

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ANGEL LUIS SUAREZ
(CRD No. 3116550),

Respondent.

Disciplinary Proceeding
No. 20090199535

Hearing Officer – LBB

DEFAULT DECISION

December 7, 2011

Respondent Angel Luis Suarez is barred from associating with any FINRA member firm in any capacity for violating FINRA Conduct Rule 2010 by effecting unauthorized trades in a customer's account. Respondent is also barred for violating FINRA Rule 8210 and FINRA Conduct Rule 2010 by failing to respond to requests for information.

Appearances

Andrew T. Beirne, Esq., Senior Regional Counsel, and David M. Jaffe, Esq., Associate Vice President and Regional Chief Counsel, New York, New York, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

The Department of Enforcement ("Enforcement") filed the two-cause Complaint in this disciplinary proceeding on July 14, 2011, charging Respondent Angel Luis Suarez ("Respondent") with: 1) executing unauthorized trades in a customer's account, in violation of FINRA Conduct Rule 2010; and 2) failing respond to requests for information, in violation of FINRA Rule 8210 and FINRA Conduct Rule 2010.

Despite being properly served with the Complaint, Notice of Complaint, and Second Notice of Complaint, Respondent has not filed an answer or otherwise responded to the

Complaint. Enforcement filed a Motion for Entry of Default Decision and Imposition of Sanctions on October 12, 2011, to which Respondent did not respond. Accordingly, pursuant to FINRA Procedural Rules 9215(f) and 9269, the allegations in the Complaint are deemed admitted, and Enforcement's motion is granted.¹

I. Respondent's Default

On July 14, 2011, Enforcement served Respondent with a copy of the Notice of Complaint and Complaint by first-class and certified mail at his residential address as listed in the Central Registration Depository ("Briarwood CRD address"), and at his previous CRD address, located in Jamaica, New York ("Jamaica address"). Decl. ¶¶ 7, 12; CX-2-4. The Postal Service returned both certified mailings to Enforcement, marked "unclaimed." The first-class mailings were not returned. Decl. ¶ 14; CX-5, CX-6. Respondent did not answer the Complaint within 25 days after service, as required by FINRA Procedural Rule 9215(a). Decl. ¶ 15.

On August 15, 2011, Enforcement served Respondent with the Second Notice of Complaint and Complaint by first-class and certified mail at his Briarwood CRD address and his Jamaica address. Decl. ¶ 16; CX-7. The Postal Service returned both certified mailings to Enforcement, marked "unclaimed." The first-class mailings were not returned. Decl. ¶¶ 16, 18; CX-7-9. Respondent has not answered the Complaint, as required by FINRA Procedural Rule 9215(a). Decl. ¶¶ 19, 20.

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.

¹ 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 includes the Declaration of Andrew T. Beirne in Support of Motion for Entry of Default Decision and Request for Sanctions, and supporting documentation that is attached to counsel's declaration. Counsel's declaration is cited herein as "Decl. ¶ ____." The supporting documentation is cited herein as "CX-__."

II. Jurisdiction

Respondent was first registered with FINRA in 2007, through FINRA member firm Andrew Garrett Inc., (“Andrew Garrett” or the “Firm”) and remained registered with Andrew Garrett until it terminated his employment on September 3, 2009. On October 2, 2009, Andrew Garrett filed a Form U5 for Respondent, reporting that the Firm had terminated Respondent’s employment for executing unauthorized trades in a customer’s account. Decl. ¶¶ 5, 6, 10; CX-1, CX-2.²

Although Respondent has not been registered with a member firm since September 3, 2009, he remains subject to FINRA’s jurisdiction, pursuant to Article V, Section 4 of FINRA’s By-Laws, because the Complaint was filed within two years after the termination of his registration with a member firm, and it charges him with violations that occurred while he was associated with a member firm, and with failure to respond to Rule 8210 requests that were issued within two years after the termination of his registration with a member firm.

