associated with a member shall make improper use of a customer's securities or funds." "An associated person makes improper use of customer funds where he or she fails to apply the funds (or uses them for some purpose other than) as directed by the customer."³ Even when misuse of customer funds is not committed in connection with a securities transaction, it constitutes "unethical business-related conduct."⁴ "Improper use rises to the level of conversion 'when the associated person intends permanently to deprive' the customer of the use of his funds or securities."⁵ Misuse of customer funds in violation of

³ *Dep't of Enforcement v. Patel*, No. C02990052, 2001 NASD Discip. LEXIS 42, at *24-25 (N.A.C. May 23, 2001).

⁴ *Daniel D. Manoff*, Exch. Act. Rel. No. 46708, 2002 SEC LEXIS 2684 (Oct. 23, 2002).

⁵ *Dep't of Enforcement v. Mullins*, No. 20070094345, 2011 FINRA Discip. LEXIS __, slip op. at 10 (Feb. 24, 2011) (available at www.finra.org/Industry/Enforcement/Adjudication/NAC/DisciplinaryDecisions/2011/P123230) (citing *Dist. Bus. Conduct Comm. v. Arnold*, 1997 NASD Discip. LEXIS 79, at *10 n.8 (N.B.C.C. Feb. 25, 1997)).

NASD Conduct Rule 2330 also violates FINRA Conduct Rule 2010.⁶

The facts alleged in the Complaint constitute improper use of a customer's funds. Respondent used the funds for a purpose that was not directed by customer L.L. Respondent's conduct also constitutes conversion. The repeated wiring of funds to accounts associated with Respondent, without the authorization or knowledge of the customer, is strong evidence that Respondent intended to deprive L.L. of his funds permanently.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent violated NASD Conduct Rule 2330(a) and FINRA Conduct Rule 2010 by misappropriation of customer funds.

B. Second Cause of Action: Misappropriation and Causing Inaccurate Books and Records in Violation of NASD Conduct Rule 3110 and FINRA Conduct Rule 2010

1. Facts

Respondent misappropriated funds from a non-customer by creating a false account, borrowing funds from her 401(k) account without her knowledge, depositing money into a bogus account he created in the non-customer's name at Merrill Lynch, then wiring funds out of the account for Respondent's benefit.

On January 23, 2009, Respondent opened an account at Merrill Lynch in the name of S.M. ("the S.M. account"), an employee of RI, the business owned by Respondent's parents. Complaint ¶ 16. S.M. did not authorize Respondent to open an account and did not complete or sign any new account opening documents.

⁶ *Dep't of Enforcement v. Thomas*, No. C10030082, 2004 NASD Discip. LEXIS 49, at *6 n.10 (O.H.O. June 30, 2004); *Dep't of Enforcement v. Patel*, No. C02990052, 2001 NASD Discip. LEXIS 42, at *24-25 (N.A.C. May 23, 2001) (affirming the decision of a Hearing Panel barring a representative for misuse of customer funds by depositing customer funds into his own account rather than investing them as directed by the customers).

Complaint ¶ 17. In furtherance of this scheme, Respondent created false documents relating to the opening of the account. Complaint ¶¶ 17, 23; Decl. ¶ 19(c). Respondent funded the S.M. account by a \$49,500 loan from S.M.'s 401(k) account, which S.M. had as an employee of RI. Complaint ¶ 18.

On January 28, 2009, Respondent wired \$6,000 from the S.M. account to an outside bank account belonging to RI. Complaint ¶ 19. On January 29, 2009, Respondent wired \$15,000 from the S.M. account to an outside bank account belonging to RI. Complaint ¶ 20. On January 30, 2009, Respondent wired \$14,683 from the S.M. account to an outside bank account belonging to a company that leased property to RI. Complaint ¶ 21. S.M. did not authorize anyone to take a loan against her 401(k) account in January 2009, and did not authorize the wires referenced above and in paragraphs 19-21 of the Complaint. Complaint ¶ 22.

