

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MARK JASON CARPENTER
(CRD No. 4506491),

Respondent.

Disciplinary Proceeding
No. 2009019964301

Hearing Officer – RSH

DEFAULT DECISION

December 15, 2011

Respondent was barred from associating with any member firm in any capacity for violating Rules 8210 and 2010 by failing to respond to requests for information and testimony. In light of the bar, no additional sanctions were imposed for the Respondent's private securities transactions in violation of Rules 3040 and 2110, or his outside business activities in violation of Rules 3030 and 2110.

Appearances

Gerard Murphy, Senior Counsel, and Richard R. Best, Acting Chief Counsel, New York, NY, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

The Department of Enforcement ("Enforcement") filed a Complaint (attached to this Decision as Exhibit A) in this proceeding on July 18, 2011. The Complaint asserted three causes of action against Respondent Mark Jason Carpenter ("Respondent"): participating in private securities transactions, in violation of NASD Conduct Rules 3040 and 2110; conducting undisclosed outside business activities, in violation of NASD

Conduct Rules 3030 and 2110; and failing to respond to requests for information and testimony, in violation of FINRA Rules 8210 and 2010.¹

Respondent did not answer or otherwise respond to the Complaint. Consequently, on October 20, 2011, Enforcement filed a Motion for Entry of Default Decision, supported by the Declaration of Gerard Murphy (“Murphy Decl.”) and eight exhibits (“CX”). Respondent did not reply to the motion.²

I. Respondent’s Default

On July 18, 2011, Enforcement mailed the Complaint and First Notice of Complaint to Respondent’s last known residential address as shown in FINRA’s Central Registration Depository (the “CRD Address”) by first-class and certified mail. The receipt for the certified mailing, bearing Respondent’s signature, was returned to Enforcement. Respondent did not respond to the Complaint by August 15, 2011, the date specified in the Notice.³

On August 18, 2011, Enforcement mailed the Complaint and Second Notice of Complaint to Respondent’s CRD Address by first-class and certified mail. The receipt for the certified mailing, bearing Respondent’s signature, was returned to Enforcement. Respondent did not respond to the Complaint by September 6, 2011, the date specified in

¹ As of July 30, 2007, NASD began operating under a new corporate name, the Financial Industry Regulatory Authority (“FINRA”). References in this decision to FINRA include, where appropriate, NASD. On December 15, 2008, certain consolidated FINRA rules became effective, replacing parallel NASD rules, and in some cases the prior rules were re-numbered and/or revised. *See* Regulatory Notice No. 08-57, FINRA Notices to Members, 2008 FINRA LEXIS 50 (Oct. 2008). This Decision refers to and relies on the NASD rules and FINRA rules that were in effect at the time of the Respondent’s alleged misconduct and cited in the Complaint as the basis for the charges against him.

² The factual determinations in this decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as additional materials filed by Enforcement.

³ Murphy Decl., ¶¶ 72-74; CX-4-6.

the Notice.⁴ To date, Respondent has not filed an answer with the Office of Hearing Officers or otherwise responded to the Complaint.

By failing to answer the Complaint, Respondent defaulted. Accordingly, pursuant to Procedural Rules 9215(f) and 9269(a)(2), the Hearing Officer deems the allegations in the attached Complaint admitted and grants Enforcement's Motion for Entry of Default Decision.

II. Jurisdiction

Respondent first became registered with FINRA as a General Securities Representative in June 2002.⁵ He was employed as a General Securities Representative with CUSO Financial Services L.P. ("CUSO"), a FINRA-regulated firm, from June 20, 2007 through October 29, 2008. During this time, he was also employed at MidWest Financial Credit Union ("MidWest"), which was affiliated with CUSO. He has not been associated with a FINRA-regulated firm since then.⁶ On October 5, 2009, June 23, 2010, and July 8, 2010, FINRA received amended Uniform Termination Notices for Securities Industry Registration ("Form U5") reporting that Respondent may have engaged in unauthorized outside business activities, sold securities away from his firm, and that three customer complaints had been filed against him.⁷

Although Respondent has not been registered with FINRA since October 29, 2008, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 and 5 of FINRA's Bylaws, because (1) an amended

⁴ Murphy Decl., ¶¶ 76-79; CX-7-8.

