

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

EDWARD ALLEN MANTANONA,
(CRD No. 4455860),

Respondent.

Disciplinary Proceeding
No. 2009021067101

Hearing Officer – Sara Nelson Bloom

AMENDED DEFAULT DECISION¹

May 2, 2012

Respondent is barred from associating with any FINRA-registered firm in any capacity for receiving unauthorized customer loans, in violation of NASD Rules 2370 and 2110, making misrepresentations to his firm, in violation of NASD Rule 2110, and failing to provide information, in violation of FINRA Rules 8210 and 2010.

Appearances

Frank Mazzairelli, Esq., appeared on behalf of the Department of Enforcement.

No appearance by or on behalf of Edward Allen Mantanona.

DECISION

I. Introduction

The FINRA Department of Enforcement (“Enforcement”) filed the attached Complaint with the Office of Hearing Officers on November 17, 2011. The Complaint charges Respondent Edward Allen Mantanona (“Respondent”) with receiving unauthorized customer loans, in violation of NASD Rules 2370 and 2110; making misrepresentations to his firm, in violation of NASD Rule 2110; and failing to respond to

¹ This decision is amended to remove a typographical error and clarify the accompanying text.

requests for information, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010.²

II. Procedural History

On November 17, 2011, Enforcement served the Complaint and First Notice of Complaint on Respondent by mailing them to him at his most recent residential address recorded in the Central Registration Depository (“CRD”) by first-class and certified mail, return receipt requested.³ The certified mailing was returned as unclaimed.⁴ Respondent did not answer or otherwise respond to the Complaint.⁵

On December 19, 2011, Enforcement served the Complaint and Second Notice of Complaint on Respondent by mailing them to him at his CRD address by first-class and certified mail, return receipt requested.⁶ The certified mailing was returned as unclaimed.⁷ Respondent did not answer or otherwise respond to the Complaint.

On February 13, 2012, Enforcement filed a Motion for Entry of Default Decision (“Default Motion”), together with the declaration of Frank Mazzaelli, Esq. (“Decl.”) and three exhibits.⁸

Respondent did not respond to Enforcement’s Default Motion. Accordingly, pursuant to Rules 9215(f) and 9269(a), the Hearing Officer granted Enforcement’s Default Motion and deemed the allegations in the attached Complaint admitted.

² The conduct rules that apply in this case are those that existed at the time of the conduct at issue.

³ Decl. ¶ 30.

⁴ *Id.* ¶ 33; CX-2. There is no information as to whether the first-class mailing was returned.

⁵ Decl. ¶ 32.

⁶ *Id.* ¶ 34.

⁷ *Id.* ¶ 36; CX-3. There is no information as to whether the first-class mailing was returned.

⁸ Enforcement’s exhibits are labeled CX-1 through CX-3.

III. Findings of Fact and Conclusions of Law

A. Jurisdiction

Respondent was registered as a General Securities Representative with Edward D. Jones & Co. L.P. (the “Firm”) between November 2001 and December 2009.⁹ He has not been registered with FINRA since he left the Firm.¹⁰

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 while he was an associated person and with failing to provide information during the two-year period following the termination of his FINRA registration.¹¹

B. Unauthorized Customer Loans

In September 2006, Respondent solicited and received a \$30,000 loan from his customer, LP, which Respondent repaid. In February 2008, Respondent solicited and received an additional \$60,000 loan from LP at an agreed interest rate of 9% annually. On February 13, 2008, Respondent signed a promissory note representing the terms of this loan. Respondent failed to repay this loan by December 31, 2008, as required by the promissory note. The entire balance of the second loan remains unpaid.¹²

NASD Conduct Rule 2370(a), provides, in pertinent part, that “[n]o person associated with a member in any registered capacity may borrow money from or lend

⁹ CX-1.

¹⁰ *Id.*

¹¹ See Article V, Sec. 4(a), FINRA By-Laws, *available at* www.finra.org/Rules (then follow “FINRA Manual” hyperlink to “Corporate Organization: By-Laws”).

