

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MARLO M. JONES  
(CRD No. 5504578),

Respondent.

Disciplinary Proceeding  
No. 20100246060-01

Hearing Officer – AWL

**DEFAULT DECISION**

September 6, 2012

**Respondent is barred from associating with any FINRA registered firm in any capacity for obtaining and misusing confidential information, in violation of FINRA Rule 2010, and for failing to respond to requests for information, in violation of FINRA Rules 8210 and 2010.**

**Appearances**

John S. Han, Esq. for the Department of Enforcement, Complainant

No appearance by or on behalf of Marlo M. Jones, Respondent

**DECISION**

**I. INTRODUCTION**

The Department of Enforcement ("Enforcement") filed a Complaint with the Office of Hearing Officers on March 2, 2012, charging Respondent Marlo M. Jones ("Respondent") with: (1) failure to observe high standards of commercial honor and just and equitable principles of trade for obtaining and misusing confidential information about a former representative's customer, in violation of FINRA Rule 2010; and

(2) failure to respond to FINRA staff's requests to appear and provide information concerning such incident, in violation of FINRA Rules 8210 and 2010.<sup>1</sup>

Respondent failed to answer the Complaint. Accordingly, the Hearing Officer finds Respondent in default and grants Enforcement's Motion for Entry of Default Decision.<sup>2</sup>

## **II. PROCEDURAL HISTORY AND RESPONDENT'S DEFAULT**

On May 15, 2012, Enforcement served the Complaint and Notice of Complaint on Respondent by certified mail, return receipt requested, at Respondent's last known CRD address.<sup>3</sup> After Respondent failed to answer or respond,<sup>4</sup> Enforcement served Respondent with the Complaint and Second Notice of Complaint on June 15, 2012, by certified mail, return receipt requested, again at his CRD address.<sup>5</sup> Respondent again failed to answer or respond.<sup>6</sup>

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<sup>1</sup> Following consolidation of NASD and the member regulation, enforcement, and arbitration functions of NYSE Regulation into FINRA, FINRA developed a new "Consolidated Rulebook" of FINRA Rules. The first phase of the consolidated rules became effective on December 15, 2008. *See* FINRA Regulatory Notice 08-57, 2008 FINRA LEXIS 74 (Dec. 8, 2008). Since the Complaint in this case was filed after December 15, 2008, the procedural rules that apply are the FINRA rules of procedure. The conduct rules that apply are those that existed at the time of the conduct at issue.

<sup>2</sup> Enforcement filed a declaration signed by John S. Han ("Decl.") and six exhibits in support of the Default Motion. Enforcement's exhibits are labeled CX-1 through CX-6.

<sup>3</sup> Decl. ¶ 11; CX-2, CX-3, and CX-4. Enforcement first attempted service on Respondent on March 2, 2012, and again, after no response, on April 3, 2012, using Respondent's CRD address both times. Enforcement later determined that it had insufficient documentary evidence of service and began the process again in May.

<sup>4</sup> Decl. ¶¶ 12 and 13; CX-3, and CX-4.

<sup>5</sup> Decl. ¶ 14; CX-5 and CX-6.

<sup>6</sup> Decl. ¶¶ 15-17; CX-6.

The Hearing Officer finds that Respondent received valid constructive notice of this proceeding and is in default by failing to answer the Complaint.<sup>7</sup> Based on Respondent's default, the factual allegations in the Complaint are deemed admitted, and the Hearing Officer grants Enforcement's Motion for Entry of Default Decision.<sup>8</sup>

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

#### **A. Jurisdiction**

Respondent became registered under FINRA member World Group Securities, Inc. ("WGS"), after submitting his Uniform Application for Securities Industry Registration or Transfer ("Form U4") in March 2008. FINRA further approved his registration as an Investment Company and Variable Contracts Products Representative in March 2010, and Respondent continued to work for WGS until he was terminated on December 13, 2010.<sup>9</sup>

Jurisdiction exists in this proceeding pursuant to FINRA By-Laws Article V, Section 4,<sup>10</sup> whereby former members and associated persons remain subject to disciplinary actions by FINRA for two years after termination if the complaint addresses conduct that commenced prior to the termination or the person failed to respond to a request for information issued by FINRA during the two-year period of retained jurisdiction. Here, Enforcement filed the Complaint within two years after FINRA terminated Respondent's registration, and the Complaint alleges misconduct that

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<sup>7</sup> See also *Dep't of Enforcement v. Nolan Wayne Moore*, 2012 FINRA Discip. Lexis 45, at \*19-21 (N.A.C. July 26, 2012) (Respondent had constructive notice of complaint mailed to his CRD address).

