

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

RONAK C. PATEL
(CRD No. 5523697),

Respondent.

Disciplinary Proceeding
No. 20100245404

Hearing Officer—LOM

DEFAULT DECISION

September 21, 2011

Respondent is barred from associating with any FINRA registered firm in any capacity for: (i) failing to respond to requests for information in connection with a FINRA investigation, in violation of Procedural Rule 8210 and Conduct Rule 2010; (ii) failing to notify his employer, a FINRA registered firm, that he had a securities account at another FINRA registered firm, and failing to notify the second firm that he was associated with a FINRA member firm, in violation of NASD Conduct Rules 3050 and 2110 and FINRA Rule 2010; and (iii) making a misstatement to his employer regarding the securities account he maintained at the other FINRA registered firm in violation of FINRA Rule 2010.

Appearances

Keith A. Alt, Esq., Principal Counsel, New York, New York, for the Department of Enforcement.

No appearance by or on behalf of Ronak C. Patel.

DECISION

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

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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 May 12, 2011, and served it twice (first in May and again in June) on the Respondent, Ronak C. Patel, who was employed by HSBC Bank USA, N.A. ("HSBC" or the "firm") until his voluntary termination of his employment with HSBC on May 15, 2009, and termination of his registration on June 1, 2009.

The Complaint alleges three causes of action against Patel. First, the Complaint charges him with violating FINRA Rules 8210 and 2010 by failing to comply with Enforcement's request for information in connection with an investigation concerning allegations that he accepted loans from a customer and had a brokerage account away from his firm without the firm's approval into which he deposited the loan funds. Second, the Complaint charges Patel with violating NASD Rules 3050 and 2110 and FINRA Rule 2010 by failing to notify his firm that he had established an individual brokerage account at another member firm. Third, the Complaint charges Patel with violating FINRA Rule 2010 by making a false statement on the compliance certification he submitted to his employer when he declared that he did not have a securities account, although he in fact did have a securities account.¹

Patel did not answer the Complaint. Accordingly, on August 4, 2011, Enforcement filed and served by first-class certified mail and first-class mail a Default Motion, together with the declaration of Keith A. Alt ("Alt Decl.") and nine attached exhibits.² Patel did not respond to the Default Motion.

¹ The FINRA Rules, which include NASD Procedural and Conduct Rules, are available at www.finra.org/Rules. Following the consolidation of NASD and the member regulation, enforcement, and arbitration functions of NYSE Regulation into FINRA, FINRA began developing a new "Consolidated Rulebook" of FINRA Rules. The first phase of the new consolidated rules became effective on December 15, 2008. See FINRA Regulatory Notice 08-57 (Oct. 2008). Because the Complaint in this case was filed after December 15, 2008, the FINRA procedural rules apply. The conduct rules that apply are those that existed at the time of the conduct at issue. In the rule consolidation, NASD Rule 2110 was renumbered to FINRA Rule 2010, which is identical to Rule 2110.

² Enforcement's exhibits are labeled CX-1 through CX-9.

For the reasons set forth below and pursuant to authority granted by FINRA Rule 9269(a), the Hearing Officer finds Patel 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 Patel from associating with any FINRA member firm in any capacity.

II. Procedural History And Grant Of Default Motion

On May 12, 2011, Enforcement served the Complaint and the First Notice of Complaint on Patel by first-class and certified mail, return receipt requested, addressed to Patel at his most recent address recorded in the Central Registration Depository ("CRD").³ The copy sent by first-class mail was not returned to Enforcement.⁴ On or about May 20, 2011, Enforcement received back a return receipt for the copy sent by certified mail, which was signed by "Chimanlal B. Patel C.B. Patel" and dated May 16, 2011.⁵

Pursuant to FINRA Rules 9215(a) and 9138(c) Patel was required to file and serve his Answer within 28 days after service, on or before June 9, 2011, as Enforcement specified in the Notice of Complaint.⁶ However, Patel did not file an Answer by June 9, 2011.⁷

On June 15, 2011, Enforcement served the Complaint and a Second Notice of Complaint at Patel's CRD address by first-class mail and certified mail, return receipt requested.⁸ Again, the copy sent by first-class mail was not returned to Enforcement.⁹ On or about June 28, 2011,

³ Alt Decl. ¶ 20; CX-4, CX-5.