¹² Decl. ¶¶ 11-14.

money to any customer of such person unless: (1) the member has written procedures allowing borrowing and lending of money between such registered persons and customers of the member”¹³ Here, Respondent did not request or receive approval for the loans as required by the Firm, and the loans did not meet the specific criteria set forth in the Firm’s procedures.

The Hearing Officer finds that the foregoing facts establish that Respondent violated NASD Rules 2370 and 2110 by borrowing money from LP without the Firm’s prior written approval and in violation of the Firm’s written procedures that prohibited such loans.¹⁴

C. Misrepresentations to Firm

On January 22, 2007, and February 28, 2008, Respondent falsely represented on the Firm’s annual compliance questionnaires that he had not received any loans from customers.¹⁵

The allegations of the Complaint are sufficient to establish, for purposes of this default decision, that Respondent violated NASD Rule 2110.

D. Failing to Provide Information

Respondent failed to provide information requested by FINRA Staff pursuant to Rule 8210.

On February 3, 2010, FINRA Staff sent Respondent a written request for information, pursuant to Rule 8210. The certified letter was returned as unclaimed.¹⁶

¹³ Rule 2370 contains other conditions under which borrowing from customers is permissible; however, they are not relevant here because the Firm permitted borrowing under limited circumstances and required prior approval.

¹⁴ Decl. ¶16.

¹⁵ Complaint ¶¶ 20-22.

After Respondent failed to respond, FINRA Staff sent a second request, dated March 19, 2010, by first-class and certified mail to Respondent's CRD address. The certified request was returned as unclaimed.¹⁷

On April 5, 2010, Respondent sent an email to FINRA Staff indicating he had received the staff's request.¹⁸ On November 3, 2010, FINRA Staff sent a third request for information by first-class and certified mail to Respondent's CRD address. The request letter was returned as undeliverable.¹⁹ On December 8, 2010, FINRA Staff sent its request for information to Respondent's email address. Respondent did not respond to the request.²⁰

The allegations of the Complaint are sufficient to establish, for purposes of this default decision, that Respondent violated Rules 8210 and 2010 by failing to respond to Staff's request for information and documents.

IV. Sanctions

The FINRA Sanction Guidelines ("Sanction Guidelines") do not provide specific guidance for borrowing money from a customer in violation of Conduct Rule 2370. However, an NASD Notice to Members provides guidance on Rule 2370's importance: "Loans between registered persons and their customers are of legitimate interest to NASD and member firms because of the potential for misconduct. NASD has brought disciplinary action against registered persons who have violated just and equitable

¹⁶ Complaint ¶¶ 24-25. There is no information as to whether the first-class mailing was returned.

¹⁷ Complaint ¶¶ 26-27. There is no information as to whether the first-class mailing was returned.

¹⁸ Complaint ¶¶ 28.

¹⁹ *Id.* ¶¶ 29-31. There is no information as to whether it was the certified or the first-class mailing, or both, that were returned as undeliverable.

²⁰ Complaint ¶ 32-33.

principles of trade by taking unfair advantage of their customers by inducing them to lend money in disregard of the customers' best interests, or by borrowing funds from, but not repaying, customers."²¹

There are also no Guidelines directly applicable to Respondent's misstatements to the Firm about the loans. However, the Guideline for falsification of records, which recommends a suspension of up to two years or a bar in cases involving false, inaccurate or misleading filings, is analogous.²²

According to the General Principles Applicable to All Sanction Determinations ("General Principles"), adjudicators should impose sanctions that are designed to deter future misconduct and improve overall business standards. In addition, adjudicators are directed to consider whether the respondent attempted to conceal his misconduct, whether he accepted responsibility for and acknowledged the misconduct to his employer or a regulator prior to detection and intervention by the employer or regulator, and whether he engaged in the misconduct over an extended period of time.²³

The Hearing Officer finds that Respondent's borrowing from a customer and his associated misstatements on the Firm's annual compliance questionnaires were egregious and a bar is warranted. Respondent borrowed \$90,000 from a customer, \$60,000 of which he failed to repay. In addition, he falsely represented on two annual Firm questionnaires that he had not entered into any loan with a client. Bars for these violations are necessary to protect the investing public. In addition, the Hearing Officer will order Respondent to

²¹ NASD Notice to Members 03-62, October 2003.

