

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

SANJEEV JAYANT SHAH  
(CRD No. 40009454),

Respondent.

Disciplinary Proceeding  
No. 20090177882

Hearing Officer – MC

**DEFAULT DECISION**

January 31, 2011

**Respondent (i) engaged in unauthorized trades, in violation of FINRA Conduct Rule 2010, NASD Conduct Rule 2110, and IM-2310-2; (ii) made improper use of customer funds, in violation of FINRA Conduct Rule 2010 and NASD Conduct Rule 2330(a); (iii) forged and falsified documents, in violation of FINRA Conduct Rule 2010; and (iv) failed to respond to requests to provide information and on-the-record testimony, in violation of FINRA Conduct Rule 2010 and Procedural Rule 8210. For each violation, Respondent is barred from associating with any FINRA member firm in any capacity.**

**Appearances:**

Matthew Meisner, Senior Counsel, and Jessica Hopper, Enforcement Director, Washington, DC, for the Department of Enforcement.

No appearance by or on behalf of Respondent Sanjeev Jayant Shah.

**DECISION**

**I. Introduction**

The Department of Enforcement filed the attached four-cause Complaint on September 13, 2010. The Complaint charges Respondent Sanjeev Jayant Shah with violations of NASD and

FINRA rules<sup>1</sup> involving unauthorized trading in customer accounts, improper use of more than \$3 million of customer funds, forgeries and falsifications of documents, and failure to provide information and on-the-record testimony as requested pursuant to FINRA Procedural Rule 8210.

Enforcement served the Complaint, Notice of Complaint, and Second Notice of Complaint upon Shah at his residential addresses listed in FINRA's Central Registration Depository ("CRD addresses"). Shah failed to file an Answer to the Complaint. As a result, Enforcement filed a Motion for Entry of Default Decision ("Default Motion") supported by the Declaration of Matthew Meisner and 21 exhibits on December 3, 2010.<sup>2</sup>

## **II. Findings of Fact and Conclusions of Law**

### **A. Jurisdiction**

During the period relevant to the Complaint, Shah was registered as a General Securities Representative through his employment with FINRA member firm Citigroup Global Markets Inc. ("CGM").<sup>3</sup> CGM terminated Shah's employment on March 28, 2009, after Shah admitted falsifying an e-mail message to a customer.<sup>4</sup> Following the termination of his employment with CGM, Shah has not been associated with any FINRA member firm.<sup>5</sup> Because his misconduct occurred while he was registered with FINRA, and because Enforcement filed the Complaint

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<sup>1</sup> 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. *See* Regulatory Notice 08-57 (Oct. 2008). This Decision refers to and relies on the conduct rules that were in effect at the time of the misconduct described in the Complaint. The applicable rules are available at [www.finra.org/rules](http://www.finra.org/rules).

<sup>2</sup> Enforcement's exhibits will be referred to as "CX-\_\_" with the appropriate exhibit and page numbers. The Declaration of Matthew Meisner will be referred to as "Decl." or "Meisner Declaration" with citation to specific paragraphs.

<sup>3</sup> Decl. ¶ 7.

<sup>4</sup> Decl. ¶ 8.

<sup>5</sup> Decl. ¶ 9.

within two years of the date Shah was last registered, pursuant to Article V, Section 4 of its By-Laws, FINRA retains jurisdiction over Shah for the purposes of this disciplinary proceeding.<sup>6</sup>

## **B. Default**

Enforcement served the Complaint and Notice of Complaint by certified mail at Shah's two CRD addresses on September 15, 2010.<sup>7</sup> Both mailings were returned to Enforcement.<sup>8</sup> Enforcement served the Complaint and Second Notice of Complaint by certified mail at Shah's CRD addresses on October 15, 2010.<sup>9</sup> Once again, both mailings were returned to Enforcement.<sup>10</sup> Shah has not filed an Answer to the Complaint. By serving the Complaint, First Notice of Complaint, and Second Notice of Complaint upon Shah at his CRD addresses by certified mail, Enforcement complied with the service requirements of Procedural Rule 9134.<sup>11</sup> By failing to file an Answer, Shah defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), and for the reasons given below, the Default Motion is granted.<sup>12, 13</sup>

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<sup>6</sup> FINRA By-Laws, Article V, Section 4.

<sup>7</sup> Decl. ¶ 11.

