

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

FELIPE J. LORIE
(CRD No. 1861011),

Respondent.

Disciplinary Proceeding
No. 2009019867201

Hearing Officer— SNB

DEFAULT DECISION

July 6, 2011

Respondent is barred from associating with any FINRA registered firm in any capacity for: (1) falsifying letters of authorization that caused his firm's books and records to be inaccurate, in violation of Conduct Rules 3110 and 2010; (2) using falsified letters of authorization to withdraw customer funds without the customer's knowledge or permission, in violation of Conduct Rules 2330(a) and 2010; and (3) failing to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2010.

Appearances

William Brice La Hue, Esq., and Andrew Favret, Esq., for the Department of Enforcement.

No appearance by or on behalf of Felipe J. Lorie.

DECISION

I. Introduction

The FINRA Department of Enforcement ("Enforcement") filed the attached Complaint with the Office of Hearing Officers on February 8, 2011. The Complaint contains two causes of action. The first cause charges Felipe J. Lorie ("Respondent") with falsifying letters of authorization ("LOAs") that caused his firm's books and records to be inaccurate, in violation of Conduct Rules 3110 and 2010, and which he used to withdraw customer funds without the customer's authorization, in violation of Conduct

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Rules 2330(a) and 2010. The second cause charges Respondent with failing to provide information to FINRA staff ("Staff"), in violation of Procedural Rule 8210 and Conduct Rule 2010.¹

Respondent did not answer or otherwise respond to the Complaint. Accordingly, on May 10, 2011, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions ("Default Motion"), together with the declaration of William Brice La Hue, Esq. ("Decl.") and four exhibits.²

II. Procedural History

On February 8, 2011, Enforcement served the Complaint and the First Notice of Complaint on Respondent by mailing them to his residential address recorded in the Central Registration Depository ("CRD"), as well as two alternate addresses. Enforcement mailed the Complaint and First Notice of Complaint by first-class and certified mail, return receipt requested. Decl. ¶ 8. The notice sent by certified mail to the CRD address was signed for by Lorie. *Id.* Two of the first class mailings were not returned. The United States Postal Service returned the remaining mailings unopened with a notation that it was unable to forward the mailings to the Respondent. *Id.*; CX-3. Respondent did not answer or otherwise respond to the Complaint. Decl. ¶ 9.

On March 10, 2011, Enforcement served a Second Notice of Complaint on Respondent in the same manner. Decl. ¶ 9. The first class mailings to the CRD address

¹ The FINRA Rules, which include NASD Procedural and Conduct Rules, are available at www.finra.org/Rules. 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. In the rule consolidation, NASD Rule 2110 was renumbered to FINRA Rule 2010, which is identical to Rule 2110.

² Enforcement's exhibits are labeled CX-1 through CX-4.

and one of the alternate addresses were not returned. The United States Postal Service returned the certified mailings and the remaining first class mailings to Enforcement unopened with a notation that it was unable to forward the mailings to Respondent. Decl. ¶ 10. Respondent did not respond to the Second Notice of Complaint. Decl. ¶ 10.

The Hearing Officer found that Enforcement properly served the Complaint, Notice of Complaint, and Second Notice of Complaint on Respondent in accordance with Rule 9134 and that Respondent defaulted by failing to file an answer or other response to the Complaint with the Office of Hearing Officers. Accordingly, the Hearing Officer deemed the allegations in the attached Complaint admitted pursuant to Rules 9215(f) and 9269(a) and granted Enforcement's Default Motion.

III. Findings of Fact and Conclusions of Law

A. Background

Respondent was first employed with a FINRA registered broker-dealer in October 1998. Decl. ¶ 6. Between January and September 2009, Respondent was registered with Southern Trust Securities, Inc. (the "Firm"), a FINRA registered firm. Between February and March 2010, Respondent was registered with another FINRA registered firm. Id.; CX-2.

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 FINRA terminated Respondent's registration, and (2) the Complaint charges him with misconduct that occurred while he was associated with a FINRA registered 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.

C. Misappropriating Customer Funds and Inaccurate Books and Records

The first cause charges Respondent with falsifying LOAs that caused his firm's books and records to be inaccurate, in violation of Conduct Rules 3110 and 2010, and using the LOAs to withdraw customer funds without the customer's authorization, in violation of Conduct Rules 2330(a) and 2010.