**2. Respondent Violated FINRA Conduct Rule 2010 by
Misappropriating Funds from a Non-Customer**

The Second Cause of Action charges that by virtue of the facts alleged in the Complaint, Respondent misappropriated money in violation of FINRA Conduct Rule 2010. FINRA has regularly found that associated persons have violated Rule 2010 by converting the funds of non-customers.⁷

⁷ *Dist. Bus. Conduct Comm. v. Vail*, No. C06920051, 1994 NASD Discip. LEXIS 192, at *13 (N.B.C.C. Sept. 22, 1994), *aff'd*, *Henry E. Vail*, 52 S.E.C. 339, 342 (1995), *aff'd*, 101 F.3d 37 (5th Cir. 1996) (barred for misappropriation of funds of private political club); *Daniel D. Manoff*, Exchange Act Rel. No. 46708, 2002 SEC LEXIS 2684 (Oct. 23, 2002) (barred for unauthorized use of co-worker's credit card numbers); *Dist. Bus. Conduct Comm. v. Kwikkel-Elliott*, No. C04960004, 1998 NASD Discip. LEXIS 4 (N.B.C.C. Jan. 16, 1998) (barred for converting funds from employer by submission of false expense reimbursement requests).

The allegations of the Complaint are sufficient to establish that Respondent misappropriated money by transferring money from the S.M. account at Merrill Lynch into accounts that were connected to him, thereby violating FINRA's Conduct Rule 2010.

3. Respondent Caused Merrill Lynch to Maintain Inaccurate Books and Records by Submitting Falsified Account Documents, in Violation of NASD Conduct Rule 3110 and FINRA Conduct Rule 2010

Respondent's creation of false account documents for S.M. and submission of the false documents to his firm caused Merrill Lynch's records to be inaccurate. Rule 3110(a) provides that "each member shall make and preserve books, accounts, records, memoranda, and correspondence in conformity with all applicable laws, rules regulations ... as prescribed by SEC Rule 17a-3...."⁸ SEC Rule 17a-3(a) requires every broker-dealer registered pursuant to Section 15 of the Securities Exchange Act of 1934 to make and keep current certain books and records relating to its business. SEC Rule 17a-3(a)(17)(i)(A) requires a firm to maintain account records with customer information, including the customer's tax identification number or social security number, date of birth, address, telephone number, annual income, and net worth. Entering inaccurate information in a member firm's books and records violates both the requirement of NASD Conduct Rule 3110 to keep accurate books and records, and of FINRA Conduct

⁸ Individuals may violate NASD Rules 3110 and 2110 when they fail to comply with Exchange Act Rules 17a-3 or 17a-4, or are otherwise responsible for creating and maintaining inaccurate books and records. See *North Woodward Fin. Corp.*, Exchange Act Rel. No. 60505, 2009 SEC LEXIS 2796, at *23 (Aug. 19, 2009).

Rule 2010 that members observe high standards of commercial honor and just and equitable principles of trade.⁹

The allegations set forth above and in the Complaint, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent violated FINRA Conduct Rule 2010 and NASD Conduct Rule 3110 by creating false records in connection with the opening of the S.M. account and submitting them to Merrill Lynch.

C. Third Cause of Action: Failure to Respond to Requests for Information, in Violation of FINRA Procedural Rule 8210 and Conduct Rule 2010

Merrill Lynch filed a Uniform Termination Notice for Securities Industry Registration ("Form U5"), dated March 9, 2009, which indicated that Respondent's employment with the firm had been terminated on February 27, 2009, for, among other things, "transferring a client's funds to an account controlled by [Respondent] without the client's authorization," and opening an "account in the name of a client without that client's authorization and deposit[ing] checks which he then liquidated through wire transfer." Complaint ¶ 25; CX-6.¹⁰ On April 7, FINRA staff sent a letter to Respondent by first-class and certified mail at his CRD address, requesting, pursuant to FINRA Rule 8210, that he provide a detailed written statement regarding the circumstances of the termination of his employment with Merrill Lynch. The letter directed Respondent to respond by May 7, 2009. The letter sent by certified mail was delivered to Respondent's CRD address, where someone other than Respondent signed for the letter. Respondent

⁹ *Dep't of Enforcement v. Nouchi*, No. E102004083705, 2009 FINRA Discip. LEXIS 8 (N.A.C. Aug. 7, 2009); *see also, Fox & Co. Inv., Inc.*, Exchange Act Rel. No. 52697, 2005 SEC LEXIS 2822, at *30-32 (Oct. 28, 2005); *Geoffrey Ortiz*, Exchange Act Rel. No. 58416, 2008 SEC LEXIS 2401, at *17 (Aug. 22, 2008).