⁴ Alt Decl. ¶ 23.

⁵ Alt Decl. ¶ 22; CX-6.

⁶ Alt Decl. ¶ 20; CX-4.

⁷ Alt Decl. ¶ 24.

⁸ Alt Decl. ¶ 25; CX-7.

⁹ Alt Decl. ¶ 28.

Enforcement received back a return receipt for the copy sent by certified mail, which was signed "Chimanlal Chimanlal" and dated June 18, 2011.¹⁰

Pursuant to FINRA Rules 9215(f) and 9138(b) and (c) Patel was required to file and serve his Answer by July 5, 2011.¹¹ However, Patel did not file an Answer.¹²

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 may be served on an individual at the CRD address of an entity employing the person. Enforcement served Patel at his CRD residential address because it has no knowledge of any alternate addresses for Patel.¹³

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

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

A. Background

Patel first entered the securities industry and became subject to FINRA's jurisdiction in June 2008, when his employer, HSBC, filed his initial Form U-4.¹⁴ He successfully completed the Series 6 exam in spring 2009 and was registered with HSBC on March 11, 2009.¹⁵ On May 15, 2009, Patel voluntarily terminated his employment with HSBC.¹⁶ On June 1, 2009, HSBC

¹⁰ Alt Decl. ¶ 27; CX-9.

¹¹ Alt Decl. ¶ 29; CX-7.

¹² Alt Decl. ¶ 29.

¹³ Alt Decl. ¶ 30.

¹⁴ Compl. ¶ 2; CX-1.

¹⁵ Compl. ¶ 3; CX-1.

¹⁶ Compl. ¶¶ 2-3; CX-1.

filed a Form U-5 for Patel reflecting these events and terminating his registration.¹⁷ Since leaving HSBC, Patel has not been registered with a FINRA-regulated firm.¹⁸

B. 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 Patel's registration, and it charges him both (i) with misconduct that occurred while he was associated with a FINRA member firm and (ii) with failing to respond to Enforcement's requests for information made during the two-year period following the termination of his FINRA registration.¹⁹

C. Failure To Comply With Requests For Information And Testimony

The first cause of action alleges that Patel violated FINRA Rules 8210 and 2010 by failing to respond to requests for information and testimony. Rule 8210 grants FINRA the right to require members and persons subject to FINRA's jurisdiction "to provide information orally, in writing, or electronically ... and to testify at a location specified by FINRA staff ... with respect to any matter involved in [an] investigation, complaint, examination, or proceeding."²⁰ Rule 8210 enables FINRA to conduct meaningful examinations and investigations. FINRA relies heavily on Rule 8210, and the Securities and Exchange Commission has "repeatedly stressed the importance of cooperation in [FINRA] investigations ... [and] emphasized that the failure to provide information undermines [FINRA's] ability to carry out its self-regulatory

¹⁷ Compl. ¶ 3; CX-1.

¹⁸ Compl. ¶ 4.

¹⁹ 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").

²⁰ FINRA Rule 8210(a)(1); see also *Michael J. Markowski*, Exchange Act Rel. No. 43259, 2000 SEC LEXIS 1860, at *15 (Sept. 7, 2000) ("The NASD has the right to request information and require cooperation from its members and persons associated with them."), *aff'd*, 2001 U.S. App. LEXIS 27007 (D.C. Cir. Dec. 21, 2001).

functions.”²¹ Indeed, Rule 8210 is widely accepted as FINRA’s most important tool for investigating potential wrongdoing primarily because FINRA lacks subpoena authority and has limited power to compel the production of evidence from its members.²² FINRA is therefore entitled to the “full and prompt cooperation” of all persons subject to its jurisdiction when investigative requests are made by members of its staff.²³

In addition, FINRA Rule 2010 states that “[a] member, in the conduct of [his] business, shall observe high standards of commercial honor and just and equitable principles of trade.” Those high standards include compliance with FINRA Rules such as 8210 and cooperating with FINRA in the conduct of its examinations and investigations.²⁴

In this case, FINRA received a complaint from a customer of HSBC who alleged that during the period of January to September 2008 Patel had asked to borrow money from the customer, had received loans from the customer in the form of checks made payable to Patel, and had deposited the checks into a brokerage account at Scottrade, Inc. (“Patel’s Scottrade Account”).²⁵ In connection with this complaint, FINRA requested both information and testimony from Patel.²⁶

Pursuant to Rule 8210, FINRA requested by letter dated January 14, 2011, that Patel provide a signed statement regarding allegations that he accepted loans from a customer and that

²¹ *Joseph Patrick Hannan*, Exchange Act Rel. No. 40438, 1998 SEC LEXIS 1955, at * 9 (Sept. 14, 1998) (internal citations omitted).