III. Violations

A. Unauthorized Trading, in Violation of FINRA Conduct Rule 2010

The First Cause of Action alleges that Respondent executed ten unauthorized trades in the account of customer DS between July 23, 2009, and September 2, 2009. Respondent was the registered representative assigned to the DS account at that time, and effected the ten trades without DS’s knowledge, authorization, or consent. Complaint ¶¶ 7-17. Trade confirmations and account statements were sent to DS’s residential address in New York City. DS spent the summer with his family at a house on Long Island. Neither Respondent nor the Firm had contact information for DS at the Long Island address. DS discovered the unauthorized trades on

² FINRA staff initiated the investigation that led to the filing of the Complaint on October 2, 2009, in response to the filing of the Form U5. Decl. ¶ 11.

September 2, 2009, when he returned to his home in New York City and reviewed his mail.

Complaint ¶ 18; Decl. ¶¶ 22-25.

Unauthorized trading is a serious breach of the duty to observe high standards of commercial honor and just and equitable principles of trade, and violates FINRA Conduct Rule 2010.³ The allegations of the Complaint, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent executed ten unauthorized trades in a customer's account, in violation of FINRA Conduct Rule 2010.

B. Failure to Respond to Requests for Information, in Violation of FINRA Rule 8210 and FINRA Conduct Rule 2010

On October 19, 2009, FINRA Staff sent Respondent a request for information, pursuant to FINRA Procedural Rule 8210, concerning the alleged unauthorized trading. The request was sent to Respondent's Jamaica address, which was his current residential address in the Central Registration Depository. Complaint ¶¶ 21-22. The request directed Respondent to provide a written statement concerning the alleged unauthorized trading, and to provide any additional documents or information that Respondent believed would help the Staff to understand the matter. The Postal Service returned the October 19 certified mailing marked "unclaimed," but did not return the first-class mailing. Respondent did not respond to the October 19 request. Complaint ¶¶ 24, 25.

Andrew Garrett changed Respondent's address in CRD on November 11, 2009, to his current CRD address, the Briarwood address. On November 12, 2009, pursuant to FINRA Rule 8210, the Staff sent the request for information to the Briarwood CRD address. Complaint ¶¶ 22, 26. The November 12, 2009, certified mailing was delivered on November 14, 2009. The return

³ *Wanda P. Sears*, Exchange Act Rel. No. 58075, 2008 SEC LEXIS 1521, at *6 (July 1, 2008); *Dep't of Enforcement v. Wiard*, No. C8A030078, 2005 NASD Discip. LEXIS 45, at *8 (N.A.C. Oct. 18, 2005).

receipt for the certified mailing that was returned to Enforcement by the Postal Service had an illegible signature. The first-class mailing was not returned. Respondent did not respond to the November 12 request. Complaint ¶ 28.

On December 3, 2009, Enforcement sent a third request for information, pursuant to FINRA Rule 8210, to Respondent at his Briarwood CRD address. The third request was sent by first-class and certified mail. The Postal Service delivered a return receipt for the certified mailing to Enforcement, containing an illegible signature. The first-class mailing was not returned. Respondent did not respond to the third request for information. Complaint ¶¶ 29-31.

On December 30, 2009, the Staff sent a fourth request for information, pursuant to FINRA Rule 8210, to Respondent at his Briarwood CRD address. The fourth request was sent by certified and first-class mail. The Postal Service returned a return receipt for the fourth request to Enforcement, again bearing an illegible signature. Respondent did not respond to the fourth request. Complaint ¶¶ 32-34.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to respond to requests for information, in violation of FINRA Rule 8210. A violation FINRA Rule 8210 is also a violation of FINRA Conduct Rule 2010.⁴

IV. Sanctions

A. Unauthorized Trading

For executing unauthorized transactions in a client's account, the FINRA Sanction Guidelines ("Sanction Guidelines") recommend a fine of \$5,000 to \$75,000 and a suspension of 10 business days to one year. In egregious cases, the Sanction Guidelines recommend a longer