⁵ CX-1 at 9

⁶ CX-1 at 3.

⁷ Murphy Decl., ¶ 4; CX-1 at 9-10. As a result of receiving the Forms U5, Enforcement began the investigation that led to the filing of the Complaint. Murphy Decl., ¶¶ 6-7.

Form U5 was filed within two years of Respondent's termination of employment with CUSO, and reported that Respondent may have engaged in conduct actionable under NASD and FINRA rules, and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA member firm and with failing to respond to FINRA's requests for information made during the two-year period following the filing of his amended Form U5.⁸

III. Violations

A. Private Securities Transactions

In the First Cause of Action of its Complaint, Enforcement alleged that between April 2008 and October 2008, while registered with CUSO, Respondent recommended and sold securities to customers without notifying his firm in advance. Respondent sold the securities through To God Be Glory Financial Planning, LLC ("TGBG Financial"). Respondent was the president of TGBG Financial, a registered investment adviser (not registered with FINRA) that engaged in fee-based asset management and financial planning.

Respondent recommended that CUSO customer SD, and MidWest customer JB invest in an enterprise in which a third party purportedly traded crude oil bonds on the Saudi Arabian market. The investments, in the form of promissory notes called oil bond trading notes ("Oil Notes"), had maturity dates of less than nine months; however, Respondent convinced the customers to renew the investments repeatedly for aggregate periods exceeding nine months.

⁸ Article V, Sec. 4, FINRA By-Laws, *available at* www.finra.org/rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: Bylaws").

On May 5, 2008, SD invested \$10,000 and received an Oil Note with a maturity date of July 7, 2008, and a 20% interest rate. On July 7, 2008, Respondent recommended that SD reinvest the Oil Note's principal and interest until October. The Oil Note was renewed for several more months, until Respondent told SD that the money was invested in a gold mine, rather than crude oil bonds. SD lost her entire investment, and did not receive any interest payments.

On May 25, 2008, Respondent sold JB a \$10,000 Oil Note with a maturity date of July 26, 2008 and a 25% interest rate. Like SD, JB renewed her Oil Note until she was told that her money was invested in gold. JB lost her entire investment.

On July 29, 2008, Respondent sold VE investments in a condominium and hotel development in Orlando, Florida ("Condo Note"). VE invested \$450,000 and received a promissory note with a maturity date of November 10, 2008 and a 12% interest rate. On November 10, Respondent convinced VE to re-invest her principal and interest in successive Condo Notes, each with a 10% interest rate. VE eventually lost all of her investment.

Rule 3040(a) provides that "[n]o person associated with a member shall participate in any manner in a private securities transaction except in accordance with the requirements of this Rule." Rule 3040 defines a "private securities transaction" as "any securities transaction outside the regular course or scope of an associated person's employment with a member..." Rule 3040(b) requires the associated person to notify the firm prior to participating in a private securities transaction. Rule 3040 protects investors from unsupervised sales and protects the member firm from liability and loss resulting

from those sales. Violation of this rule deprives investors of a member firm's oversight and due diligence, protections they have a right to expect.⁹

The Oil Notes and Condo Notes are securities in the form of promissory notes, under the "family resemblance test" established by the Supreme Court in *Reves v. Young*.¹⁰ Under the *Reves* test, a promissory note is presumed to be a security unless: (1) it bears a strong family resemblance to certain notes that are recognized not to be securities; or (2) a four-factor analysis leads to the conclusion that the note is not a security.¹¹ The burden of rebutting the presumption falls on the Respondent; however, he failed to provide testimony in this matter. Therefore, the Oil Notes and Condo Notes are presumed to be securities. They are also investment contracts, and therefore, securities, because the customers invested in Respondent's schemes with the expectation of profits in the form of interest which were dependant on the efforts of others.¹²

Enforcement's allegations, which are deemed admitted, are sufficient to establish, for purposes of this Default Decision, that Respondent participated in private securities transactions in violation of NASD Conduct Rule 3040. A violation of Conduct Rule 3040 also constitutes a violation of Conduct Rule 2110.¹³

B. Unreported Outside Business Activities

Conduct Rule 3030 provides that no person registered with a member "shall be employed by, or accept compensation from, any other person as a result of any business

⁹ *Philippe N. Keyes*, Exchange Act Rel. No. 54723, 2006 SEC LEXIS 2631, at *14-15 (Nov. 8, 2006).