²² Guidelines at 37 (2011), www.finra.org/sanctionguidelines.

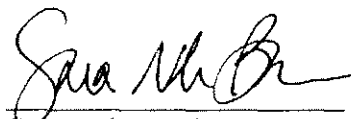
²³ Guidelines at 6 (Principal Considerations in Determining Sanctions, Nos. 2, 9, and 10), available at www.finra.org/sanctionguidelines.

pay restitution to customer LP in the principal sum of \$60,000, plus interest on the outstanding balance until it is paid in full.

The Guidelines for failing to respond to FINRA Rule 8210 requests for information provide that a bar should be “standard” when there is a complete failure to respond.²⁴ There are no mitigating factors warranting a lower sanction. Accordingly, the appropriate sanction is a bar.

V. Conclusion

Respondent is separately barred from associating with any FINRA-registered firm in any capacity for borrowing from a customer, in violation of NASD Rules 2370 and 2110, making misrepresentations to his Firm, in violation of NASD Rule 2110, and failing to provide information, in violation of FINRA Rules 8210 and 2010. In addition, Respondent is ordered to pay restitution to LP in the principal sum of \$60,000, plus interest thereon at the rate of 9% per year from February 13, 2008, until paid.²⁵ The bars will become effective immediately if this decision becomes FINRA’s final disciplinary action in this proceeding.



Sara Nelson Bloom
Hearing Officer

Copies to: Edward Allen Mantanona (*via overnight courier and first-class mail*)
Frank Mazzairelli Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

²⁴ FINRA Sanction Guidelines 33 (2011), www.finra.org/sanctionguidelines.

²⁵ The interest rate is set by the terms of the promissory note. Customer LP is identified in the addendum to this decision, which is served only on the parties.

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Edward Allen Mantanona
(CRD No.4455860)

Respondent.

DISCIPLINARY PROCEEDING
No. 2009021067101

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Between September 2006 and February 2008 ("the relevant time period"), registered representative Edward Allen Mantanona ("Respondent") borrowed a total of \$90,000 from a firm customer without disclosing the loans to his member firm.
2. During the relevant time period, Respondent approached customer, LP, on two separate occasions, borrowing \$30,000 in September 2006 and \$60,000 in February 2008. Respondent repaid the full amount of the first loan, but never repaid the second loan. Respondent failed to inform his firm of the loans and obtain the firm's approval. By engaging in unauthorized customer loans, Respondent violated NASD Rules 2370 and 2110.

3. In January 2007 and February 2008, Respondent falsely completed his firm's annual questionnaires by misrepresenting that he had not received loans from customers. By making these misstatements to his firm, Respondent violated NASD Rule 2110.
4. Respondent also failed to respond to several FINRA requests for information and thereby violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

5. Respondent entered the securities industry in 2001 with Edward D. Jones & Co., L.P. and worked there until his termination on December 15, 2009. Respondent held Series 7, 63, and 66 licenses.
6. Since his termination, Respondent's U5 was amended on March 18, 2010, to disclose that Respondent may have engaged in additional misconduct while registered.
7. Pursuant to Article V, Section 4 of FINRA's By-Laws, FINRA's jurisdiction extends until March 17, 2012.

FIRST CAUSE OF ACTION

UNAUTHORIZED CUSTOMER LOAN

NASD RULES 2370 AND 2110

8. The Department realleges and incorporates by reference paragraphs 1-7 above.
9. Customer LP was a client of Respondent and had an account at Respondent's firm.
10. In September 2006, Respondent solicited and received a \$30,000 loan from LP.
11. By the end of December 2006, Respondent had repaid the loan in full, plus 8% interest.

