

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JESSE BOOKER BROWN
(CRD No. 1835044),

Respondent.

Disciplinary Proceeding
No. 20090209995

Hearing Officer—LOM

DEFAULT DECISION

October 20, 2011

Respondent is barred from associating with any FINRA registered firm in any capacity for falsifying a bankruptcy discharge document submitted to his former FINRA-regulated firm, which was a violation of NASD Conduct Rule 2110 concerning adherence to high standards of commercial honor.

Appearances

Keith A. Alt, Principal Counsel, and Aida Vernon, Senior Counsel, New York, New York, for the Department of Enforcement.

No appearance on behalf of Jesse Booker Brown.

I. Introduction

The FINRA Department of Enforcement ("Enforcement") has filed a Motion for Entry of Default Decision and Request for Sanctions ("Default Motion") based on the Respondent's failure to file an Answer or otherwise respond to the charges against him. Enforcement filed the attached Complaint with the Office of Hearing Officers on June 1, 2011, and twice served it on the Respondent, but the Respondent has not filed or served an Answer.

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The Respondent is Jesse Booker Brown, who had been employed and registered with nine different FINRA-regulated firms from August 1998 to April 2006, when he became a registered employee with Ameriprise Financial Services ("Ameriprise" or "the Firm"). Respondent received a transitional compensation loan from Ameriprise when he joined the Firm, which was secured by a promissory note. Under the terms of the note, any unpaid balance of the principal became due and payable upon termination of his employment with the Firm. Brown left Ameriprise to join another FINRA member firm in September 2006, and over \$100,000 became due on the promissory note. Brown did not pay what was due. Instead, he caused to be submitted to the Firm an altered Discharge of Debtor form that made it seem that his debts prior to January 2007 – including the 2006 promissory note to Ameriprise – had been discharged in bankruptcy. The altered Discharge of Debtor form actually related to a 2005 bankruptcy proceeding in which Brown (doing business as Krystal Investment Management) had obtained a discharge of earlier debt. The 2005 bankruptcy proceeding had no effect on future debt like the 2006 promissory note. Brown made a Wells submission prior to the filing and service of the Complaint and admitted that he was responsible for submission of the altered bankruptcy document. But he claimed that he had done so "inadvertently." Brown was employed and registered with four different FINRA member firms after leaving Ameriprise, but his most recent registration ended on July 28, 2010, and he has not been associated with a FINRA member firm since then.¹

¹ The Default Motion is supported by a Declaration given by Keith A. Alt ("Alt Decl.") and nine exhibits marked CX-1 through CX-9. The facts set forth herein are based on that evidence and the allegations of the Complaint, which, as discussed below, are deemed admitted as a result of Brown's default. See Alt Decl. ¶¶ 4-9, 12.

The Complaint states one cause of action, charging Brown with a violation of NASD Conduct Rule 2110 by his submission to Ameriprise of a false bankruptcy discharge document.²

For the reasons set forth below and pursuant to authority granted by FINRA Rule 9269(a), the Hearing Officer finds Brown in default, grants Enforcement's Default Motion, and deems the allegations against Respondent admitted. On that basis, the Hearing Officer also issues this Decision barring Brown from associating with any FINRA member firm in any capacity.

II. Procedural History And Grant Of Default Motion

When Brown failed to repay Ameriprise what he owed pursuant to the promissory note, the Firm hired an attorney to pursue the matter and, if necessary, take legal action.³ Brown submitted the falsified bankruptcy document to the Firm in the context of this effort to collect what was due.⁴ Eventually, Ameriprise filed a Statement of Claim with FINRA Dispute Resolution in March 2008, alleging that Brown had failed to repay the loan.⁵ An arbitration panel decided that Brown was liable for compensatory damages, pre-award interest, and costs and attorneys fees, but Brown later submitted documentation to FINRA establishing a bona fide inability to pay the award.⁶ The arbitration panel referred Respondent to Enforcement for

² 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. NASD Conduct Rule 2110 was in effect at the time of the conduct at issue here. It is identical to FINRA Rule 2010, which became effective December 15, 2008.

³ Compl. ¶¶ 13, 15.

⁴ Compl. ¶¶ 16-26.

⁵ Compl. ¶ 27.

⁶ Compl. ¶ 27.

regulatory review, because it concluded from the evidence presented at the arbitration hearing that "it was apparent that Respondent altered the documents to mislead [the Firm]."