²² See *John B. Busacca, III*, Exchange Act Rel. No. 63312, 2010 SEC LEXIS 3787, at *57 n.67 (Nov. 12, 2010), appeal docketed, No. 10-15918 (11th Cir. Dec. 23, 2010).

²³ *Michael David Borth*, Exchange Act Rel. No. 31602, 1992 SEC LEXIS 3248, at *7 (Dec. 16, 1992).

²⁴ The Securities and Exchange Commission has consistently held that a violation of an NASD rule or regulation is inconsistent with NASD Conduct Rule 2110, the predecessor to FINRA Rule 2010. *Alvin W. Gebhart*, Exchange Act Rel. No. 53136, 2006 SEC LEXIS 93, at *54 n.75 (Jan. 18, 2006) *rev’d and remanded in part on other grounds sub. nom Gebhart v. SEC*, 2007 U.S. App. LEXIS 27183 (9th Cir. Nov. 21, 2007)

²⁵ Compl. ¶ 6; Alt Decl. ¶ 7.

²⁶ Compl. ¶ 7.

he opened a non-HSBC brokerage account without the firm's approval.²⁷ FINRA specified that a response should be received by January 28, 2011, but it received no response by that date.²⁸ FINRA sent a second letter pursuant to Rule 8210, dated February 7, 2011, requesting the signed statement by February 14, 2011.²⁹ Both letters were sent by certified mail and by first-class mail to Patel's CRD address.³⁰

On February 7, 2011, after FINRA had already sent the second letter, FINRA staff received a call from a lawyer who identified himself as Patel's attorney and who sought an extension of time for Patel to respond to the first letter. FINRA staff informed the attorney that a second letter had been sent to Patel and that February 14, 2011, was the deadline to respond.

February 14, 2011, passed without response from Patel. By letter dated March 1, 2011, Patel's attorney acknowledged Patel's receipt of the initial letter dated January 14, 2011, and asked for the identity of the individual making the allegations and the period in which the conduct allegedly occurred. The attorney's letter contained no substantive response to the issues FINRA had identified in its letter seeking information.³¹

By letter dated April 8, 2011, to Patel's attorney, FINRA requested pursuant to Rule 8210 that Patel appear and provide testimony on April 15, 2011, in connection with FINRA's investigation. In that same letter FINRA identified the name of the customer from whom Patel

²⁷ Compl. ¶ 8; Alt Decl. ¶ 10(a).

²⁸ Compl. ¶¶ 8-9; Alt Decl. ¶ 10(a).

²⁹ Compl. ¶ 10; Alt Decl. ¶ 10(c).

³⁰ Alt Decl. ¶¶ 10(a), 10(c).

³¹ Alt Decl. ¶ 10(c).

allegedly accepted one or more loans. Nevertheless, Patel did not appear or testify on April 15, 2011.³²

The Hearing Officer finds that Patel violated FINRA Rules 8210 and 2010 by failing to respond to the two letters requesting information and failing to appear for testimony.

D. Failure To Disclose An Outside Securities Account

The second cause of action alleges that Patel violated NASD Conduct Rules 3050 and 2110 and FINRA Rule 2010 by failing to make appropriate disclosures relating to a securities account he held. Patel opened his Scottrade Account in July 2007, and it remained active to June 2009.³³ Patel never notified HSBC that he had the Scottrade Account after he became associated with the firm in June 2008.³⁴ Nor did he notify Scottrade that he had become associated with the firm.³⁵ It was into this account Patel deposited the checks he borrowed from an HSBC customer.³⁶

The Hearing Officer finds that Patel violated NASD Rule 3050 by failing to make the required disclosures to HSBC and Scottrade.³⁷ His conduct also violated NASD Conduct Rule

³² In its Default Motion (p. 6 n.1), Enforcement noted that on July 27, 2011, it had received a letter from Patel's attorney indicating that his office was no longer representing Patel and that all future correspondence should be directed to Respondent. Alt Decl. ¶ 10(f).