<sup>8</sup> See FINRA Rules 9215(f) and 9269(a). A copy of the Complaint is attached hereto.

<sup>9</sup> Decl. ¶ 5 and CX-1 at 2 (FINRA received a Form U5 filed by WGS on December 13, 2010).

<sup>10</sup> FINRA By-Laws are available at [www.finra.org/Rules](http://www.finra.org/Rules) (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

occurred while Respondent was registered. Further, Respondent failed to appear and provide information pursuant to multiple written requests issued by FINRA staff during the two-year period of retained jurisdiction.

**B. Obtaining and Misusing Confidential Information**

The Complaint alleges that on September 16, 2010, Respondent instructed another person ("ZY") to impersonate a former registered representative ("PR") on the telephone with AEI insurance company. Respondent supplied ZY with PR's social security number and other information in order to get PR's agent number from AEI. Respondent then used the number to create a profile on AEI's website to obtain confidential information about at least one of PR's customers.<sup>11</sup>

After learning that PR did not make the telephone call, AEI traced the call to the telephone number associated with Respondent and notified WGS of the situation. When confronted by WGS, Respondent claimed multiple times, in written responses and oral interviews with compliance personnel in October and November that a former assistant, Sabrina Rodriguez ("Rodriguez"), made the call to AEI without his knowledge. However, by letter dated November 23, 2010, Respondent recanted and admitted that he made up Rodriguez in order to protect ZY's identity. Further, Respondent admitted that he instructed ZY to impersonate PR in the call with AEI.<sup>12</sup>

The allegations in the Complaint establish that Respondent violated FINRA Conduct Rule 2010<sup>13</sup> by failing to uphold the high standards of commercial honor and just and equitable principles of trade through obtaining and misusing confidential

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<sup>11</sup> Compl. ¶¶ 5-6.

<sup>12</sup> Compl. ¶¶ 7-10.

<sup>13</sup> FINRA Conduct Rule 2010 applies to Respondent through Rule 0140, which requires persons associated with a FINRA member to have the same duties and obligations as the member.

information to which he was not entitled. The purpose of FINRA Rule 2010 is to protect investors from unethical behavior<sup>14</sup> and “[i]t is well settled that [FINRA’s] disciplinary authority under Rule [2010] is broad enough to cover a wide range of unethical conduct.”<sup>15</sup>

The Hearing Officer finds that Respondent violated FINRA Rule 2010 by acquiring confidential information to which he otherwise was not entitled and providing false information in an attempt to cover up his misconduct.

**C. Failure to Provide Information**

FINRA Rule 8210 authorizes FINRA staff to require members and persons subject to its jurisdiction to “to provide information orally, in writing, or electronically ... with respect to any matter involved in [an] investigation, complaint, examination, or proceeding” authorized by the FINRA By-Laws or rules.<sup>16</sup>

FINRA began its investigation in October 2010 after receiving a copy of AEI’s letter to Respondent. Respondent initially responded in February 2011 to FINRA’s first request for information about his involvement with the AEI activity, but then failed to respond to further requests sent by FINRA staff members in May, June, and July 2011, all requesting that Respondent appear and provide testimony. Enforcement sent all of these further requests in accordance with the requirements of FINRA Rule 8210, mailing

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<sup>14</sup> *Dep’t of Enforcement v. Shelley*, No. C3A050003, 2007 NASD Discip. LEXIS 8, at \*12 (NAC Feb. 15, 2007) (applying former NASD Rule 2110 that is identical to FINRA Rule 2010).

<sup>15</sup> *Id.* citing *Vail v. SEC*, 101 F.3d 37, 39 (5th Cir. 1996) (Rule 2110 prohibits conduct that does not directly involve securities or the violation of a specific securities law) and *Daniel D. Manoff*, 55 S.E.C. 1161-63 (2002) (unauthorized use of a co-worker’s credit card numbers constituted unethical business conduct and violated Rule 2110). See also *Dep’t of Enforcement v. Taylor*, No. C8050027, 2007 NASD Discip. LEXIS 11, at \*22-23 (NAC Feb. 27, 2007) (falsifying documents violates Rule 2010).