¹⁰ *Reves v. Ernst & Young*, 494 U.S. 56, 63-65 (1990).

¹¹ *Id.* at 66-67.

¹² *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946).

¹³ *Stephen J. Gluckman*, 54 S.E.C. 175, 185 (July 20, 1999); *see also Charles C. Fawcett, IV*, Exchange Act Rel. No. 56770, 2007 SEC LEXIS 2598, at *11-12 (Nov. 8, 2007) (stating that violations of FINRA rules are inconsistent with just and equitable principles of trade and constitute a violation of Rule 2110.).

activity ... outside the scope of his relationship with his employer firm, unless he has provided prompt written notice to the member” The purpose of Conduct Rule 3030 is to provide member firms with an opportunity to raise any objections to such activities at a meaningful time and to exercise appropriate supervision as necessary under applicable law.¹⁴

In its Second Cause of Action, Enforcement alleged that Respondent violated Rules 3030 and 2110 by failing to disclose his outside business activities to CUSO. Specifically, Respondent failed to disclose that he had formed, and was the president of TGBG Financial.

Enforcement’s allegations, which are deemed admitted, are sufficient to establish, for purposes of this Default Decision, that Respondent failed to disclose his outside business activities to his FINRA-regulated firm, and thereby violated Rules 3030 and 2110.

C. Failure to Respond to Requests for Information and Testimony, in Violation of Rules 8210 and 2010

In its Third Cause of Action, Enforcement alleged that Respondent violated Rules 8210 and 2010 by failing to provide information and testimony as requested by FINRA.

In a letter dated October 15, 2009, FINRA staff requested, pursuant to Rule 8210, that Respondent provide a written statement concerning allegations that he engaged in outside business activities and sold securities away from CUSO. FINRA sent the letter by first-class mail and certified mail to Respondent at his CRD address. Enforcement received the return receipt bearing the signature “Amy Carpenter,” whom CUSO

¹⁴ *Proposed Rule Change by NASD Relating to Outside Business Activities of Associated Persons*, Exchange Act Release No. 26063, 1988 SEC LEXIS 1841 (Sept. 6, 1988), adopted at Exchange Act Release No. 26178, 1988 SEC LEXIS 2032 (Oct. 13, 1988).

identified as Respondent's wife. The letter sent via first-class mail was not returned to FINRA. After Respondent failed to respond, FINRA sent a second letter, dated November 6, 2009, requesting the same information. The November 6th letter was sent to Respondent at his CRD Address by first-class and certified mail. The first-class mailing was not returned; however, the certified receipt was returned, marked "unclaimed." To date, Respondent has failed to provide any of the information requested in FINRA's letters.

On April 1, 2010, Enforcement sent a letter to Respondent requesting, pursuant to Rule 8210, that Respondent appear to provide on-the-record testimony ("OTR") on April 20, 2010 at Enforcement's office located at 14 Wall Street in New York City. The letter was sent by certified and first-class mail to Respondent's CRD address. The first-class letter was not returned; however, on April 5, 2010, Enforcement received the certified receipt, signed by "A. Carpenter." Respondent did not appear to provide the testimony as requested.

On April 22, 2010, Enforcement sent a second letter requesting, pursuant to Rule 8210, that Respondent appear for an OTR on May 5, 2010 at Enforcement's office at 14 Wall Street in New York City. The letter was sent by certified and first-class mail to Respondent's CRD address. The first-class letter was not returned; however, on April 26, 2010, Enforcement received the certified receipt, signed by "Amy Carpenter." Respondent did not appear to provide the testimony as requested.