³³ Compl. ¶¶ 21, 22; Alt Decl. ¶¶ 11-12.

³⁴ Compl. ¶ 25; Alt Decl. ¶ 13.

³⁵ Compl. ¶ 26.

³⁶ Compl. ¶ 22.

³⁷ NASD Conduct Rule 3050(c) provides,

A person associated with a member, prior to opening an account or placing an initial order for the purchase or sale of securities with another member, shall notify both the employer member and the executing member, in writing, of his or her association with the other member; provided, however, that if the account was established prior to the association of the person with the employer member, the associated person shall notify both members in writing promptly after becoming so associated.

E. False Statement In Compliance Certification

The third cause of action alleges that on January 12, 2009, Patel made a false statement on an annual compliance certification to HSBC that he completed after he signed and filed his initial Form U-4 subjecting himself to FINRA's jurisdiction.³⁹ By clicking a button, "Patel acknowledged" receipt of and adherence to the firm's policies, including obligations to comply with the firm's policies and to adhere to the applicable federal, state, and self-regulatory organization laws and rules.⁴⁰

The certification contained a question that read: "Do you have any securities investment accounts?" Patel responded "No." That response was false. Patel's Scottrade account was active at the time that he completed the certification.⁴¹

The Hearing Officer finds that Patel violated FINRA Rule 2010 by falsely stating that he did not have a securities account when, in fact, he did.⁴²

³⁸ *Department of Enforcement v. Claggett*, No. 2005000631501, 2007 FINRA Discip. LEXIS 2, at *25 (N.A.C. Sept. 28, 2007). Conduct Rule 2110 requires that FINRA members shall, in conducting their business, "observe high standards of commercial honor and just and equitable principles of trade." NASD Rule 0115 makes all FINRA rules, including NASD Rule 2110, applicable to both FINRA members and all persons associated with FINRA members. Conduct that violates other SEC or FINRA rules is inconsistent with the high standards of commercial honor and just and equitable principles of trade and therefore also violates NASD Rule 2110. *Joseph Abbondante*, Exchange Act Rel. No. 53066, 2006 SEC LEXIS 23, at *36 (Jan. 6, 2006), *aff'd*, 209 F. App'x 6 (2d Cir. 2006).

³⁹ Compl. ¶¶ 31-32; Alt Decl. ¶ 15.

⁴⁰ Compl. ¶¶ 29-32; Alt Decl. ¶ 16.

⁴¹ Compl. ¶ 31; Alt Decl. ¶ 17.

⁴² As the Securities and Exchange Commission has noted in the context of NASD Conduct Rule 2110, the predecessor to FINRA Rule 2010, misrepresentations are inconsistent with just and equitable principles of trade. *Gebhart*, 2006 SEC LEXIS at *63 n.86.

IV. Sanctions

A. Failure To Respond To Requests For Information And Testimony

FINRA's Sanction Guidelines ("Sanction Guidelines") provide that a bar is "standard" when there is a complete failure to respond to requests for information pursuant to FINRA Rule 8210.⁴³ Here, Patel failed completely to respond to any request for information or testimony. The attorney who contacted FINRA staff on Patel's behalf provided no substantive information relating to the allegations. Instead, Patel's attorney requested information from FINRA regarding the customer who had complained about lending Patel money and the period of time involved. FINRA identified the customer, but Patel nevertheless failed to provide any information whatsoever relating to the allegations.

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. Patel was given several opportunities to come forward with information and yet did not do so. Patel's attorney actually sought information from FINRA staff and FINRA staff provided information that might have helped Patel in understanding what information would be relevant to FINRA's investigation. Patel clearly was not unaware of the investigation or its subject matter. No mitigating circumstances are presented, and, as noted above, the obligation to cooperate with and provide information to FINRA in connection with its examinations and investigations is critical to the proper functioning of the self-regulatory process.