<sup>16</sup> Rule 8210(a).

the requests to Respondent's CRD address.<sup>17</sup> Enforcement spoke with Respondent by telephone in June 2011 and arranged for an agreed date in July for Respondent to appear. Respondent, however, still failed to appear on the agreed date and again later at a further requested 8210 appearance date in July.<sup>18</sup>

The Hearing Officer finds that Enforcement requested that Respondent appear and provide information, following the requirements of FINRA Rule 8210(d), and that Respondent failed to do so in violation of FINRA Rules 8210 and 2010.

#### **IV. SANCTIONS**

##### **A. Obtaining and Misusing Confidential Information**

The FINRA Sanction Guidelines ("Guidelines") govern violations of FINRA Rule 2010, using circumstances and mitigating factors to determine the level of sanctions.<sup>19</sup> Where falsifying records occurs, the Guidelines recommend a bar in egregious cases.<sup>20</sup> Here, Respondent had no relationship with PR's customer/insurance policyholder about whom he received information and exposed both PR and AEI to significant liability for potential violations of Securities and Exchange Commission's Regulation S-P governing the Privacy of Consumer Financial Information.<sup>21</sup> Respondent's willing orchestration of

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<sup>17</sup> Compl. ¶¶ 13-27 (mailing all the requests by both first-class and certified mail, return receipt requested).

<sup>18</sup> Compl. ¶¶ 17, 22, and 27. Respondent failed to appear and provide the requested information despite multiple attempts by Enforcement, including a June, 2011 telephone call whereby Respondent advised of the lack of a better physical address and his preference to receive information via email. Enforcement provided Respondent, as requested, with emailed courtesy copies of the 8210 request, notice and confirmation request of the agreed appearance date and even later of the Complaint. All such copies were in addition to service in accordance with the requirements of the FINRA Rules and still failed to secure Respondent's appearance and testimony.

<sup>19</sup> See <http://www.finra.org/Industry/Enforcement/SanctionGuidelines> (2011).

<sup>20</sup> *Id.* at 37.

<sup>21</sup> 17 CFR 248.1 - 248.30 (2000) and codified at 15 U.S.C. 6801-6831.

the scheme to obtain such confidential information constitutes egregious unethical behavior. Further, Respondent's repeated denials and efforts to avoid responsibility for his misconduct demonstrate his willingness to engage in deception and willful failure to adhere to the standards of FINRA Rule 2010. Thus, the Hearing Officer finds Respondent's misconduct to be egregious with no evidence of mitigating factors.

Accordingly, the Hearing Officer bars Respondent from associating with any FINRA member firm in all capacities for his obtaining and misusing confidential information, in violation of FINRA Rule 2010.

**B. Failure to Provide Information**

The Guidelines provide that a bar should be "standard" when there is a complete failure to respond regarding FINRA's Rule 8210 procedure for requesting information.<sup>22</sup> In addition, the Guidelines instruct adjudicators to consider the importance of the information requested as viewed from FINRA's perspective. Even where a partial but incomplete response exists as in this case, a bar is still standard where a respondent cannot demonstrate that the information provided substantially complied with all aspects of the request.<sup>23</sup>

Here, Respondent's failure to further cooperate on numerous occasions to appear and provide information requested by the FINRA staff thwarted FINRA's investigation of the alleged serious misconduct by Respondent. Barring Respondent from associating with any FINRA member firm in all capacities is an appropriate remedial sanction given all of the facts and circumstances and the lack of mitigating factors that would warrant a lesser sanction. Additionally, a bar remedies the risk that Enforcement will not be able to

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<sup>22</sup> Guidelines at 33.

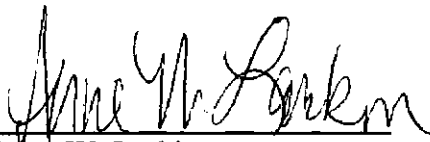
<sup>23</sup> *Id.*

obtain future information necessary to protect investors and serves to deter others from failing to appear and provide Enforcement with information requested under FINRA Rule 8210 when such requests are made.