<sup>8</sup> The envelope containing one mailing was marked "unclaimed," and the second mailing was returned with a check mark in the box indicating "other" as reason for non-delivery. Neither indicated a forwarding or alternative address. Decl. ¶¶ 13-14.

<sup>9</sup> Decl. ¶ 16.

<sup>10</sup> One was marked "unclaimed;" the other was marked "Not Deliverable As Addressed, Unable to Forward." Decl. ¶ 18.

<sup>11</sup> *Dep't of Enforcement v. 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) (citing *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at \*20 (9th Cir. 1998)).

<sup>12</sup> Enforcement made efforts, including internet searches, to locate a current address for Shah, but has found no entity employing Shah and has no knowledge of any residential address for Shah other than the CRD addresses. Decl. ¶ 20.

<sup>13</sup> The factual determinations in this Default Decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as the Meisner Declaration and the exhibits filed by Enforcement.

### **C. The Violations**

Enforcement initiated its investigation of Shah's conduct in after CGM voluntarily reported to FINRA in April 2009 that it had terminated Shah's employment because he had falsified an e-mail message to a customer.<sup>14</sup>

#### **1. Shah Executed Three Unauthorized Trades**

Without authorization from customer CB, a bank, Shah executed three foreign currency trades in CB's account. First, on October 6, 2008, Shah made a \$22 million foreign currency sale on CB's behalf. Second, on December 10, 2008, Shah made a \$7 million foreign currency purchase in CB's account. Finally, on December 26, 2008, Shah made a \$9 million sale in the account.<sup>15</sup> These three foreign currency transactions resulted in margin calls generated for CB's account, and consequently other of the bank's accounts were frozen.<sup>16</sup> This, in turn, prevented CB from transferring funds from those accounts.<sup>17</sup>

These facts, as alleged in the Complaint and supported by the Meisner Declaration and the exhibits filed by Enforcement, are sufficient to establish, for the purposes of this Default Decision, that Shah violated NASD Conduct Rule 2110 and IM-2310-2 for the trades that occurred before December 15, 2008, and FINRA Conduct Rule 2010 for the last trade.

#### **2. Shah Made Improper Use of Customer Funds**

In order to satisfy the margin calls for CB's account, and to be able to transfer funds at CB's request, Shah made two unauthorized transfers of funds from another customer bank, BB,

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<sup>14</sup> Decl. ¶ 8.

<sup>15</sup> Decl. ¶ 23; CX-9, ¶ 6.

<sup>16</sup> Decl. ¶ 24.

<sup>17</sup> Decl. ¶ 25.

to CB's account. Shah made the first unauthorized transfer, for \$1.5 million, on March 3, 2009, and the second, for \$1.75 million, on March 12, 2009.<sup>18</sup>

These unauthorized transfers of BB's funds, as alleged in the Complaint and supported by the Mcisner Declaration and the exhibits filed by Enforcement, are sufficient to establish, for the purposes of this Default Decision, that Shah violated FINRA Conduct Rule 2010 and NASD Conduct Rule 2330(a).

### **3. Shah Forged and Falsified Documents**

To effect the unauthorized transfers of funds from the BB account to the CB account, Shah forged a signature and created falsified Letters of Authorization ("LOA") on two occasions. Shah did so by cutting the signature of a BB director from a BB account opening document and pasting it on a fabricated LOA.<sup>19</sup> On March 2, 2009, Shah fabricated an LOA directing the transfer of \$1.5 million from BB to CB. On March 11, 2009, Shah fabricated another LOA directing the transfer of \$1.75 million from BB to CB.<sup>20</sup>

In addition, Shah fabricated documents in a course of misconduct concerning another customer, AI. AI held a private equity investment that required it to meet capital calls. Shah received, but ignored, notices for AI to meet calls. Shah falsely told AI's beneficial owner that all outstanding calls had been met, and advised him to ignore notices that he, too, was receiving. In March 2009, Shah created a memorandum falsely representing that the calls had been met. To make the memorandum appear authentic, Shah fabricated an internal e-mail address for a

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<sup>18</sup> Decl. ¶¶ 28-29.

<sup>19</sup> Decl. ¶¶ 32-33.

<sup>20</sup> Complaint, ¶¶ 25-26.

fictitious CGM employee, and sent the memorandum to AI's beneficial owner to make him believe that the calls had been met.<sup>21</sup>

These forgeries and falsifications of documents, as alleged in the Complaint and supported by the Meisner Declaration and Enforcement's exhibits, are sufficient to establish, for the purposes of this Default Decision, that Shah violated FINRA Conduct Rule 2010.