A bar remedies the risk that Enforcement will not be able to obtain information necessary to the protection of investors and will serve to deter others from failing to provide Enforcement with information requested under FINRA Rule 8210. Accordingly, for violating FINRA Rules

⁴³ FINRA Sanction Guidelines 33 (2011), available at www.finra.org/oho (then follow "Enforcement" hyperlink to "Sanction Guidelines").

8210 and 2010, the Hearing Officer orders Respondent Ronak C. Patel barred from associating with any FINRA member firm in all capacities.

B. Failure To Disclose Outside Securities Account

The Sanction Guidelines for failure to comply with NASD Conduct Rule 3050 recommend a fine ranging from \$1,000 to \$25,000 and, in egregious cases, a suspension for up to two years or a bar.⁴⁴

The Hearing Officer finds that this was an egregious case and that a bar is the appropriate remedial sanction. By not notifying HSBC of his Scottrade Account and not notifying Scottrade of his position at HSBC, Patel prevented both firms from overseeing his trading. That enabled him to conceal that he had solicited and obtained loans from a customer, a potential violation of FINRA Rule 3240 concerning lending to and borrowing from customers.

Accordingly, for violating NASD Conduct Rules 3050 and 2110 and FINRA Rule 2010, the Hearing Officer orders Respondent Ronak C. Patel barred from associating with any FINRA member firm in all capacities.

C. False Statement In Compliance Certification

The Principle Considerations in the Sanction Guidelines include consideration of whether the respondent attempted to conceal misconduct or to deceive the member firm with which the respondent is associated.⁴⁵ In this case, Patel's submission of a Compliance Certification with a false statement that concealed his Scottrade Account constitutes an aggravating factor. In turn, concealing the account allowed Patel to hide the loans he obtained from a customer, which was a potential violation of FINRA Rule 3240. These circumstances highlight the importance of truth in compliance certifications. The system of supervisory oversight and self-regulation depends on

⁴⁴ Sanction Guidelines 16.

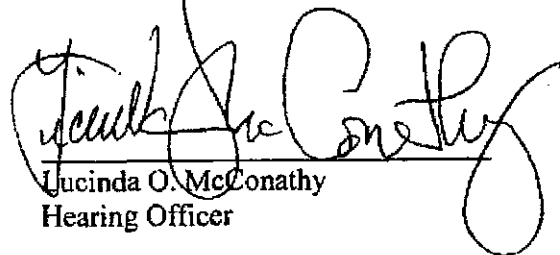
⁴⁵ Sanction Guidelines 6.

the integrity and truthfulness of each associated person when submitting responses to compliance inquiries. Patel's violation of FINRA Rule 2010 – the Rule requiring adherence to high standards of commercial honor and just and equitable principles of trade – was both egregious and damaging to that system of oversight.

Accordingly, for violating FINRA Rule 2010, the Hearing Officer orders Respondent Ronak C. Patel barred from associating with any FINRA member firm in all capacities.

V. Order

Respondent is barred from associating with any member firm in any capacity for: (i) failing to respond to requests for information and testimony, in violation of FINRA Rules 8210 and 2010; (ii) failing to disclose to his employer firm that he had a securities account at another FINRA registered firm, and failing to disclose to that second firm that he was associated with a FINRA registered firm, in violation of NASD Conduct Rules 3050 and 2110 and FINRA Rule 2010; and (iii) making a false statement on a compliance certification submitted to his employer firm in violation of FINRA Rule 2010. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.



Lucinda O. McConathy
Hearing Officer

Copies to:

Ronak C. Patel (*via overnight courier and first-class mail*)
Keith J. Ahlers, Esq. (*via first-class mail*)
Keith A. Alt, 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,

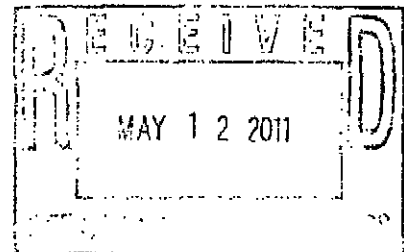
Complainant,

v.

Ronak C. Patel (CRD No. 5523697),

Respondent.