Accordingly, the Hearing Officer bars Respondent from associating with any FINRA member firm in all capacities for his refusal to respond to appear and provide the information as requested, in violation of FINRA Rules 8210 and 2010.

**V. ORDER**

Respondent Marlo M. Jones is barred from associating with any member firm in any capacity for falsely obtaining and misusing confidential information in violation of FINRA Conduct Rule 2010 and for failing to appear and provide information in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010. The bars shall become effective immediately upon this Default Decision becoming the final disciplinary action of FINRA.

  
Anne W. Larkin  
Hearing Officer

**Copies to:**

Marlo M. Jones (via overnight courier, electronic and first-class mail)  
John S. Han, Esq. (via electronic and first-class mail)  
Jacqueline D. Whelan, Esq. (via electronic mail)  
Mark P. Dauer, Esq. (via electronic mail)  
David R. Sonnenberg, Esq. (via electronic mail)

**ORIGINAL**

**FINANCIAL INDUSTRY REGULATORY AUTHORITY**

**OFFICE OF HEARING OFFICERS**

Department of Enforcement,

Complainant,

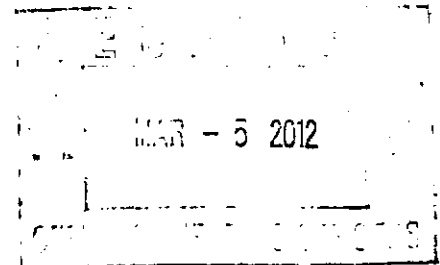
v.

Marlo M. Jones (CRD No. 5504578),

Respondent.

DISCIPLINARY PROCEEDING  
No. 20100246060-01

**COMPLAINT**



The Department of Enforcement alleges:

**SUMMARY**

1. Respondent Marlo M. Jones obtained confidential information from a life insurance company by causing another person to impersonate one of the life insurance company's agents. He further failed to provide testimony requested by FINRA staff.

**RESPONDENT AND JURISDICTION**

2. Respondent entered the securities industry in March 2008 by filing a Form U<sub>1</sub> to become registered with FINRA member World Group Securities, Inc. (the Firm). On or about March 5, 2010, FINRA approved his registration as an Investment Company and Variable Contracts Products Representative. On or about December 13, 2010, the Firm filed a Form U<sub>5</sub> for Respondent, effectively terminating his registration.
3. Although Respondent has not been registered or associated with a FINRA member firm since December 13, 2010, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because:

- a. the Complaint was filed within two years after the effective date of termination of Respondent's registration with the Firm, namely, December 13, 2010; and
- b. the Complaint charges Respondent with misconduct committed while Respondent was registered with a FINRA member and with failing to appear for on-the-record testimony during the two-year period after the date upon which Respondent ceased to be registered with a FINRA member.

FIRST CAUSE OF ACTION  
Failure to Observe High Standards of Commercial Honor and  
Just and Equitable Principles of Trade (FINRA Rule 2010)

4. The Department realleges and incorporates by reference paragraphs 1 through 3 above.
5. On or about September 16, 2010, Respondent instructed an individual, ZY, to telephone insurance company AEI and impersonate PR, an AEI insurance agent and former registered representative of the Firm. Respondent supplied ZY with PR's social security number, which ZY used to "verify" her identity as PR during the telephone call. Respondent instructed ZY to obtain PR's agent number and ZY successfully obtained that number.
6. Respondent used PR's agent number to create a profile for PR on AEI's website, Respondent then accessed PR's agent account and obtained confidential information about one of PR's insurance customers.
7. AEI later determined that PR had not made the September 16 telephone call and notified the Firm that the call originated from a telephone number associated with Respondent.
8. From on or about October 27, 2010 through October 30, 2010, in written responses to questions from the Firm's compliance personnel, Respondent falsely claimed that his

former assistant, "Sabrina Rodriguez," had impersonated PR in the telephone call to AEI without Respondent's knowledge.