The facts alleged in the Complaint establish that, for purposes of this Default Decision, Respondent failed to provide information and testimony requested by FINRA,

and thereby violated Rule 8210. A violation of Rule 8210 is also a violation of Rule 2010.¹⁵

IV. Sanctions

A violation of Rule 8210 is serious because Rule 8210 is a key element in FINRA's oversight function and allows FINRA to carry out its regulatory functions without subpoena power.¹⁶ When an individual fails to provide information, FINRA's ability to perform its regulatory functions is subverted.¹⁷ For these reasons, FINRA Sanction Guidelines ("Guidelines") recommend a bar when a respondent fails to respond in any manner to a request for information issued pursuant to Rule 8210.¹⁸ Here, Respondent failed to respond in any manner to two requests for written information and two requests that he appear for testimony in connection with his alleged outside business activities and private securities transactions. There is no evidence of any mitigating facts that would justify a sanction less than a bar.

Accordingly, the Hearing Officer finds that Respondent should be barred from associating with any FINRA-regulated firm in any capacity for violating Rules 8210 and 2010. In light of the bar, no additional sanctions are imposed for engaging in private securities transactions in violation of Rule 3040, or outside business activities in violation of Rule 3030.

¹⁵ *Department of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (NAC Nov. 2, 2001).

¹⁶ *Joseph G. Chiulli*, Exchange Act Rel. No. 42359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000); *Department of Enforcement v. Benz*, No. C01020014, 2003 NASD Discip. LEXIS 11, at *18 (OHO Mar. 4, 2003).

¹⁷ *Joseph P. Hannan*, Exchange Act Rel. No. 40,438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998).

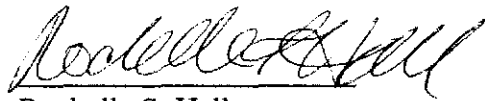
¹⁸ *FINRA Sanction Guidelines* at 33 (2011) www.finra.org/sanctionguidelines.

V. Order

For failing to respond to requests for information and testimony, in violation of Rules 8210 and 2010, Mark Jason Carpenter is barred from associating with any FINRA-regulated firm in any capacity. In light of the bar, no additional sanctions are imposed for engaging in private securities transactions in violation of Rule 3040, or outside business activities in violation of Rule 3030.

The bar will be effective immediately if this decision becomes FINRA's final disciplinary action.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'Rochelle S. Hall', written over a horizontal line.

Rochelle S. Hall
Hearing Officer

Copies to:

Mark Jason Carpenter (via first-class mail and overnight courier)
Gerard Murphy 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.

Mark Jason Carpenter (CRD No. 4506491),

Respondent.

DISCIPLINARY PROCEEDING
No. 2009019964301

COMPLAINT

The Department of Enforcement alleges:

RESPONDENT AND JURISDICTION

1. On or about June 25, 2007, Respondent Mark Carpenter ("Respondent") became a registered representative with CUSO Financial Services L.P. ("CUSO Financial" or the "Firm"), a FINRA regulated entity. Respondent was also dually employed at MidWest Financial Credit Union ("MidWest Financial"), which was affiliated with the Firm.
2. On October 30, 2008, the Department of Enforcement ("Enforcement") received a Uniform Termination Notice for Securities Industry Registration ("Form U5") reporting the voluntary termination of Respondent's employment with the Firm on October 29, 2008.

3. On October 5, 2009, Enforcement received an amended Form U5 reporting, for the first time, that Respondent may have engaged in an unauthorized outside business activity and sold securities away from the Firm.
4. On June 23, 2010, Enforcement received an amended Form U5 reporting, for the first time, two customer complaints alleging that Carpenter sold securities away from the Firm.
5. On July 8, 2010, Enforcement received an amended Form U5 reporting, for the first time, additional customer complaints alleging that Carpenter sold securities away from the Firm.
6. Although Respondent has not been associated with a FINRA member firm since October 29, 2008, he remains subject to FINRA's jurisdiction for purposes of this proceeding pursuant to Article V, Sections 4 and 5 of FINRA's Bylaws, because: (i) the complaint charges him with misconduct committed while he was associated with a FINRA member firm; (ii) between October 5, 2009 and July 8, 2010, three amended Forms U5, which disclosed, for the first time, that Carpenter may have engaged in conduct actionable under NASD and FINRA rules were filed within two years of the filing of the initial Form U5 reporting the termination of Carpenter's employment with CUSO Financial.