⁴ *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).

suspension or a bar. The principal considerations are whether respondent misunderstood his or her authority or the terms of the customer's orders, and whether the unauthorized trading was egregious.⁵

Respondent's unauthorized trading was egregious. There are several aggravating factors. Respondent intentionally executed unauthorized trades in DS's account, and attempted to conceal his misconduct.⁶ When the Firm confronted Respondent with the allegations of unauthorized trading, he first tried to conceal the unauthorized trading by claiming that DS had authorized the trades. When the Firm threatened to check his telephone records, he stated that he had been desperate, and engaged in the unauthorized trading to generate commissions. Complaint ¶¶ 26-34.

Andrew Garrett canceled the unauthorized trades and restored DS's holdings. As a result, DS did not suffer any losses, and Respondent did not receive commissions for his unauthorized trades. However, Respondent's misconduct resulted in the potential for Respondent's monetary gain, and for injury to the customer.⁷ The ten unauthorized trades would have generated \$5,000 in commissions, if paid to Respondent. The trades would have resulted in a net loss of \$1,930.97 to the customer. Decl. ¶¶ 36-37.

Enforcement recommends a bar, except that it does not recommend a sanction for unauthorized trading if Respondent is barred for the violations of Rule 8210. Respondent's unauthorized trading was egregious, regardless of the sanction for the Rule 8210 violation. The Hearing Officer imposes a bar for Respondent's unauthorized trading. Enforcement does not

⁵ *FINRA Sanction Guidelines* at 98 (2011).

⁶ Principal Considerations No. 10, 13, *Sanction Guidelines* at 6-7.

⁷ Principal Considerations No. 11, 17, *Sanction Guidelines* at 6-7.

seek restitution because the customer did not suffer any losses, due to the Firm's actions.

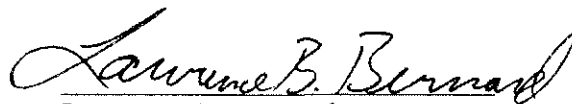
Restitution is not appropriate in this matter.

B. Failure to Respond to Requests for Information

The Sanction Guidelines recommend a bar where a respondent fails to respond in any manner to a request for information issued pursuant to Rule 8210.⁸ Where mitigation exists, the Sanction Guidelines recommend consideration of a suspension in all capacities of up to two years. Respondent failed respond to four requests for information. A bar is the appropriate sanction under the facts and circumstances of this case for Respondent's violations of FINRA Rule 8210 and Conduct Rule 2010.

V. Conclusion

Respondent Angel Luis Suarez is barred from associating with any member firm in any capacity for unauthorized trading in a customer's account, in violation of FINRA Conduct Rule 2010. Respondent is also barred for failure to provide information, in violation of FINRA Rule 8210 and FINRA Conduct Rule 2010. The bars will become effective immediately if this decision becomes FINRA's final disciplinary action in this proceeding.



Lawrence B. Bernard
Hearing Officer

Copies to: Angel Luis Suarez (*via overnight courier and first-class mail*)
Andrew T. Beirne, Esq. (*via electronic and first-class mail*)
David M. Jaffe, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

⁸ *Sanction Guidelines* at 33.

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DEPARTMENT OF ENFORCEMENT,

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v.

ANGEL LUIS SUAREZ
(CRD No. 3116550),

Respondent.