¹⁰ FINRA's investigation of Respondent began in March 2009, following Enforcement's receipt of the Form U5. FINRA staff investigated Respondent's conduct to determine if he had violated various NASD and FINRA Rules. Decl. ¶¶ 14-15.

did not respond to the letter. The first-class mailing was not returned by the Postal Service. Complaint ¶¶ 26-27.

On May 29, 2009, FINRA staff sent a second request for information, pursuant to Rule 8210, to Respondent at his CRD address by first-class and certified mail. The second request also requested information related to the circumstances of the termination of Respondent's employment. The certified mailing was delivered to Respondent's CRD address, and the staff received a return receipt on which Respondent's name had been signed. The letter required a response no later than June 12, 2009. The first-class mailing was not returned. Complaint ¶¶ 28-29. FINRA staff also sent third and fourth requests to Respondent at his CRD address on January 19, 2010, and February 16, 2010, by first-class and certified mail, requesting information relating to the termination of Respondent's employment, pursuant to FINRA Procedural Rule 8210. The first-class mailings were not returned. The third certified mailing was returned unclaimed, and the fourth was accepted by someone other than Respondent. Respondent failed to respond. Complaint ¶¶ 30-33.

On June 25, 2010, FINRA staff sent a request to Respondent at his CRD address by first-class and certified mail, directing him to appear and testify at an on-the-record interview ("OTR") on July 22, 2010, pursuant to Rule 8210. The first-class mailing was not returned; the certified mailing was returned unclaimed. Respondent failed to appear and testify. Complaint ¶¶ 34-35.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to provide documents and

information, and failed to appear and testify at an OTR, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010.¹¹

IV. Sanctions

A bar is standard for conversion.¹² There are no mitigating factors. Accordingly, a bar is the appropriate sanction for Respondent's conversion of customer funds, in violation of NASD Conduct Rule 2330(a) and FINRA Conduct Rule 2010. A bar is also the appropriate sanction for misappropriation, or conversion, with respect to the funds Respondent misappropriated from the false account that Respondent created for S.M. The charge of creating and submitting false documents to Merrill Lynch, which was included in the Second Cause of Action, provides further support for the imposition of a bar for Respondent's scheme to convert funds from S.M.'s 401(k) account.¹³

The FINRA Sanction Guidelines recommend a bar where a respondent fails to respond in any manner to a request for information issued pursuant to Procedural Rule 8210.¹⁴ Where mitigation exists, the Sanction Guidelines recommend consideration of a suspension in all capacities of up to two years. Respondent failed to respond to four requests for information and documents, and failed to appear and testify at an OTR. There are no mitigating factors. A bar is the appropriate sanction.

¹¹ A violation of FINRA Procedural Rule 8210 is also a violation of FINRA Conduct Rule 2010. *Dep't of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001) (violation of NASD Procedural Rule 8210 was a violation of NASD Conduct Rule 2110).

¹² *FINRA Sanction Guidelines* 36 (2011).

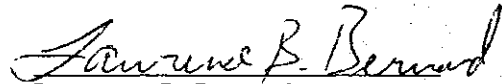
¹³ Enforcement is not seeking restitution because neither customer L.L. nor S.M. ultimately sustained losses. Merrill Lynch repaid customer L.L. for his losses. S.M. stopped payment on the loan against her 401(k), but Merrill Lynch completed the wires because, at Respondent's request, Merrill Lynch lifted the hold on the check before the check had cleared. See Motion for Entry of Default Decision and Request for Sanctions at 7, n.9; 9, n.16; Decl. ¶ 19(a). Thus, Merrill Lynch suffered the loss resulting from Respondent's misappropriation from S.M.

¹⁴ *FINRA Sanction Guidelines* 33 (2011).

V. Conclusion

Respondent Devin R. Anand is barred for misappropriation of customer funds in violation of NASD Conduct Rule 2330(a) and FINRA Conduct Rule 2010. Respondent is also barred for a separate misappropriation of funds and creation of false books and records that he submitted to his firm, in violation of NASD Conduct Rule 3110 and FINRA Conduct Rule 2010. Respondent is further barred for failure to respond to requests for information, in violation of FINRA Procedural Rule 8210 and Conduct Rule 2010.