#### **4. Shah Failed to Respond to Requests for Information**

In the course of its investigation of these matters, Enforcement sent a letter on October 13, 2009, requesting that Shah appear to provide on-the-record testimony pursuant to FINRA Rule 8210. Enforcement sent the letter by certified and first-class mail to Shah's first CRD address. The certified mailing was returned to Enforcement marked "Unclaimed; Returned to Sender." The first-class mailing was not returned. Shah failed to respond.<sup>22</sup>

Enforcement repeated the request for on-the-record testimony pursuant to Rule 8210 on November 5, 2009. On the same date, Enforcement sent a separate Rule 8210 request that Shah provide a signed statement. Both letters were sent by certified and first-class mail to Shah's first CRD address. Both certified mailings were returned marked "Unclaimed; Returned to Sender." Both first-class mailings were returned to Enforcement marked "Return to Sender; Not Deliverable As Addressed; Unable to Forward." As before, Shah failed to respond.<sup>23</sup>

On November 9, 2009, Enforcement repeated its efforts to obtain information from Shah by sending two additional 8210 requests, one for on-the-record testimony and the other for a signed statement. Both were sent by certified and first-class mail to Shah's second CRD address. The first-class mailings were not returned. The certified mailing requesting a signed statement

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<sup>21</sup> Decl. ¶¶ 34-35.

<sup>22</sup> Decl. ¶ 38.

<sup>23</sup> Decl. ¶ 39.

was returned to Enforcement marked “Unclaimed; Returned to Sender.” The certified mailing requesting Shah to appear for testimony was returned to Enforcement marked “Attempted Not Known; Return to Sender.” Shah again failed to respond.<sup>24</sup>

Finally, on December 10, 2009, Enforcement sent another request, this time in a single letter requesting Shah to provide testimony and a signed statement, to both of Shah’s CRD addresses, by certified and first-class mail. One certified mailing was returned to Enforcement marked “Other; Return to Sender” and “Moved.” The other certified mailing was returned to Enforcement marked “Not Deliverable As Addressed; Return To Sender” and “Moved.” One first-class mailing was returned to Enforcement marked “Attempted, Not Known; Returned To Sender.” The other first-class mailing was not returned. Shah, as before, failed to respond.<sup>25</sup>

These facts, as alleged in the Complaint and supported by the Meisner Declaration and Enforcement’s exhibits, suffice to establish, for the purposes of this Default Decision, that Shah violated FINRA Conduct Rule 2010 and Procedural Rule 8210.

### **III. Sanctions**

For his misconduct, Enforcement recommends the imposition of a bar upon Shah.<sup>26</sup>

For executing unauthorized transactions, FINRA’s Sanction Guidelines recommend, in egregious cases, the imposition of a suspension of up to two years or a bar. The Guidelines note that customer loss, efforts to conceal unauthorized trading, and attempts to evade regulatory

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<sup>24</sup> Decl. ¶ 40.

<sup>25</sup> Decl. ¶ 41.

<sup>26</sup> Enforcement represents that although BB suffered a loss from the unauthorized transfers of funds from its account, CGM repaid the funds to BB. For this reason, and because the federal government, in connection with its criminal prosecution of Shah, is seeking forfeiture of \$3.25 million of Shah’s assets, Enforcement is not recommending restitution. Default Motion, p. 10.

investigative efforts, all of which are present in this case, are factors supporting a finding that such trading is egregious.<sup>27</sup>

For improper use of customer funds, regardless of the amount, the Guidelines also recommend consideration of a bar in the absence of mitigation, such as a misunderstanding of a customer's intentions regarding the use of the funds.<sup>28</sup> There is no mitigation in this case. Furthermore, the multimillion-dollar amounts improperly used by Shah, and the fact that he misused BB's funds to conceal his unauthorized transactions in CB's account, are additional aggravating factors.

For forgery and falsification of documents, the Guidelines recommend consideration of a bar in egregious cases.<sup>29</sup> There are no mitigating factors in this case. Rather, the forgery and fabrication of the two Letters of Authorization were integral to Shah's fraudulent unauthorized transfer of funds, and the creation of the false e-mail was effected in order to mislead a different customer in a separate course of misconduct, clearly making these violations egregious.