DISCIPLINARY PROCEEDING
No. 20100245404



COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Ronak C. Patel ("Patel"), who was formerly registered with HSBC Securities (USA) Inc. (the "Firm") and employed with HSBC Bank USA, N.A. (the "Bank"), violated FINRA Rules 8210 and 2010 in that he failed to comply with one or more requests for information in connection with a FINRA investigation. Patel also violated NASD Rules 3050 and 2110 and, after December 15, 2008, FINRA Rule 2010 in that he failed to disclose an outside securities account that he maintained at another broker-dealer to his FINRA-regulated broker-dealer employer, and failed to disclose his associated person status to the other broker-dealer.¹ In addition, in January 2009, Patel violated FINRA Rule 2010 in that he made a misstatement to his FINRA-regulated firm on a compliance certification that he did not have a securities account when, in fact, he did.

¹ NASD Rule 2110 was superseded by FINRA Rule 2010 on December 15, 2008.

RESPONDENT AND JURISDICTION

2. Patel entered the securities industry in June 2008. Prior to entering the securities industry, Patel had been employed by the Bank as a consumer banker since December 26, 2006. Thereafter, on June 11, 2008, the Firm filed Patel's initial Form U-4, which he had signed on May 9, 2008, on Patel's behalf. Patel successfully completed the Series 6 exam on March 11, 2009 and the Series 63 exam on April 29, 2009. He was registered with the Firm from March 11, 2009 to May 15, 2009. Patel became subject to FINRA's jurisdiction when his initial Form U-4 was filed by the Firm on June 11, 2008.

3. On May 15, 2009, Patel voluntarily terminated his registration with the Firm and his employment with the Bank. On June 1, 2009, the Firm filed a Form U-5 for Patel reflecting the foregoing.

4. Patel has not been registered with a FINRA-regulated firm since May 15, 2009. Accordingly, FINRA retains jurisdiction over Patel pursuant to Article V, Section 4(a) of the FINRA By-Laws until May 14, 2011.

FIRST CAUSE OF ACTION

Failure to Comply with One or More Requests for Information (FINRA Rules 8210 and 2010)

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

6. In October 2010, FINRA received a complaint from a customer of the Bank who did business at the branch where Patel worked. The complaint alleged that, during the period of January to September 2008, Patel asked to borrow money from the customer, did receive loans from the customer in the form of checks made payable to Patel, and deposited the checks into a brokerage account at Scottrade, Inc. ("Patel's Scottrade Account").

7. In connection with the foregoing complaint, FINRA requested information and testimony from Patel.

8. By letter dated January 14, 2011 (the "January 14th Letter"), FINRA requested that Patel provide a signed statement to FINRA regarding allegations that he accepted loans from a customer and that he opened a non-HSBC brokerage account without receiving Firm approval. The January 14th Letter advised Patel that his response must be received by January 28, 2011. The January 14th Letter was sent by certified mail and by first-class mail to Patel's address of record in the Central Registration Depository ("Patel's CRD Address").

9. FINRA did not receive a response to the January 14th Letter from Patel by the deadline date.

10. In a letter to Patel dated February 7, 2011 (the "February 7th Letter"), FINRA noted that Patel had not provided a signed statement as requested and made a second request that Patel provide a signed statement to FINRA regarding the allegations identified in the January 14th Letter. The February 7th Letter advised Patel that his response must be received by February 14, 2011. The February 7th Letter was sent by certified mail and by first-class mail to Patel's CRD Address.

11. On February 7, 2011, after FINRA had sent the February 7th Letter, FINRA staff received a call from a lawyer who identified himself as Patel's attorney. The attorney requested an extension until February 14, 2011 for Patel to respond to the January 14th Letter. FINRA staff informed the attorney that a second request had been mailed to Patel earlier that day and that Patel's response to that request was due on February 14, 2011.

12. FINRA did not receive a response to the February 7th Letter from Patel by the deadline date.

13. In a letter dated March 1, 2011 (the "March 1st Letter"), Patel's attorney acknowledged that Patel was in receipt of the January 14th Letter and asked for the identity of the individual making the allegations and the period in which the conduct allegedly occurred. The March 1st Letter did not include a substantive response to the issues identified in FINRA's January 14th Letter.

14. By letter dated April 8, 2011 to Patel's attorney (the "April 8th Letter"), FINRA requested that Patel appear and provide testimony on April 15, 2011 in connection with FINRA's investigation into this matter. In the April 8th Letter, FINRA identified the name of the customer from whom Patel allegedly accepted one or more loans. Patel did not appear or testify on April 15, 2011.