The bars will become effective immediately if this Default Decision becomes FINRA's final disciplinary action in this proceeding.



Lawrence B. Bernard
Hearing Officer

Copies to: Devin R. Anand (*via overnight courier and first-class mail*)
Michael S. Choi, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

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

Department of Enforcement,

Complainant,

v.

DEVIN R. ANAND
(CRD No. 5160369),

Respondent.

DISCIPLINARY PROCEEDING
No. 200901702001

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between January 14, 2009 and February 23, 2009, Respondent misappropriated customer funds by wiring funds from the customer's account to outside bank accounts associated with Respondent in violation of NASD Rule 2330(a) and FINRA Rule 2010.
2. On or about January 23, 2009, Respondent opened an account in the name of an individual, who was not a customer of his member firm employer, using funds obtained from a loan against the individual's 401(k) account, without the individual's permission, authority or knowledge. Once the account was opened, Respondent misappropriated the funds by wiring them to outside bank accounts associated with Respondent. In opening the falsified account, Respondent caused the books and records of his member firm employer to be inaccurate. By virtue of the foregoing,

Respondent misappropriated money in violation of FINRA Rule 2010 and caused his firm to create and maintain inaccurate books and records in violation of NASD Rule 3110 and FINRA Rule 2010.

3. Respondent failed to respond to multiple requests for information and failed to appear for testimony in violation of FINRA Rules 8210 and 2010.

RESPONDENT(S) AND JURISDICTION

4. Respondent entered the securities industry in May 2006 as an associated person at Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch" or the "Firm"), a FINRA member firm. From March 2008, until his termination on or about February 27, 2009, Respondent was a registered representative through the Firm as a General Securities Representative.
5. Although Respondent has not been associated with a FINRA member firm since February 27, 2009, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after the date upon which he ceased to be associated with a FINRA member and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA member and with failing to respond to FINRA requests for information during the two-year period after the date upon which he ceased to be associated with a FINRA member.

FIRST CAUSE OF ACTION (MISAPPROPRIATION – NASD RULE 2330[A] AND FINRA RULE 2010)

6. The Department realleges and incorporates by reference paragraphs 1-5 above.

7. In or around November 2008, Respondent became the registered representative assigned to the Firm account belonging to LL ("LL Account").
8. On January 14, 2009, Respondent wired \$6,000 from the LL Account to an outside bank account belonging to a company in which Respondent had a business interest ("Respondent's Company").
9. On January 22, 2009, Respondent wired \$4,000 from the LL Account to an outside bank account belonging Respondent's Company.
10. On February 5, 2009, Respondent wired \$24,000 from the LL Account to an outside bank account belonging to LR, an employee of RI, a business owned by Respondent's parents.
11. On February 5, 2009, Respondent wired \$17,289 from the LL Account to an outside bank account belonging to a company that leased property to RI.
12. On February 23, 2009, Respondent attempted to wire \$19,000 from the LL Account to LR and \$5,000 from the LL Account to Respondent's Company. Neither of those two wires was completed by the Firm.
13. LL did not authorize and had no knowledge of any of the wires referenced in paragraphs 8-12.
14. As a result of the foregoing, Respondent violated NASD Rule 2330(a) and FINRA Rule 2010.

**SECOND CAUSE OF ACTION
(MISAPPROPRIATION AND CAUSING INACCURATE BOOKS AND RECORDS
NASD RULE 3110 AND FINRA RULE 2010)**

15. The Department realleges and incorporates by reference paragraphs 1-14 above.

16. On or about January 23, 2009, Respondent opened an account at the Firm in the name of SM ("SM Account"), an employee of RI.
17. SM did not authorize Respondent to open an account at the Firm and did not complete or sign any new account opening documents.
18. The SM Account was funded by a loan in the amount of \$49,500 that was made against SM's 401(k) account which SM had as an employee of RI.
19. On January 28, 2009, Respondent wired \$6,000 from the SM Account to an outside bank account belonging to RI.
20. On January 29, 2009, Respondent wired \$15,000 from the SM Account to an outside bank account belonging to RI.
21. On January 30, 2009, Respondent wired \$14,683 from the SM Account to an outside bank account belonging to a company that leased property to RI.
22. SM did not authorize anyone to take a loan against her 401(k) account in or around January 2009 and did not authorize any of the wires referenced in paragraphs 19-21.
23. By virtue of the foregoing, Respondent misappropriated money in violation of FINRA Rule 2010 and falsified new account documents, thereby causing his firm to create and maintain inaccurate books and records in violation of NASD Rules 3110 and FINRA Rule 2010.