Specifically, from July through September 2009, Respondent falsified three LOAs for the account of customer JC. These LOAs contained the purported signatures of JC and his family members. The LOAs authorized the transfer of two \$10,645.30 checks to a mortgage company and one \$15,000 check to a third party account. The checks were issued as Respondent requested. Neither JC nor any of his family members authorized the transfers or signed the LOAs.

The Hearing Officer finds that the foregoing facts establish that Respondent falsified LOAs that caused his firm's books and records to be inaccurate, in violation of Conduct Rules 3110 and 2010, and used the LOAs to withdraw over \$35,000 in funds from the account of customer JC without his knowledge or authorization, in violation of Conduct Rules 2330(a) and 2010.

D. Failure to Respond to Requests for Information

The second cause alleges that Respondent failed to respond to two requests for information, in violation of Rules 8210 and 2010. Enforcement sent the first request to Respondent on July 26, 2010, by first-class and certified mail addressed to his CRD address and two alternate addresses. Decl. ¶ 20. Enforcement requested information regarding the Firm's Form U5 disclosure that Respondent was terminated from

employment for forgery and unauthorized use of customer funds. Decl. ¶ 18.

Respondent signed a receipt for one of the certified mailings. Decl. ¶ 20. However, Respondent did not respond. *Id.*

On August 9, 2010, in the same manner, Enforcement sent Respondent a second request for information regarding the Firm's allegations in Respondent's Form U5. Decl. ¶ 22. Again, Respondent signed a receipt for one of the certified mailings. *Id.* However, Respondent did respond. Decl. ¶ 24.

The facts establish that Respondent violated FINRA Rules 8210 and 2010 by failing to respond to requests for information.

IV. Sanctions

The Hearing Officer bars Respondent from associating with any FINRA registered firm in any capacity for each violation alleged in the Complaint. A bar for each violation is consistent with the FINRA Sanction Guidelines ("Sanction Guidelines"). The Sanction Guidelines state that a bar is standard for falsification of documents in egregious cases.³ Here, Respondent falsified three LOAs and submitted them to the Firm as authentic. The LOAs were part of a scheme to enable Respondent to misappropriate customer funds. The Hearing Officer concludes that Respondent's conduct was egregious and warrants a bar. The Sanction Guidelines for misuse of customer funds provide that a bar is standard unless mitigation exists.⁴ There are no mitigating factors. Accordingly, the Hearing Officer concludes that a bar is also the appropriate sanction for this violation.⁵ Finally, a bar is standard for a failure to respond to requests for

³ Sanction Guidelines 37 (2011), www.finra.org/sanctionguidelines.

⁴ Sanction Guidelines 36.

⁵ Restitution is not warranted because Respondent has already reimbursed the customers. Decl. ¶ 17.

information.⁶ Here, despite having received the requests, Respondent failed to respond in any manner. Accordingly, a bar is also warranted for this violation.

V. Order

Respondent is barred from associating with any FINRA registered firm in any capacity for: (1) falsifying letters of authorization which caused his firm's books and records to be inaccurate, in violation of Conduct Rules 3110 and 2010; (2) using falsified letters of authorization to withdraw customer funds without the customer's knowledge or permission, in violation of Conduct Rules 2330(a) and 2010; and (3) failing to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2010. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.


Sara Nelson Bloom
Hearing Officer

Copies to: Felipe J. Lorie (*via courier and first-class mail*)
William Brice La Hue, Esq. (*via electronic and first-class mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

⁶ FINRA Sanction Guidelines 33.

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FELIPE J. LORIE,
(CRD No. 1861011)

Respondent.