Respondent had actual knowledge of Enforcement's ensuing investigation and engaged with Enforcement in response to its initial request for information.⁷ Shortly thereafter, he retained counsel.⁸ Later he provided testimony and made a Wells submission.¹⁰ After the Wells submission, Brown stopped communicating with his attorney, who finally sent Enforcement a letter indicating that he no longer represented Brown and directing that future correspondence should be sent to the Respondent.¹¹

On June 1, 2011, Enforcement served the Complaint and the First Notice of Complaint on Brown by first-class mail and certified mail, return receipt requested, both addressed to Brown at his most recent address recorded in the Central Registration Depository ("CRD").¹² In addition, Enforcement sent the Complaint and First Notice of Complaint to Brown at his e-mail address [REDACTED] and to Brown's attorney, as reflected in the investigative file.¹³ Enforcement received the certified mail return receipt on June 10, 2011, with a signature ("Donna Trainor") and a check mark in a box identifying the signer as "agent."¹⁴ The copy served by first-class mail was not returned to Enforcement.¹⁵

⁷ Alt Decl. ¶ 8.

⁸ Alt Decl. ¶ 9.

⁹ Alt Decl. ¶ 9.

¹⁰ Alt Decl. ¶ 9.

¹¹ Alt Decl. ¶ 9. The Wells submission was made in February 2011. Brown stopped responding to his attorney's efforts to contact him in May 2011. Enforcement received the attorney's letter on August 8, 2011.

¹² Alt Decl. ¶¶ 13-14; CX-1, CX-2, and CX-3.

¹³ Alt. Decl. ¶ 15; CX-4.

¹⁴ Alt. Decl. ¶ 16; CX-5.

¹⁵ Alt Decl. ¶ 17.

Pursuant to FINRA Rules 9215(a) and 9138(c), Brown was required to file and serve his Answer within 28 days after service, on or before June 29, 2011, as Enforcement specified in the Notice of Complaint.¹⁶ However, Brown filed no Answer with the Office of Hearing Officers by that date, and Enforcement received no responsive pleading.¹⁷

On July 11, 2011, Enforcement served the Complaint and a Second Notice of Complaint on Brown by first-class mail and certified mail, return receipt requested, both addressed to his CRD address.¹⁸ In addition, Enforcement sent the Complaint and Second Notice of Complaint to Brown at his email address [REDACTED] and to Brown's attorney, as reflected in the investigative file.¹⁹ The Second Notice specified that the Answer was due within 17 days after service, on or before July 28, 2011, and warned that a failure to submit an Answer could result in a default decision against Brown pursuant to FINRA Rule 9269.²⁰ Again, Enforcement received the certified mail return receipt with the signature of "Donna Trainor" as agent.²¹ The copy sent by first-class mail was not returned to Enforcement.²² Brown did not file an Answer with the Office of Hearing Officers by the due date, and Enforcement received no responsive pleading.²³

Under FINRA Rule 9134, service of a complaint is valid if sent to an individual Respondent by certified mail at the person's most recent residential address in the CRD, unless Enforcement has actual knowledge that the CRD address is outdated. Alternatively, a complaint

¹⁶ CX-2.

¹⁷ Alt Decl. ¶ 18.

¹⁸ Alt Decl. ¶¶ 19-20; CX-6.

¹⁹ Alt Decl. ¶ 21; CX-8.

²⁰ Alt Decl. ¶ 21; CX-6.

²¹ Alt Decl. ¶ 22; CX-9.

²² Alt Decl. ¶ 23.

²³ Alt Decl. ¶ 24.

may be served on an individual at the CRD address of an entity employing the person.

Enforcement had no indication that Brown's CRD address was outdated, and Brown was no longer employed in the securities industry at a firm where service could be made on an entity CRD address.²⁴

Service here was valid. Pursuant to FINRA Rules 9215(f) and 9269(a) and based on Brown's default, the Hearing Officer deems the allegations in the attached Complaint admitted.

III. Findings Of Fact And Conclusions Of Law As To Underlying Violation

A. Jurisdiction

FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years after termination of Brown's registration with a FINRA member firm, and the Complaint charges him with misconduct that occurred while he was associated with a FINRA member firm. Brown was employed and registered with four different FINRA members after he left Ameriprise, until his registration ended on July 28, 2010. Brown's submission of a falsified bankruptcy document occurred after he left Ameriprise, but he was associated with other FINRA member firms at the time of the misconduct, and Enforcement filed the Complaint on June 1, 2011, less than two years after he ceased to be registered with a member firm.