15. FINRA Rule 8210 provides, in relevant part, that FINRA "shall have the right to require a member, person associated with a member, or person subject to FINRA's jurisdiction to provide information... and to testify at a location specified by FINRA staff... with respect to any matter involved in the investigation, complaint, examination, or proceeding."

16. Moreover, FINRA Rule 8210(c) states that "no member or person shall fail to provide information or testimony or to permit an inspection and copying of books, records, or accounts pursuant to this Rule."

17. Furthermore, FINRA Rule 2010 states that "[a] member, in the conduct of [his] business, shall observe high standards of commercial honor and just and equitable principles of trade."

18. On January 14, 2011 and February 7, 2011, FINRA requested that Patel provide information. To date, Patel has not provided the information that FINRA has requested.

19. Accordingly, Patel violated FINRA Rule 8210 in that he failed to comply with one or more requests for information in connection with a FINRA investigation. By reason of the foregoing, Patel also failed to observe high standards of commercial honor and just and equitable principles of trade, and therefore violated FINRA Rule 2010.

SECOND CAUSE OF ACTION

Failure to Provide Notice of the Brokerage Account (NASD Rules 3050 and 2110 and, after December 15, 2008, FINRA Rule 2010)

20. The Department realleges and incorporates by reference paragraphs 1 to 19 above.

21. On July 4, 2007, Patel electronically signed and submitted a brokerage account application (the "Account Application") to open an individual brokerage account. This account was Patel's Scottrade Account. The Account Application reflects that Patel's Scottrade Account was accepted by Scottrade on July 5, 2007.

22. Patel's Scottrade Account remained active throughout the period of July 2007 to June 2009. As discussed above, Patel deposited checks from a customer into his Scottrade Account.

23. NASD Rule 3050 states that "a person associated with a member, prior to opening an account or placing an initial order for the purchase or sale of securities with another member, shall notify both the employer member and the executing member, in writing, of his or her association with the other member; provided, however, that if the account was established prior to the association of the person with the employer member, the associated person shall notify both members in writing promptly after becoming so associated."

24. The Scottrade Account was established prior to Patel's association with the Firm.

25. After Patel became associated with the Firm in June 2008, Patel never notified the Firm that he had the Scottrade Account throughout his association with the Firm.

26. Furthermore, Patel never notified Scottrade that he had become associated with the Firm.

27. Accordingly, Patel violated NASD Rule 3050 in that he failed to disclose an outside securities account that he maintained at another broker-dealer to his FINRA-regulated broker-dealer employer, and failed to disclose his associated person status to the other broker-dealer. Patel thus failed to observe high standards of commercial honor and just and equitable principles of trade, and therefore violated NASD Rule 2110 and, after December 15, 2008, FINRA Rule 2010.

THIRD CAUSE OF ACTION
Making a Misstatement to his FINRA-Regulated Firm
(FINRA Rule 2010)

28. The Department realleges and incorporates by reference paragraphs 1 to 27 above.

29. On January 12, 2009, Patel completed and submitted an annual compliance certification (the "Certification") to the Firm, which included a section entitled "Policy Acknowledgment" that advised employees of their obligations to comply with Firm policies and to "adhere to securities and, where applicable, futures laws, and with the rules promulgated by federal and state agencies and [self-regulatory organizations] to protect investors and further the public interest."

30. The Firm required employees to "acknowledge receipt and adherence with [its] policies" and to "click on the button below to comply with this requirement." The Certification reflects that that policy was "acknowledged" by Patel on January 12, 2009.

31. The Certification included a question that read: "Do you have any securities investment accounts?" Patel responded "No," which was false. As discussed above, Patel's Scottrade Account was active at the time that he completed the Certification.

32. Patel completed his certification on January 12, 2009, which was after he signed and filed his initial Form U-4 subjecting himself to FINRA's jurisdiction.

33. Accordingly, Patel violated FINRA Rule 2010 in that he made a misstatement on a compliance certification submitted to his FINRA-regulated firm that he did not have a securities account when, in fact, he did. Patel thus failed to observe high standards of commercial honor and just and equitable principles of trade.

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: May 12, 2011

Susan Light

Susan Light, Chief Counsel & Senior Vice President
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