**THIRD CAUSE OF ACTION
(FAILURE TO RESPOND – FINRA RULES 8210 AND 2010)**

24. The Department realleges and incorporates by reference paragraphs 1-23 above.

25. A Uniform Termination Notice for Securities Industry Registration ("Form U5"), dated March 9, 2009, was filed by the Firm indicating that Respondent had been terminated on February 27, 2009, for among other things, "transferring a client's funds to an account controlled by [Respondent] without the client's authorization" and opening an "account in the name of a client without that client's authorization and deposit[ing] checks which he then liquidated through wire transfer."
26. On April 7, 2009, FINRA staff sent a letter to Respondent pursuant to FINRA Rule 8210 requesting that he provide a detailed written statement regarding the circumstances of his termination from Merrill Lynch. The letter was sent to Respondent's last known residential address as reflected in the Central Registration Depository (the "CRD address"), via United States Postal Service first class mail and certified mail, return receipt requested. The letter required a response no later than May 7, 2009.
27. The April 7 Letter sent via first class mail was not returned to FINRA. The copy of this letter sent via certified mail with return receipt requested was delivered to the CRD Address on April 13, 2009, and signed for by a person other than Respondent. Respondent did not respond to the letter.
28. On May 29, 2009, FINRA staff sent a second request for information pursuant to FINRA Rule 8210 relating to the same subject matter, via United States Postal Service first class mail and certified mail, return receipt requested, to Respondent at the CRD Address. The letter required a response no later than June 12, 2009.
29. The May 29 letter sent via first class mail was not returned to FINRA. The copy of the letter sent via certified mail with return receipt requested was delivered to the

CRD Address on June 2, 2009, and the return receipt bore a signature in Respondent's name. Respondent did not respond to the letter.

30. On January 19, 2010, FINRA staff sent a third request for information pursuant to FINRA Rule 8210 relating to the same subject matter, via United States Postal Service first class mail and certified mail, return receipt requested, to Respondent at the CRD Address. The letter required a response no later than February 9, 2010.
31. The January 19 Letter sent via first class mail was not returned to FINRA. The copy of the letter sent via certified mail with return receipt requested was returned to FINRA with a notation, "Return to Sender. Unclaimed. Unable to forward" and dated February 14, 2010. Respondent did not respond to the letter.
32. On February 16, 2010, FINRA staff sent a fourth request for information pursuant to FINRA Rule 8210 relating to the same subject matter, via United States Postal Service first class mail and certified mail, return receipt requested, to Respondent at the CRD Address. The letter required a response no later than March 9, 2010.
33. The February 16 Letter sent via first class mail was not returned to FINRA. The copy of the letter sent via certified mail with return receipt requested was delivered to the CRD Address on February 18, 2010, and signed for with a signature of someone other than Respondent. Respondent did not respond to the letter.
34. On June 25, 2010, FINRA staff sent a request to Respondent at the CRD Address via United States Postal Service first class mail and certified mail, return receipt requested, to appear and testify at FINRA's office located at 14 Wall Street, New York, NY 10005 on July 22, 2010.

35. The June 25 Letter sent via first class mail was not returned to FINRA. The copy of the letter sent via certified mail with return receipt requested was returned to FINRA with a notation, "Return to Sender. Unclaimed. Unable to forward" and dated July 21, 2010. Respondent did not appear and testify on July 22, 2010.

36. To date, FINRA has not received any response from Respondent to the foregoing. Such acts, practices and conduct constitute separate and distinct violations of FINRA Rules 8210 and 2010.

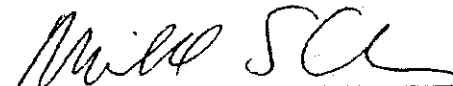
RELIEF REQUESTED

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 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: February 7, 2011


Michael S. Choi, Senior Counsel
Penny Rosenberg, Enforcement Director
FINRA Department of Enforcement
14 Wall Street, 14th Floor
New York, NY 10005
Phone (646)315-7323; Fax (202)689-3430
Michael.Choi@finra.org