Disciplinary Proceeding
No. 2009019867201

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From July 2009 through September 2009, Felipe J. Lorie, while registered with Southern Trust Securities, Inc., falsified Letters of Authorization (LOA) and misappropriated customer funds without the customer's knowledge or authorization, in violation of NASD Conduct Rules 2330(a) and 3110 and FINRA Rule 2010. Furthermore, Lorie failed to respond to FINRA's requests for information made during the course of its investigation, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Felipe J. Lorie (Lorie) entered the securities industry in October 1993, and was registered by a FINRA member firm as a general securities representative in October 1998. Lorie was registered with several FINRA member firms from October 1998 through November 2008. Lorie was registered with FINRA member firm Southern Trust Securities, Inc. (Southern Trust) as a general securities representative from January 2009 until September

2009. Furthermore, Lorie was employed by another FINRA member firm from February 2010 until March 2010.

3. Although Lorie has not been associated with a FINRA member firm since March 2010, Lorie 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 Lorie ceased to be associated with a FINRA member firm and (2) the Complaint charges Lorie with misconduct committed while he was associated with a FINRA member firm, and with failing to respond to FINRA requests for information during the two-year period after the date upon which Lorie ceased to be associated with a FINRA member firm.

FIRST CAUSE OF ACTION

NASD Conduct Rules 2330(a) and 3110 and FINRA Rule 2010

(Falsification of Records and Misuse of Customer Funds)

4. The Department realleges and incorporates by reference paragraphs 1 through 3 above.
5. During the period from July 14, 2009 through September 17, 2009, Lorie falsified three LOAs regarding customer J.C.'s account with Southern Trust, submitted the falsified LOAs to Southern Trust, and obtained and exercised control over \$21,290.60 in funds from customer J.C.'s account, without J.C.'s knowledge or authorization.

First LOA Request

6. On July 14, 2009, Lorie falsified a LOA for the brokerage account of customer J.C.
7. The LOA requested that a check be issued from customer J.C.'s account to a mortgage company located in Fort Worth, Texas in the amount of \$10,645.30.
8. The LOA contained the purported signature of J.C. and J.C.'s family members. Lorie

submitted the LOA as authentic to Southern Trust on July 21, 2009, and a check was issued to the mortgage company as Lorie requested.

9. Neither Customer J.C., nor any of his family members, authorized or signed the LOA; had any knowledge of the LOA at that time; authorized the submission of the LOA; or had any knowledge of the mortgage company to which the payment was made.

Second LOA Request

10. On August 31, 2009, Lorie falsified another LOA for the brokerage account of customer J.C.
11. The August 31, 2009 LOA requested that a check be issued from Customer J.C.'s account to the same mortgage company located in Fort Worth, Texas, and in the same amount of \$10,645.30.
12. The August 31, 2009 LOA contained the purported signature of J.C. and J.C.'s family members. Lorie submitted the LOA as authentic to Southern Trust on September 1, 2009, and a check was issued to the mortgage company as Lorie requested.
13. Neither Customer J.C., nor any of his family members, authorized or signed the August 31, 2008 LOA; had any knowledge of the August 31, 2008 LOA at that time; authorized the submission of the August 31, 2008 LOA; or had any knowledge of the mortgage company to which the payment was made.

Third LOA Request

14. On September 16, 2009, Lorie falsified a third LOA for the brokerage account of customer J.C.
15. The September 16, 2009 LOA requested that funds in the amount of \$15,000 be transferred to a bank and credited to a third-party account.

16. The September 16, 2009 LOA contained the purported signature of J.C. and J.C.'s family members. Lorie submitted the LOA as authentic to Southern Trust on September 17, 2009. This LOA request was not processed by Southern Trust.
17. Neither Customer J.C., nor any of his family members, authorized or signed the September 16, 2009 LOA; had any knowledge of the September 16, 2009 LOA at that time authorized the submission of the September 16, 2009 LOA; or had any knowledge of the mortgage company to which the payment was made.
18. Lorie's submission of the falsified LOA requests on July 14, 2009, August 31, 2009 and September 16, 2009, to Southern Trust for the account of J.C. caused Southern Trust's books and records to be inaccurate.
19. The checks drawn on customer J.C.'s account and directed to the mortgage company, referenced in paragraphs 7,8,11 and 12 above, were used to as mortgage payments for Lorie's personal mortgage.
20. Lorie obtained and exercised control over a total of \$21,290.60 in funds from customer J.C.'s account, without J.C.'s knowledge or authorization.
21. Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 2330(a) and 3110 and FINRA Rule 2010 by Lorie.