9. From on or about November 3, 2010 through November 18, 2010, in approximately three interviews with the Firm's compliance personnel, Respondent continued to falsely claim that "Sabrina Rodriguez" had impersonated PR in the telephone call to AEI, and that Respondent was not involved in the placing of that call. At the final interview, the Firm's compliance personnel informed Respondent that they needed to speak with "Sabrina Rodriguez" in person and that she could be subject to criminal prosecution.
10. On or about November 23, 2010, Respondent sent a letter to the Firm. In the letter, Respondent admitted that he had made up the name "Sabrina Rodriguez" in order to protect ZY's identity. He further admitted that he had instructed ZY to impersonate PR in the telephone call to AEI.
11. By causing the impersonation of an individual in order to obtain confidential information to which he was not entitled from an insurance company, Respondent engaged in conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

SECOND CAUSE OF ACTION  
Failure to Provide Testimony (FINRA Rules 8210 and 2010)

12. The Department realleges and incorporates by reference paragraphs 1 through 11 above.
13. On or about January 27, 2011, FINRA staff sent Respondent a letter pursuant to FINRA Rule 8210, requesting information about his involvement in the telephone call

to AEI. On or about February 14, 2011, Respondent sent a letter to FINRA staff responsive to that request.

14. On or about May 9, 2011, FINRA staff sent Respondent a letter pursuant to FINRA Rule 8210, requesting that Respondent appear for testimony at FINRA's San Francisco District Office on July 6, 2011 at 9:00 a.m. The letter also asked that Respondent confirm his intent to appear by no later than June 10, 2011.
15. The letter was sent by first class and certified mail to Respondent's most recent residential address as reflected in CRD: [REDACTED] (CRD Address).
16. The certified mailing was returned by the United States Postal Service (USPS) marked, "UNCLAIMED, UNABLE TO FORWARD."
17. Due to the return of the certified mailing and Respondent's failure to confirm his intent to attend, on or about June 20, 2011, FINRA staff contacted Respondent by telephone. During that call, Respondent stated that he no longer resided at the CRD Address but that he was unable to provide a current residential address. He therefore provided his email address in lieu of a physical address (Email Address). Further, Respondent agreed to a new date of July 13, 2011 for testimony.
18. On or about June 20, 2011, FINRA staff sent Respondent a letter (First Request), pursuant to FINRA Rule 8210, requesting that Respondent appear for testimony at FINRA's San Francisco District Office on July 13, 2011 at 9:00 a.m.
19. The First Request was sent by first class and certified mail to the CRD Address. A copy was also sent electronically to the Email Address.
20. The first class and electronic mailings of the First Request were not returned.

21. The certified mailing of the First Request was returned by the USPS marked,  
"REFUSED, UNABLE TO FORWARD."
22. Respondent failed to appear for testimony on July 13, 2011.
23. On or about July 13, 2011, FINRA staff sent Respondent a letter (Second Request),  
pursuant to FINRA Rule 8210, requesting that Respondent appear for testimony at  
FINRA's San Francisco District Office on July 28, 2011 at 9:00 a.m.
24. The Second Request was sent by first class and certified mail to the CRD Address. A  
copy was also sent electronically to the Email Address.
25. The first class and electronic mailings of the Second Request were not returned.
26. On or about July 22, 2011, FINRA staff received a return receipt for the certified  
mailing of the Second Request, signed by "Maria Mata."
27. Respondent failed to appear for testimony on July 28, 2011.
28. By failing to provide testimony requested by FINRA staff in connection with an  
investigation, Respondent violated FINRA Rules 8210 and 2010.

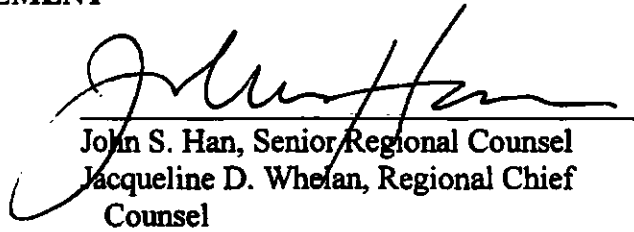
#### RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a),  
including monetary sanctions, be imposed; and
- B. order that the Respondent bear such costs of proceeding as are deemed fair and  
appropriate under the circumstances in accordance with FINRA Rule 8330.

**FINRA DEPARTMENT OF ENFORCEMENT**

Date: March 2, 2012



John S. Han, Senior Regional Counsel  
Jacqueline D. Whelan, Regional Chief  
Counsel

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