OVERVIEW

7. Respondent sold crude oil bond promissory notes and other investments to Firm and credit union customers without notifying the Firm or obtaining Firm approval. Additionally, Respondent failed to notify the Firm or obtain approval for a limited

liability corporation that Respondent established and operated, which provided financial management services to the public and through which he engaged in private securities transactions away from his firm. Respondent also failed to respond to FINRA's requests, pursuant to FINRA Procedural Rule 8210, for information and testimony.

**FIRST CAUSE OF ACTION
SELLING AWAY
(NASD RULES 3040 AND 2110)**

8. Enforcement realleges and incorporates by reference paragraphs 1-6 above.
9. On or about December 27, 2007, MW and Respondent entered into an investment scheme in which MW purportedly traded crude oil bonds on the Saudi Arabian market.
10. According to MW, he needed customer funds to serve as a cash reserve. MW assured Respondent that he did not trade customer funds and that the customers' funds were completely safe and kept in an unspecified U.S. bank. The customer funds were supposed to allow MW to trade crude oil bonds at "a higher yielding crude oil trading scale."
11. MW promised a 60-day holding period, that the customers' principal would be returned at the end of that holding cycle and that the customers would receive a yield of between \$1,000 and \$8,000. As a condition of the investment, Respondent's customers could not directly speak with MW and were only to speak with Respondent if they had any questions. Additionally, MW required that any investor who provided funds in support of his crude oil trading had to have \$5,000,000 in cash reserve.

12. MW charged a \$25 placement fee for every \$1,000 that was invested in the oil trading investment. Respondent charged customers an additional \$10 placement fee for every \$1,000 that was invested.
13. On January 22, 2008, Respondent filed an application for the incorporation of TGBG Financial Planning, LLC ("TGBG Financial"), with the Michigan Department of Labor and Economic Growth.¹ Respondent signed the application and was listed as the organizer of the limited liability company. Respondent registered his home address as the registered office of TGBG Financial and identified himself as the resident agent for TGBG Financial. Respondent was the President of TGBG Financial.
14. TGBG Financial was a limited liability company engaged in the business of fee based asset management and fee based financial planning in Michigan. TGBG Financial has never been registered with FINRA as a broker-dealer or as being associated with a broker-dealer firm that is registered with FINRA. TGBG Financial is registered as an investment advisory firm.
15. Between May and October 2008, Respondent solicited both CUSO Financial and Midwest Financial customers to invest in a number of investments, including a crude oil, gold mine and condominium investment. The investments were processed through TBGB Financial.
16. In exchange for their investments, customers were given promissory notes or receipt of donation forms from TGBG Financial signed by Respondent.

¹ TGBG stands for "To God Be Glory".

17. Respondent also solicited investments for a condominium/hotel development in Orlando, Florida called the Blue Rose Resort. The Blue Rose Resort was to be a Las Vegas style hotel with 256 condominiums and 1,284 hotel rooms located in Orlando. The Blue Rose Resort was in the pre-construction phase of development and marketing material promised that the project was going to be professionally managed with units starting in the high \$300,000.
18. In a bridge loan financing opportunity summary, Respondent and TGBG Financial are identified as a "key player" in the development of the project. In the event that additional financing was not obtained for the project, TGBG Financial was promised the return of its investment plus nominal interest. If additional financing was found, TGBG Financial was promised the return of its principal plus an undisclosed "success fee".
19. Respondent also sold investments in PJM Kingman, an alleged gold mining operation. Respondent gave investors an offering document entitled "The PJM Kingman Roadside Mine Project Bridge Loan Financing Opportunity Summary".
20. TGBG Financial sought investment capital in order to facilitate the expansion of mining operations at a 58-acre claim called the "Roadside Mine". TGBG Financial claimed that the Roadside Mine had three claim sites with gold reserves valued at approximately 13 billion dollars.
21. PJM Kingman was seeking \$25,000,000 in financing and Mark Carpenter was listed as a key person in the marketing material. In the marketing material, TGBG Financial was to "facilitate the transfer of investor capital into the opportunity and disbursement of principal and interest upon maturity." Respondent received a 5

percent finder's fee for every dollar invested in PJM Kingman and ultimately persuaded customers to invest over \$1 million while employed at the Firm from August to October 2008.