Finally, for failure to respond in any manner to a request for information issued pursuant to Procedural Rule 8210, the Sanction Guidelines recommend a bar. If there are mitigating factors, the Guidelines recommend consideration of a suspension in any or all capacities for up to two years.<sup>30</sup> In this case, there are no mitigating factors. Shah did not respond in any manner to multiple requests for information FINRA issued pursuant to Procedural Rule 8210 in order to investigate an extremely serious set of circumstances.

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<sup>27</sup> *FINRA Sanction Guidelines*, p. 103, n.2 (2007).

<sup>28</sup> *Id.*, p. 38.

<sup>29</sup> *Id.*, p. 39.

<sup>30</sup> *Id.*, at 35.

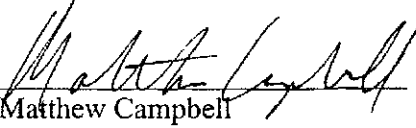
It is axiomatic that “Conduct Rule [2010] and Procedural Rule 8210 are crucial components of [FINRA’s] examinations and investigations. ... Procedural Rule 8210 gives [FINRA] the right to require a member or person associated with a member to provide information, orally or in writing, in connection with an examination or investigation. The rule further states that no member or person shall fail to provide such information.”<sup>31</sup> Moreover, a failure to respond to a Rule 8210 request is egregious, and a bar is the appropriate sanction in the absence of mitigation.<sup>32</sup>

For these reasons, Enforcement’s request for a bar as the appropriate sanction for each of the violations described in the Complaint is reasonable and appropriate.

#### **IV. Order**

Respondent Sanjeev Jayant Shah is barred from associating with any FINRA member firm in any capacity for: (i) engaging in unauthorized trades, in violation of FINRA Conduct Rule 2010, NASD Conduct Rule 2110, and IM-2310-2; (ii) making improper use of customer funds, in violation of FINRA Conduct Rule 2010 and NASD Conduct Rule 2330(a); (iii) forging and falsifying documents, in violation of FINRA Conduct Rule 2010; and (iv) failing to respond to requests to provide information and on-the-record testimony issued pursuant to FINRA Procedural Rule 8210, in violation of FINRA Conduct Rule 2010 and Procedural Rule 8210.

If this Default Decision becomes FINRA’s final disciplinary action, the bars shall be effective immediately.

  
Matthew Campbell  
Hearing Officer

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<sup>31</sup> *Dep’t of Enforcement v. Masceri*, No. C8A040079, 2006 NASD Discip. LEXIS 29, at \*35-36 (N.A.C. Dec. 18, 2006).

<sup>32</sup> *Id.* at \*41.

Copies to:

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Matthew D. Meisner, Esq. (via electronic and first-class mail)  
Jessica Hopper, Esq. (via electronic mail)  
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**FINANCIAL INDUSTRY REGULATORY AUTHORITY  
OFFICE OF HEARING OFFICERS**

|                            |   |                         |
|----------------------------|---|-------------------------|
| DEPARTMENT OF ENFORCEMENT, | : |                         |
| Complainant,               | : |                         |
|                            | : | DISCIPLINARY PROCEEDING |
| v                          | : |                         |
|                            | : | No. 20090177882         |
| SANJEEV JAYANT SHAH,       | : |                         |
| (CRD No. 40009454),        | : |                         |
| Respondent:                | : |                         |

**COMPLAINT**

The Department of Enforcement alleges:

**OVERVIEW**

1. Between October 2008 and March 2009, Sanjeev Jayant Shah ("Shah"), while employed at Citigroup Global Markets Inc. (the "Firm," "Citigroup" or "Smith Barney"), engaged in unauthorized trading, made improper use of over \$3 million of customer funds, forged and falsified customer letters of authorization ("LOAs"), and sent a falsified email to a customer. In addition, Shah failed to respond to FINRA's requests for information and testimony pursuant to FINRA Rule 8210. Based on the foregoing conduct, Shah violated FINRA Rules 2010 and 8210, NASD Rules 2110 and 2330(a), and IM-2310-2.

**RESPONDENT AND JURISDICTION**

2. Shah was born in [REDACTED] Shah first entered the securities industry in 1999 with another FINRA member firm. Shah was registered with FINRA as a General Securities Representative of the Firm from October 2005 until March 2009. His employment was

terminated from the Firm in March 2009.

3. Shah remains subject to FINRA's jurisdiction pursuant to Article V, Section 4(a) of the FINRA By-Laws as his alleged misconduct occurred while he was associated with a member firm and a complaint was filed within two years following his termination.