B. Respondent's Submission Of False Bankruptcy Document

Brown petitioned for bankruptcy in January 2005, which was disclosed on his initial Form U4 with Ameriprise dated April 2006.²⁵ In connection with that bankruptcy, Brown received a Discharge of Debtor dated September 29, 2005.²⁶ There is no evidence in the record

²⁴ Alt Decl. ¶¶ 4-5, 25; CX-1.

²⁵ Alt Decl. ¶ 12(b); Compl. ¶ 6.

²⁶ Alt Decl. ¶ 12(a).

that Ameriprise received notice of the 2005 Discharge of Debtor while Brown was employed with Ameriprise.

On May 3, 2006, Brown signed the loan agreement for the transitional compensation loan from Ameriprise and the promissory note committing to pay back any loan amount owing upon his departure from the firm.²⁷ In September 2006, Brown left Ameriprise for employment with another FINRA member.²⁸ He did not repay the Ameriprise loan as required by the promissory note.²⁹

By letter dated April 3, 2007, an attorney representing Ameriprise contacted Brown to collect on the unpaid loan.³⁰ On April 6, 2007, an attorney representing Brown responded by faxing to Ameriprise's attorney a Discharge of Debtor purporting to be dated January 7, 2007.³¹

In March 2008, Ameriprise filed a Statement of Claim with FINRA Dispute Resolution.³² Brown filed an Answer, but did not appear at the arbitration hearing.³³ The arbitration Hearing Panel decided that Brown was liable for \$116,395.25 in compensatory damages, \$13,008 in pre-award interest, and approximately \$35,000 in costs and attorney fees.³⁴ Brown then submitted documentation to show he was financially unable to pay the arbitration award.³⁵ The arbitrators referred Brown to Enforcement for regulatory examination because: "Jesse Booker Brown falsified bankruptcy documents in an effort to claim that the debt he owed to Ameriprise had

²⁷ Alt Decl. ¶¶ 12(c) and (d).

²⁸ Alt Decl. ¶ 4; CX-1.

²⁹ Alt Decl. ¶ 6.

³⁰ Alt Decl. ¶ 12(e).

³¹ Alt Decl. ¶ 12(f).

³² Alt Decl. ¶ 12(h).

³³ Alt Decl. ¶¶ 6-7 and 12(i).

³⁴ Alt Decl. ¶ 7 and ¶ 12(j).

³⁵ Alt Decl. ¶ 12(k).

been discharged by a prior bankruptcy proceeding. Based on evidence provided at the hearing, it was apparent that Respondent altered the documents to mislead [the Firm].”³⁶

C. Respondent’s Conduct Violated NASD Conduct Rule 2110

NASD Conduct Rule 2110, which was applicable at the time, required that “[a] member, in the conduct of [his] business, shall observe high standards of commercial honor and just and equitable principles of trade.” It is inconsistent with the duties imposed by Conduct Rule 2110 to falsify documents. It is egregious to falsify a bankruptcy court order in order to avoid paying monies owed to a FINRA member firm.

No mitigating circumstances have been presented. Brown admitted the misconduct but argued at one point that he had “inadvertently” caused the altered bankruptcy document to be submitted to Ameriprise.³⁷ He offered no details to explain how this “inadvertent” mistake came about, and the facts discredit his claim. The authentic discharge and the altered discharge bear the same case number as the January 2005 bankruptcy filing, but the altered discharge is different from the authentic discharge in two respects. First, the authentic discharge identifies the debtor in a four-line block with name and address as:

Jesse Booker Brown
d/b/a Krystal Investment Management
5555 South Everett
Chicago, IL 60637

The altered discharge form blanks out the second line so that the debtor is identified as:

Jesse Booker Brown
BLANK
5555 South Everett
Chicago, IL 60637

³⁶ Alt Decl. ¶ 8.

³⁷ Alt Decl. ¶ 12(m).

Second, the authentic discharge form is dated September 29, 2005, while the altered discharge form is dated January 7, 2007.³⁸ These alterations made it falsely appear that Brown's bankruptcy discharge took place after the Firm made the loan to Brown in May 2006 and after Brown left the Firm without repaying the loan in September 2006, rather than before these events.³⁹ Brown forwarded the altered bankruptcy discharge to his lawyer to be forwarded to the Firm after the Firm had pressed him to repay the loan.⁴⁰ This misconduct could not conceivably have been inadvertent. Brown's proffered explanation is not credible.

The Hearing Officer finds that Brown violated NASD Conduct Rule 2110.