DISCIPLINARY PROCEEDING
No. 20090199535

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Angel Luis Suarez (i) effected or caused to be effected 10 securities transactions in a customer account without the customer's prior knowledge, authorization, or consent, in violation of FINRA Rule 2010, and (ii) failed to respond to four requests for information sent to him by the Member Regulation staff of FINRA's District 10 office (the "Staff") pursuant to FINRA Rule 8210, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Respondent Suarez entered the securities industry in 1998, when he became associated with two FINRA member firms. While associated with these firms, Respondent first became registered as a General Securities Representative (“GSR”) on or about December 21, 1998 and first became registered as a General Securities Principal (“GSP”) on or about March 26, 2001.
3. On or about February 27, 2007, Respondent became associated with Andrew Garrett Inc. (“Andrew Garrett”) and was registered with FINRA as a GSR and a GSP through that association.
4. On October 2, 2009, Andrew Garrett filed with FINRA a Uniform Termination Notice for Securities Industry Registration (“Form U5”) terminating Respondent’s registration with the firm as of September 3, 2009. The Form U5 stated the reason for Respondent’s discharge as “PERFORMED UNAUTHORIZED TRADES.”
5. Although Respondent has not been associated with a FINRA member firm since September 3, 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 (i) the Complaint was filed within two years after the date upon which Andrew Garrett terminated Respondent’s registration with the firm, and (ii) 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 of his termination.

FIRST CAUSE OF ACTION
(Unauthorized Trading)
Violation of FINRA Rule 2010

6. The Department realleges and incorporates by reference paragraphs 1 through 5 above.
7. In 2009, DS was a customer of the firm Andrew Garrett and had an account there (the "Account"). From at least July 23, 2009, and up to his termination on September 3, 2009, Respondent was the representative assigned to the Account.
8. On July 23, 2009, Respondent effected the purchase of 1,800 shares of Rick's Cabaret International Inc. common stock in DS's Account.
9. On July 29, 2009, Respondent effected the sale of 1,800 shares of Rick's Cabaret International Inc. common stock in DS's Account.
10. On August 4, 2009, Respondent effected the purchase of 400 shares of Proshares Ultra Oil & Gas common stock in DS's Account.
11. On August 10, 2009, Respondent effected the sale of 400 shares of Proshares Ultra Oil & Gas common stock in DS's Account.
12. On August 13, 2009, Respondent effected the purchase of 400 shares of Hatteras Financial Corp. common stock in DS's Account.
13. On August 18, 2009, Respondent effected the sale of 400 shares of Hatteras Financial Corp. common stock in DS's Account.
14. On August 26, 2009, Respondent effected the purchase of 500 shares of Lumber Liquidators Inc. common stock in DS's Account.

15. On August 26, 2009, Respondent effected the sale of 634 shares of UnitedHealth Group Inc. common stock in DS's Account.
16. On September 2, 2009, Respondent effected the purchase of 2,800 shares of GSE Systems Inc. common stock in DS's Account.
17. On September 2, 2009, Respondent effected the sale of 500 shares of Lumber Liquidators Inc. common stock in DS's Account.
18. Each of the above 10 transactions was made without DS's knowledge, authority, or consent.
19. By reason of the foregoing conduct, Respondent Suarez violated FINRA Rule 2010.

SECOND CAUSE OF ACTION

(Failure To Respond to Requests Made Pursuant to FINRA Rule 8210)

Violation of FINRA Rules 8210 and 2010

20. The Department realleges and incorporates by reference paragraphs 1 through 19 above.
21. As part of its investigation of the unauthorized transactions in DS's Account, on October 19, 2009 the Staff sent Respondent a letter, pursuant to and in accordance with FINRA Rule 8210, requesting certain information (the "First Request").
22. As of the date of the First Request, Respondent's Central Registration Depository ("CRD") residential address of record was in Jamaica, NY (the "Jamaica Address"). On or about November 11, 2009, Andrew Garrett amended Respondent's CRD address by changing the city name from Jamaica to Briarwood. As a result of this

revision, Respondent's current CRD residential address of record is in Briarwood, NY (the "Briarwood Address").