Solicitation to Customer SD

22. In or about April 2008, Respondent solicited SD to invest in 90-day oil futures where he promised that she would receive a 20 percent return after 90 days.
23. On April 23, 2008, Respondent executed a "Receipt of Deposit and Terms of Agreement" form on behalf of TGBG Financial which stated that the \$10,000 was a "deposit [to] create financial independence for humanity". The agreement guaranteed the return of the deposit and provided a stated goal to provide a "financial gift" back to the donor.
24. SD made a \$10,000 investment in the oil bonds trading notes on May 5, 2008 with a maturity date of July 7, 2008. The note promised a \$2,000 return on the maturity date.
25. On or about July 7, 2008, the maturity date, Respondent then promised SD that if she reinvested the principal and return for another three months, she would receive a \$360 yield.
26. On July 19, 2008, SD invested \$12,000 in oil trading bond promissory notes and with a promised a \$360 yield on October 4, 2008.
27. On October 4, 2008, Respondent reported to SD that her investment had grown to \$12,360 and convinced SD to reinvest the \$12,360 in a two-month promissory note from TGBG Financial with a return of 15 percent (\$14,214).

28. Respondent later reported to SD that her investment had grown to \$14,214 as promised. However, Respondent never dispensed any funds to SD and instead convinced SD to reinvest any expected principal and interest payments.
29. After these initial investments in oil bond trading promissory notes, Respondent told SD that her investment was not in oil futures but in a gold mine.
30. SD ultimately did not receive payment from any of these investments and suffered a loss of her principal.
31. Respondent failed to provide notice of his sale of the promissory notes to SD to the Firm or obtain Firm approval for the transaction.

Solicitation to Customer VE

32. VE was a Midwest Financial customer who invested with the Respondent on May 12, 2008 in a Midwest Financial account.
33. On July 29, 2008, VE wrote TGBG Financial a check for \$450,000 and received a promissory note signed by Respondent. The promissory note stated that \$504,000 would be distributed to VE, 98 days from the contract date and VE would receive a 12 percent return on her money for the term of the investment. Respondent solicited VE to invest in the condominium project and gold.
34. By the maturity date, TGBG Financial dispersed \$54,000 to VE and issued her an IRS 1099-Miscellaneous Income form for the money.
35. On November 10, 2008, Respondent convinced VE to reinvest the \$450,000 in successive offerings each with a 10 percent return on her money.

36. Respondent ultimately stopped the disbursement of funds from these investments and VE lost substantially all of her principal.

37. Respondent failed to provide notice of his sale of the promissory notes to VE to the Firm or obtain Firm approval for the transaction.

Solicitation to Customer JB.

38. Respondent solicited JB to invest in oil when she was a customer at MidWest Financial. Carpenter promised that she would receive a 25-percent return after two months. Carpenter issued JB a promissory note after she invested \$10,000 dollars. Respondent also told JB that the interest rate would go up.

39. JB made a \$10,000 investment in the oil bonds trading notes on May 25, 2008 with a maturity date of July 26, 2008.

40. After the initial investments in oil, Respondent later told JB that her investment was in gold.

41. JB ultimately did not receive payment from her investment and suffered a loss of her principal.

42. Respondent failed to provide notice of his sale of the promissory notes to JB to the Firm or obtain Firm approval for the transaction.

The Suit Against MW and the MW Foundation Trust

43. On March 12, 2009, TGBG Financial sued the MW Foundation Trust and MW in a Circuit Court in Michigan for the lost profits and principal from the crude oil bond trading promissory notes. According to the lawsuit, Respondent guaranteed

customers that they would receive their principal back and the profits specified in the contract. Respondent also acknowledged that Customer A and C invested in the oil bond trading scheme.

- 44. Based upon the forgoing, the promissory notes sold to SD, VE and JB are securities.
- 45. By failing to disclose to the Firm his sales of promissory notes to SD, VE and JB or to obtain Firm approval for these transactions, Respondent violated NASD Rules 3040 and 2110.