IV. Sanctions

Pursuant to the FINRA Sanction Guidelines ("Sanction Guidelines"),⁴¹ the Hearing Officer finds that a bar from associating with any FINRA member firm in all capacities is an appropriately remedial sanction given the facts and circumstances of this case. Brown's misconduct was an egregious violation of his duties under NASD Conduct Rule 2110.

As explained in the General Principles applicable to all FINRA sanctions, the overall purpose of the FINRA disciplinary process and FINRA sanctions is to deter the respondent and others from engaging in misconduct and to protect investors.⁴² A principle consideration in determining the appropriate sanction for an individual is whether that person attempted to deceive his or her employer firm.⁴³ Other principle considerations are whether the person

³⁸ Compl. ¶¶ 20-23.

³⁹ Compl. ¶ 24.

⁴⁰ Compl. ¶ 26.

⁴¹ FINRA Sanction Guidelines (2011), available at www.finra.org/oho (then follow "Enforcement" hyperlink to "Sanction Guidelines").

⁴² Sanction Guidelines at 2.

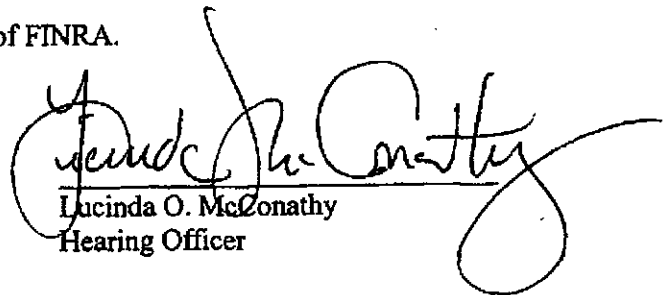
⁴³ Sanction Guidelines at 6.

engaged in an intentional act (as opposed to a reckless or negligent act) and whether the person stood to benefit financially by the misconduct.⁴⁴ With respect to falsification of documents in particular, the Sanction Guidelines provide for a bar in egregious cases and suggest a suspension where there are mitigating factors.⁴⁵

All of these considerations point to a bar in this case. Brown intentionally attempted to deceive the Firm that had employed him in order to retain a financial benefit to which he was not entitled by avoiding repayment of the loan from Ameriprise. There was nothing inadvertent about his misconduct. Brown has demonstrated that he is untrustworthy, and it is necessary to bar him from associating with any FINRA member firm in order to protect investors. Brown's misconduct and his continuing attempt to excuse and mischaracterize the nature of his acts demonstrate a fundamental lack of integrity.

V. Order

Respondent is barred from associating with any member firm in any capacity for violating NASD Conduct Rule 2110. The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.



Lucinda O. McDonathy
Hearing Officer

Copies to:

Jesse Booker Brown (*via overnight courier and first-class mail*)
Keith A. Alt, Esq. (*via electronic and first-class mail*)
Aida Vernon, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

⁴⁴ Sanction Guidelines at 7.

⁴⁵ Sanction Guidelines at 37.

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Jesse Booker Brown (CRD No. 1835044),

Respondent.

DISCIPLINARY PROCEEDING
No. 20090209995

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In April 2007, Jesse Booker Brown ("Brown"), a former registered employee of Ameriprise Financial Services, Inc. ("Ameriprise" or the "Firm"), caused an altered bankruptcy discharge form to be submitted to Ameriprise in support of the false assertion that a \$116,395.25 debt Brown owed the Firm had been discharged by a prior bankruptcy proceeding. This was a violation of NASD Rule 2110.

RESPONDENT AND JURISDICTION

2. Brown entered the securities industry in 1988. During the period of August 1998 to April 2006, he was employed and registered with nine different FINRA-regulated firms. From April 2006 to September 2006, Brown was employed and registered with Ameriprise. Thereafter, Brown was employed and registered with four additional FINRA-regulated firms until July 22, 2010, when his most recent employment as a registered representative voluntarily terminated.

3. Although Brown currently is not registered with a FINRA-regulated firm, FINRA retains jurisdiction over him until July 21, 2012 pursuant to Article V, Section 4(a) of the FINRA By-Laws.

CAUSE OF ACTION

**Causing the Submission of an Altered Bankruptcy Discharge
Document to a FINRA-Regulated Firm**

(NASD Rule 2110)

4. The Department realleges and incorporates by reference paragraphs 1 to 3 above.

5. NASD Rule 2110 provides that "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade."

6. In January 2005, Brown filed a voluntary bankruptcy petition with the U.S. Bankruptcy Court in accordance with Chapter 7 of the U.S. Bankruptcy Code.