12. In February 2008, Respondent solicited and received an additional \$60,000 loan from LP at an agreed upon interest rate of 9% annually.
13. On February 13, 2008, Respondent signed a promissory note representing the terms of the \$60,000 loan from LP and LP gave Respondent a check in the amount of \$60,000.
14. Respondent failed to repay the \$60,000 loan with 9% interest by December 31, 2008 as required in the promissory note and the balance remains outstanding.
15. When Respondent borrowed money from LP, NASD Rule 2370 prohibited an associated person from borrowing money from a customer unless pre-approved by the firm in writing in certain circumstances set forth in the rule.
16. Respondent did not request nor receive approval for the customer loan at any time from his firm.
17. As a result of the foregoing conduct, Respondent violated NASD Rules 2370 and 2110.

SECOND CAUSE OF ACTION
MISREPRESENTATIONS TO FIRM
NASD RULE 2110

18. The Department realleges and incorporates by reference paragraphs 1-17 above.
19. During the relevant time period, Respondent completed and submitted annual questionnaires to his firm.
20. On January 22, 2007, next to the question "Have you ever borrowed money from or loaned money to an Edward Jones customer," Respondent falsely indicated "No," and

placed his signature beneath the bolded words: "The information I have provided above is accurate and complete."

21. On February 28, 2008, next to the question, "Since your last audit, have you ever borrowed money from or loaned money to an Edward Jones customer other than an immediate family member," Respondent falsely indicated "No," and placed his signature beneath the bolded words: "The information I have provided on this questionnaire is accurate and complete."
22. By making these misrepresentations to his firm, Respondent failed to observe high standards of commercial honor and just and equitable principles of trade and thereby violated NASD Rule 2110.

THIRD CAUSE OF ACTION

FAILURE TO RESPOND TO REQUESTS FOR INFORMATION

FINRA RULES 8210 AND 2010

23. The Department realleges and incorporates by reference paragraphs 1-22 above.
24. On February 3, 2010, the first 8210 request was sent to Respondent, via first class mail and certified mail return receipt requested, to Respondent's address listed in CRD.
25. On February 24, 2010, the certified mail was returned back "Return to Sender; Unclaimed; Unable to Forward."
26. On March 19, 2010, a second 8210 request was sent to Respondent, via first class mail and certified mail return receipt requested, to Respondent's address listed in CRD.

27. On April 1, 2010, the certified mail was returned back "Return to Sender; Unclaimed; Unable to Forward."
28. On April 5, 2010, FINRA staff received an e-mail from Respondent, referencing the 8210 request that had been mailed to him.
29. On November 3, 2010 a third 8210 request was sent to Respondent at his CRD address and read in part: "We have reviewed your e-mail dated April 5, 2010 in response to FINRA information request letters dated February 3, 2010 and March 19, 2010. Your e-mail is not adequately responsive to either letter, and to date we have not received the requested information. As the matter has now been referred to the Department of Enforcement, we urge you to respond in a timely manner, consistent with Rule 8210."
30. The third 8210 request was sent to the CRD address, via first class mail and certified mail return receipt requested.
31. The third 8210 request was returned as "Not Deliverable as Addressed; Unable to Forward."
32. On December 8, 2010, the third 8210 request was sent to the e-mail address which Respondent had used to send his April 5, 2010 e-mail.
33. No response was ever received to the December 8, 2010 e-mail.
34. By virtue of the foregoing, Respondent violated FINRA Rules 8210 and 2010.

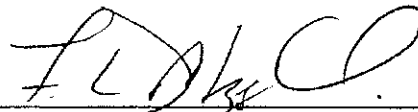
RELIEF REQUESTED

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, 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: November 17, 2011



Frank Mazzairelli, Counsel
Lane Thurgood, Director, Enforcement Center
FINRA Department of Enforcement
1801 K Street NW, 8th floor
Washington, D.C. 20006
Telephone: (202) 974-2769
Facsimile: (202) 721-1354
Frank.Mazzairelli@finra.org