SECOND CAUSE OF ACTION
(Outside Business Activities)
(NASD Rules 3030 and 2110)

- 46. The Department of Enforcement realleges and incorporates by reference paragraphs 1-6 and 9-43 above.
- 47. From January 2008 and October 2008, Respondent engaged in outside business activities by forming and managing TGBG Financial.
- 48. Firm associated persons were required to report “any” business activity engaged in “away from” their broker-dealer, regardless of whether compensation was received.
- 49. Associated persons were required to fill out an “Outside Business Activities” form and submit it to the individual’s supervisor and the Firm’s Compliance Department before engaging in the outside business.
- 50. Although Respondent served as the President of TGBG Financial he failed to provide the Firm with any notice of this business activity.
- 51. By reason of the foregoing, Respondent violated NASD Rules 3030 and 2110.

**THIRD CAUSE OF ACTION
FAILURE TO COOPERATE
(FINRA RULE 8210 AND 2010)**

52. Enforcement realleges and incorporates by reference paragraphs 1-6 above.
53. On October 15, 2009, FINRA staff sent a letter to Respondent notifying him of its investigation and requesting, pursuant to FINRA Rule 8210, a written statement regarding allegations that Respondent engaged in an unauthorized outside business and sold securities away from the Firm.
54. The letter was sent via certified mail and return receipt requested to Respondent at [REDACTED] (the "Michigan Address") which was his last known residential address as reflected in the CRD.² A copy of the letter was sent by first class mail to the same address.
55. Enforcement received the return receipt for this letter dated October 15, 2009 bearing the signature "Amy Carpenter".
56. According to the Firm, Amy Carpenter is the Respondent's spouse.
57. The letter sent via first class mail was not returned to FINRA.
58. Respondent did not respond to this request for information.
59. On November 6, 2009, FINRA staff sent a letter to Respondent, which renewed its request, pursuant to FINRA Rule 8210, for a written statement regarding the allegations that Respondent engaged in an unauthorized outside business and sold securities away from the Firm.

² In CRD, Carpenter's address is listed as [REDACTED]

60. The letter was sent via certified mail and return receipt requested to the Michigan Address. A copy of the letter was sent by first class mail to the same address.
61. The copy of the letter sent by certified mail was returned to FINRA marked “unclaimed.”
62. The copy of the letter sent by first class mail was not returned to FINRA.
63. Respondent did not respond to this request for information.
64. On April 1, 2010, Enforcement sent a letter to Respondent, which requested that pursuant to FINRA Rule 8210, Respondent provide on-the-record testimony on April 20, 2010 at 10:00 a.m. at Enforcement’s office located at 14 Wall Street in New York City.
65. The letter was sent via certified mail and return receipt requested to the Michigan Address.³ A copy of the letter was sent by first class mail to the same address.
66. Enforcement received the return receipt dated April 5, 2010 and bearing the signature “A. Carpenter”.
67. The letter sent by first class mail was not returned to Enforcement.
68. Respondent did not appear and provide on-the-record testimony as requested.
69. On April 22, 2010, Enforcement sent a letter to Respondent, which requested that pursuant to FINRA Rule 8210, Respondent provide on-the-record testimony on May 5, 2010 at 10:00 a.m. at Enforcement’s office located at 14 Wall Street in New York City.

³ Enforcement sent the letter to [REDACTED] and [REDACTED]
[REDACTED] an address that was the product of a LEXIS search.

70. The letter was sent via certified mail and return receipt requested to the Michigan Address.⁴ A copy of the letter was sent by first class mail to the same address.
71. Enforcement received the return receipt dated April 26, 2010 and bearing the signature "Amy Carpenter".
72. The letter sent by first class mail was not returned to FINRA.
73. Respondent did not appear and provide on-the-record testimony as requested.
74. By failing to respond to Enforcement requests, pursuant to FINRA Rule 8210, for information and testimony, Respondent violated FINRA Rules 8210 and 2010.

⁴ Enforcement sent the letter to [REDACTED] and [REDACTED]
[REDACTED] an address that was the product of a LEXIS search.

RELIEF REQUESTED

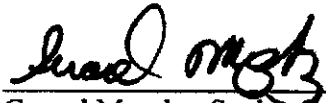
WHEREFORE, the Department respectfully requests that the Panel:

A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and including that the Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest.

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: 7/18/2011


Gerard Murphy, Senior Counsel
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