## **FIRST CAUSE OF ACTION**

### **Unauthorized Trades**

**(FINRA Rule 2010; NASD Rule 2110; IM-2310-2)**

4. The Department re-alleges and incorporates by reference paragraphs 1-3 above.

5. Shah made three unauthorized foreign currency ("FX") trades in the account of his client, CB: (i) the sale of a short put on the British Pound in the amount of \$22 million, on October 6, 2008; (ii) the purchase of a put on the British Pound in the amount of \$7 million (to partially cover the \$22 million sale), on December 10, 2008, and (iii) the sale of a short put on the Euro in the amount of \$9 million, on December 26, 2008. Shah executed these transactions without CB's knowledge, authorization or consent.

6. The three unauthorized FX transactions resulted in margin calls being generated for the CB account, and, without funds to meet the calls, certain of CB's accounts were frozen.

7. During this same time period, CB requested that certain monies be wired out of its Smith Barney account to various places. CB's wire transfer requests could not be executed because the accounts from which the transfers were to be made were frozen.

8. FINRA Rule 2010 and NASD Rule 2110 require that members and associated person observe "high standards of commercial honor and just and equitable principles of trade."

9. Executing transactions without CB's prior authorization and consent, as described in paragraph 5 above, constituted conduct inconsistent with high standards of commercial honor and just and equitable principles of trade.
10. The unauthorized transactions on October 6, 2008 and December 10, 2008 constituted separate and distinct violations of NASD Conduct Rule 2110 by Shah.
11. The unauthorized transaction on December 26, 2008 constituted a violation of FINRA Rule 2010 by Shah.
12. All three unauthorized transactions described in paragraph 5 above violated IM-2310-2, which specifically prohibits "causing the execution of transactions which are unauthorized by customers."

## **SECOND CAUSE OF ACTION**

### **Improper Use of Customer Funds**

#### **(NASD Rule 2330(a); FINRA Rule 2010)**

13. The Department re-alleges and incorporates by reference paragraphs 1-12 above.
14. Shah made two unauthorized transfers of money from his client, BB, to CB in order to satisfy, in part, the fund requests made by CB and the margin calls for the CB account.
15. The first unauthorized transfer from BB was made on March 3, 2009, in the amount of \$1.5 million. Shah falsely told MC, a Director of BB, that he would be moving the money from Treasury Bills to a CD structure at RB, and that the money would be held at RB, not in BB's Smith Barney account.
16. Instead, Shah directed a transfer of \$1.5 million from BB to DD, a company in London owned by CS, Shah's friend. Shah instructed CS to transfer to CB the \$1.5 million that had been sent to DD. Shah falsely told CS that the reason for the two-part

transfer was that he was working on a real estate transaction where he did not want the two banks involved knowing each other's names.

17. Shah provided his branch Operations Manager, JR, with a telephone number to call to verify the BB transfer to DD, pursuant to branch wire transfer procedures. Instead of providing JR with a contact at BB, however, Shah provided the number for CS. Shah falsely told JR that the number was for an employee at BB and he intended for JR to believe that he was calling BB. When JR called the number to verify the wire transfer, CS pretended to be an employee of BB.

18. The \$1.5 million was transferred from BB to DD, and then from DD to CB.

19. Shah caused a second transfer to be made from BB to CB in the amount of \$1.75 million on March 12, 2009. This second transfer was undertaken in much the same way as the first, as Shah told MC that he was recommending that BB buy an additional CD from RB. The \$1.75 million was transferred from BB to DD, and then from DD to CB.

20. NASD Conduct Rule 2330(a) provides that "No member or person associated with a member shall make improper use of a customer's securities or funds."

21. Causing the transfers of funds from CB's securities account to DD, as described in paragraphs 14-19 above, constituted the improper use of customer funds, in violation of NASD Conduct Rule 2330(a).

22. Further, such transfers constituted conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

### **THIRD CAUSE OF ACTION**

#### **Forgery; Document Falsification**

##### **(FINRA Rule 2010)**

23. The Department re-alleges and incorporates by reference paragraphs 1-22 above.

24. In order to carry out the unauthorized wire transfers from the BB account to DD, and ultimately to CB, on two occasions Shah forged a signature and falsified LOAs directing the transfer of funds from BB to DD.

25. First, on or about March 2, 2009, Shah forged a signature and falsified a LOA directing a transfer of \$1.5 million from BB to DD. To generate the forged signature, Shah took one of the account opening documents for BB and cut and pasted a signature he had on file for CC, a Director of BB. Shah created an email address

██████████ and used this address to send the LOA from his home computer to his work email account.