23. The Staff sent the First Request to Respondent at the Jamaica Address via both First-Class U.S. Mail and Certified Mail, Return-Receipt Requested.
24. The First Request asked Respondent to provide a written statement containing a detailed response concerning customer DS, Respondent's handling of DS's Account, and the allegations of unauthorized trades in DS's Account. The Staff also requested any additional information or documents that Respondent believed would help the Staff in its understanding of the matter. The First Request required a response by November 3, 2009.
25. On or about November 11, 2009, the envelope containing the First Request sent via Certified Mail, Return-Receipt Requested was returned to the Staff marked "unclaimed" by the U.S. Postal Service. To date, the First Request sent to Respondent via First-Class U.S. Mail has not been returned to the Staff. Respondent has not responded to the First Request.
26. On November 12, 2009, the Staff sent Respondent a second request, pursuant to and in accordance with FINRA Rule 8210, requesting that he provide the same information that was requested in the First Request, but addressing this request to Respondent at the Briarwood Address, as amended on CRD (the "Second Request"). The Second Request required a response by November 27, 2009.
27. The Staff sent the Second Request to Respondent via both First-Class U.S. Mail and Certified Mail, Return-Receipt Requested.

28. On or about November 14, 2009, the Second Request sent via Certified Mail, Return-Receipt Requested was delivered. The U.S. Postal Service returned to the Staff the Return Receipt for the Second Request on or about November 19, 2009. The signature that appears on the Return Receipt for the Second Request is illegible. To date, the Second Request sent to Respondent via First-Class U.S. Mail has not been returned to the Staff. Respondent has not responded to the Second Request.
29. On December 3, 2009, the Staff sent Respondent a third request, pursuant to and in accordance with FINRA Rule 8210, requesting that he provide the same information that was requested in the First Request (the "Third Request"). Like the Second Request, the Third Request was addressed to Respondent at the Briarwood Address. The Third Request required a response by December 18, 2009.
30. The Staff sent the Third Request to Respondent via both First-Class U.S. Mail and Certified Mail, Return-Receipt Requested.
31. On or about December 4, 2009, the Third Request sent via Certified Mail, Return-Receipt Requested was delivered. The Return Receipt for the Third Request, which was returned to the Staff by the U.S. Postal Service, contains an illegible delivery signature. To date, the Third Request sent to Respondent via First-Class U.S. Mail has not been returned to the Staff. Respondent has not responded to the Third Request.
32. On December 30, 2009, the Staff sent Respondent a fourth request, pursuant to and in accordance with FINRA Rule 8210, requesting that he provide the same information that was requested in the First Request (the "Fourth Request"). Like the Second Request and the Third Request, the Fourth Request was addressed to Respondent at

the Briarwood Address. The Fourth Request required a response by January 18, 2010.

33. The Staff sent the Fourth Request to Respondent via both First-Class U.S. Mail and Certified Mail, Return-Receipt Requested.

34. On or about December 31, 2009, the Fourth Request sent via Certified Mail, Return-Receipt Requested was delivered. The Return Receipt for the Fourth Request, which was returned to the Staff by the U.S. Postal Service, contains an illegible delivery signature. To date, the Fourth Request sent to Respondent via First-Class U.S. Mail has not been returned to the Staff. Respondent has not responded to the Fourth Request.

35. By failing to respond to the Staff's letters seeking information, Respondent violated FINRA Rules 8210 and 2010.

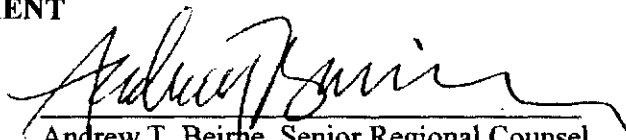
RELIEF REQUESTED

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; 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: June 14, 2011



Andrew T. Beirne, Senior Regional Counsel
David M. Jaffe, AVP/Regional Chief Counsel
FINRA Department of Enforcement
One Liberty Plaza
165 Broadway, 48th Floor
New York, NY 10006
Phone: 212-858-4080; Fax: 202-721-6565
E-Mail: andrew.beirne@finra.org