SECOND CAUSE OF ACTION

FINRA Rules 8210 and 2010

(Failure to Respond to Information Requests)

22. The Department realleges and incorporates by reference paragraphs 1 through 21 above.
23. In September 2009, Southern Trust filed a Uniform Termination Notice for Securities Industry Registration (Form U5) on behalf of Lorie. The Form U5 indicates that Lorie

was terminated after Southern Trust found that he had falsified a customer's signature and used customer funds for his personal use without the customer's written authorization or approval.

24. In October 2009, FINRA initiated an investigation into the allegations on the Form U5 filed by Southern Trust on behalf of Lorie, including but not limited to whether Lorie had falsified a customer's signature, and used customer funds for his personal use without the customer's written authorization or approval, in violation of NASD Conduct Rules.
25. On July 26, 2010, FINRA sent a letter to Lorie via first class and certified mail addressed to his residential CRD address as listed in the Central Registration Depository (CRD) and to two alternate addresses
26. The July 26, 2010 letter requested, pursuant to FINRA Rule 8210, that Lorie submit a detailed written statement regarding the allegations listed on the Form U5 filed by Southern Trust. The July 26, 2010 letter requested that the statement be submitted no later than August 9, 2010.
27. The July 26, 2010 letter sent by first class mail to Lorie's residential CRD address was not returned. The return receipt for the certified letter was returned on August 11, 2010, and appears to be signed by "Felipe Lorie."
28. The July 26, 2010 letter sent by first class and certified mail to one of the alternate addresses were returned stating "attempted not known."
29. The July 26, 2010 letter sent by first class mail to the other alternate address was returned stating "return to sender – not deliverable as addressed." The July 26, 2010 letter sent by certified mail to the other alternate address was also returned stating "return to sender – addressee unknown." Furthermore, the return receipt for the certified letter was also

returned on August 3, 2010, signed by someone other than Lorie. Lorie failed to provide the requested statement by the August 9, 2010 deadline.

30. Therefore, on August 9, 2010, FINRA sent Lorie a second letter via first class and certified mail addressed to his residential CRD address and to the two alternate addresses.
31. The August 9, 2010 letter requested that Lorie provide a detailed, written statement regarding the allegations disclosed on the Form U5 filed by Southern Trust. The August 9, 2010 letter cited FINRA Rule 8210, and required that Lorie provide the requested statement to FINRA no later August 23, 2010.
32. The August 9, 2010 letter sent by first class mail to Lorie's residential CRD address was not returned. The return receipt for the certified letter was returned on August 31, 2010, and was signed by "Felipe Lorie."
33. The August 9, 2010 letter sent by first class and certified mail to one of the alternate addresses were returned indicating that it was "not deliverable as addressed."
34. The August 9, 2010 letter sent by first class and certified mail to the other alternate address was returned stating "return to sender – addressee unknown." Furthermore, the receipt for the certified letter was also returned on August 17, 2010, signed by someone other than Lorie. Lorie failed to provide the requested statement by the August 9, 2010 deadline.
35. As of the date hereon, Lorie has not responded to FINRA's requests for a detailed written statement regarding the allegations listed on the Form U5 filed by Southern Trust.
36. Lorie's failure to submit the requested written statement impeded FINRA's investigation, and prevented FINRA from completing its regulatory responsibility to fully investigate potential rule violations.

37. Such acts, practices and conduct constitute separate and distinct violations of FINRA Rules 8210 and 2010 by Lorie.

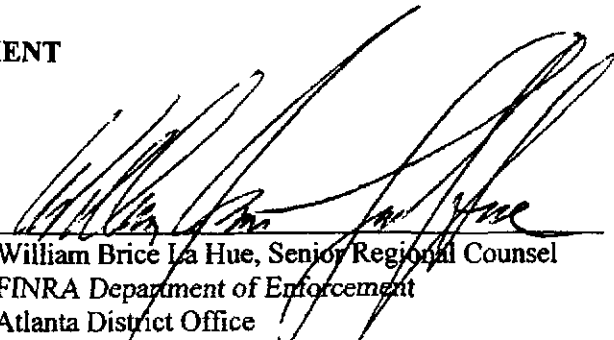
RELIEF REQUESTED

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 Lorie be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest.
- B. Order that the Lorie bear such costs of the proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date: 2/8/11



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