26. On or about March 11, 2009, Shah forged a signature and falsified a LOA for the second transfer of funds from BB to DD, in the amount of \$1.75 million, using a signature he had on file for CC. Shah sent the LOA to his Smith Barney email address from ██████████ an email address he created specifically for this purpose.

27. Shah also falsified an email to a customer regarding the client's obligation to meet capital calls. Shah's client AI invested in a private equity investment in 2007. The investment required the client to meet capital calls. Shah ignored capital call notices for AI.

28. When AI's beneficial owner, MD, asked Shah about why he was continuing to receive notices, Shah said that he told him that all outstanding calls had been met and to

ignore the notices.

29. In or about the third week of March 2009, Shah learned that there were outstanding capital calls that had not been met. In response, Shah falsely created a memo of activity on his computer showing that the capital calls had been met.

30. Shah made up the internal Smith Barney email address for a fictitious employee, "Henry O'Sullivan." This name and email address was similar to the name and email address of an actual Firm employee in the alternative investments group.

31. Shah incorporated the falsified O'Sullivan email address into an email he sent to MD on March 25, 2009 in order to give the false impression that the information he was sending came from the Firm's alternative investment group, and that the calls had been met. The email purporting to come from Mr. O'Sullivan indicated that the outstanding capital call owed by the customer had been met.

32. The customer forwarded the email to Shah's branch office manager. On March 27, 2009, when confronted by management, Shah admitted that he had manufactured the email and the information in it and made it appear that the email came from the alternative investments group.

33. Shah's forging and falsification of customer LOAs, as well as his falsification of a customer email, constituted conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

#### **FOURTH CAUSE OF ACTION**

##### **Failure to Respond to Requests to Appear and Testify**

##### **(FINRA Rules 8210 and 2010)**

34. The Department re-alleges and incorporates by reference paragraphs 1-33 above.

35. Shah failed to cooperate with FINRA's requests to appear and testify and to provide a signed, written statement in connection with its investigation into his misconduct.

36. FINRA requested that Shah appear for testimony by letter dated October 13, 2009. The letter was sent via certified mail and first class mail to one of Shah's two residential addresses according to CRD [REDACTED]. The letter sent via certified mail was returned to sender. The letter sent via first class mail was not returned. Shah failed to respond to this notice.

37. FINRA again requested that Shah appear for testimony and to provide a signed, written statement by separate letters dated November 5, 2009. The letters were sent via certified mail and first class mail to the [REDACTED] address. Both letters were returned. Shah failed to respond to these notices.

38. By letters dated November 9, 2009, FINRA sent two additional notices pursuant to FINRA Rule 8210 to Shah. One notice requested that Shah appear to provide on-the-record testimony. The other notice requested that Shah provide a signed, written statement. These notices were sent via certified mail and first class mail to Shah's second residential address according to CRD [REDACTED]. The letters sent via certified mail were returned. The letters sent via first class mail were not returned. Shah failed to respond to these notices.

39. By letter dated December 10, 2009, FINRA sent a final request for Shah to appear to provide on-the-record testimony, and to provide a signed, written statement. The letter was sent via certified mail and first class mail to both of Shah's residential addresses according to CRD. The letters sent via certified mail, as well as the letter sent via first class mail to the [REDACTED] Street address, were returned. The letter sent via first class mail to the [REDACTED] Street address was not returned. Shah failed to respond to these notices.

40. FINRA has made reasonable efforts to locate an updated address for Shah, but has been unable to find one.

41. Shah has failed to cooperate and has not complied with Enforcement's requests for testimony and for a signed, written statement pursuant to FINRA Rule 8210.

42. FINRA Rule 8210(a) provides that Enforcement may "require a member, person associated with a member, or a person subject to the Association's jurisdiction to provide information orally, in writing or electronically. . ." FINRA Rule 8210(c) provides that "No member or person shall fail to provide information or testimony or to permit an inspection and copying of books and records, or accounts pursuant to this Rule."

43. As a result of the conduct set forth in paragraphs 35-43 above, Shah violated FINRA Rules 8210 and 2010.

#### **RELIEF REQUESTED**

**WHEREFORE**, Enforcement respectfully requests that the Panel:

- A. Order that one or more of the sanctions provided under NASD Rule 8310(a) be imposed.

**FINRA DEPARTMENT OF ENFORCEMENT**

DATED: September 15, 2010



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