7. As a result of the January 2005 bankruptcy filing, the Bankruptcy Court granted Brown a discharge under the Bankruptcy Code and issued a Discharge of Debtor form (the "Authentic Discharge Form") dated September 29, 2005.

8. The Authentic Discharge Form identifies the debtor as:

Jesse Booker Brown
dba Krystal Investment Management
5555 South Everett
Chicago, IL 60637

9. The bankruptcy proceeding in connection with Brown's January 2005 bankruptcy filing was closed and the trustee was discharged on October 3, 2005, prior to his employment and registration with Ameriprise. At the time of the bankruptcy proceeding, he was employed and registered with Firm A.

10. Brown disclosed his 2005 bankruptcy petition on his initial Form U-4 with Ameriprise dated April 2006.

11. Brown commenced his employment with Ameriprise on or about April 25, 2006. At that time, in connection with his employment with the Firm, Brown received a transitional compensation loan from the Firm in the amount of \$116,395.25 (the "Loan").

12. The Loan was secured by a promissory note signed by Brown on May 3, 2006 (the "Note"). Under the terms of the Note, Ameriprise agreed to forgive the principal amount of the Loan in three equal installments, one on each of the first three annual anniversaries of his employment with the Firm, provided that Brown was still employed with the Firm on each of the respective anniversaries.

13. In September 2006, approximately five months after Brown commenced his employment with Ameriprise, Brown voluntarily terminated his employment. Brown did not repay the Loan when he left the Firm.

14. In October 2006, Brown became employed and registered with Firm B, where he remained until November 2007.

15. By letter dated April 3, 2007 (the "April 3rd Letter"), counsel for the Firm advised Brown that she had been retained by the Firm "to address [his] failure to pay Ameriprise the amount [he owed] on [his] transitional compensation loan." The April 3rd Letter further stated that repayment of the Loan was required to be made by April 9, 2007; otherwise, the Firm would take appropriate legal action.

16. Brown did not repay the Loan as requested in the April 3rd Letter.

17. In response to the April 3rd Letter, Brown's attorney sent counsel for the Firm a two-page fax on April 6, 2007 (the "April 6th Fax").

18. The first page of the April 6th Fax is a cover sheet, containing a hand-written message from the attorney's office: "Inclosed [sic] you will find discharge in Bankruptcy of Jesse Brown."

19. The second page of the April 6th Fax purports to be a Discharge of Debtor form (the "Altered Discharge Form").

20. The Altered Discharge Form is almost identical to the Authentic Discharge Form. The Altered Discharge Form exhibits the same case number as the January 2005 bankruptcy filing. The Altered Discharge Form also bears a court clerk signature identical to the Authentic Discharge Form. Furthermore, the Altered Discharge Form identifies "Jesse Booker Brown" as the debtor.

21. The Altered Discharge Form, however, is different from the Authentic Discharge Form in two respects. First, the second line of the four-line description, which appears on the Authentic Discharge Form and indicates that Brown is doing business as Krystal Investment Management, is blanked out on the Altered Discharge Form.

22. The Altered Discharge Form identifies the debtor as:

Jesse Booker Brown
[BLANK]
5555 South Everett
Chicago, IL 60637

23. Second, and more importantly, the Altered Discharge Form is dated January 7, 2007, rather than September 29, 2005 as the Authentic Discharge Form is dated.

24. The altered document made it falsely appear that Brown's bankruptcy discharge took place *after* the Firm made the transitional compensation loan to Brown in May 2006 and *after* Brown left the Firm without repaying the loan in September 2006, rather than before.

25. The Altered Discharge Form is an altered version of the Authentic Discharge Form. Brown's discharge from bankruptcy occurred in September 2005, and not in January 2007.

26. In April 2007, Brown forwarded the Altered Discharge Form to his lawyer, who submitted it to Brown's former employer, Ameriprise.

27. Ameriprise subsequently filed a Statement of Claim with FINRA Dispute Resolution in March 2008, alleging that Brown had failed to repay the Loan. An arbitration hearing on the matters alleged in the Statement of Claim occurred in February 2009, but Brown did not appear. The arbitration Hearing Panel decided that Brown was liable for compensatory damages, pre-award interest, and costs and attorney fees. Thereafter, Brown submitted documentation to FINRA establishing a bona fide inability to pay the award.

28. By virtue of this conduct, Brown violated NASD Rule 2110 in that he caused an altered bankruptcy discharge document to be submitted to his former employer, which was a FINRA-regulated firm, in support of the false assertion that a debt he owed the former employer had been discharged by a prior bankruptcy proceeding.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed.

- B. order that 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 1st, 2011

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