

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

Jeffrey James Frye
(CRD No. 1916522),

Respondent.

Disciplinary Proceeding
No. 20100248136

Hearing Officer—LOM

DEFAULT DECISION

January 9, 2012

Respondent is barred from associating with any FINRA member in any capacity for: falsifying books and records in violation of FINRA Conduct Rule 3110 and FINRA Conduct Rule 2010; attempted conversion of customer funds in violation of FINRA Conduct Rule 2010; and failure to cooperate in an investigation of these matters when asked to provide information and testimony pursuant to FINRA Procedural Rule 8210.

Appearances

Clarence E. Sanders, Jr., Senior Counsel, New York, New York, for the Department of Enforcement.

No appearance on behalf of Jeffrey James Frye.

I. Introduction And Origin Of Complaint

The Respondent, Jeffrey James Frye, first entered the securities industry and became a registered representative in January 1989.¹ In July 2002, he became a registered representative at Thrivent Investment Management Inc. (“Thrivent” or the “Firm”), where he remained until the

¹ The Default Motion is supported by a Declaration given by FINRA attorney, Clarence E. Sanders, Jr. (“Sanders Decl.”), and six exhibits marked CX-1 through CX-6. The facts set forth herein are based on that evidence, which is not in dispute, and the allegations of the Complaint, which, as discussed below, are deemed admitted as a result of Frye’s default.

Firm terminated him on October 15, 2010. Respondent has not been associated in a registered capacity with any FINRA member firm since that termination.

The Firm filed a Form U5 on October 26, 2010, reporting that Frye had allegedly changed a customer's address of record to his own residential address without the customer's knowledge or authorization and had then allegedly requested unauthorized withdrawals/loans from the customer's whole life insurance contract for his personal benefit. Respondent also failed to timely disclose to the Firm or in his Form U4 that he was subject to multiple civil judgments and tax liens.

An Enforcement investigation ensued. Respondent failed to provide requested information and failed to appear for requested testimony.

Based on information provided by the Firm, including recordings of telephone conversations and documents, and interviews with the customer whose account was involved and other witnesses, Enforcement filed a Complaint charging Frye with falsifying books and records, attempted conversion of customer funds, and a failure to cooperate in the investigation as required by FINRA Procedural Rule 8210. Enforcement twice served the Complaint (in September and again in October 2011). Respondent never filed or served an Answer.

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

II. Jurisdiction

FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint alleges misconduct that occurred while Frye was a

registered representative, and it was filed on September 13, 2011, within two years after Thrivent reported on October 26, 2010, that it had terminated Frye, thereby ending Frye's registration with a FINRA member firm.

III. Procedural History And Grant Of Default Motion

On September 13, 2011, Enforcement served the Complaint and Notice of Complaint on Frye by certified mail return receipt requested and first-class mail at Frye's last known residential address as reflected in the Central Registration Depository ("CRD address").² The copy sent by certified mail was returned to Enforcement unclaimed.³ The copy sent by first-class mail was not returned.⁴

The Notice of Complaint informed Frye that he was required to file an Answer by October 11, 2011. However, he filed no Answer.⁵

On October 18, 2011, Enforcement served the Complaint, original Notice of Complaint, and Second Notice of Complaint on Frye by certified mail return receipt requested and first-class mail at Frye's CRD address.⁶ None of the copies sent has been returned to Enforcement.⁷ Enforcement has received no signed Domestic Return Receipt for the certified mail.⁸

The Second Notice of Complaint informed Frye that if he failed to file an Answer by November 4, 2011, the allegations of the Complaint might be deemed admitted and a default

² Sanders Decl. ¶ 9; CX-4.

³ Sanders Decl. ¶ 11; CX-5.

⁴ Sanders Decl. ¶ 12.

⁵ Sanders Decl. ¶¶ 13-14.

⁶ Sanders Decl. ¶ 15; CX 6.

⁷ Sanders Decl. ¶¶ 17-18.

⁸ Sanders Decl. ¶ 17.

decision might be entered against him pursuant to FINRA Rule 9269.⁹ Frye nevertheless failed to file an Answer.¹⁰

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 the staff 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.

In this case, there is no indication in the record that Frye's CRD address might be outdated. Enforcement reasonably sent the Complaint to Frye at his CRD address. None of the copies sent to Frye was returned for invalid address,¹¹ which suggests that the Complaint did in fact reach Frye at his CRD address. Frye is no longer employed at a FINRA member firm where the Complaint could have been sent.

The Hearing Officer finds that the Complaint was validly served and that Frye failed to file an Answer. Pursuant to FINRA Rules 9215(f) and 9269(a), the Hearing Officer grants Enforcement's Default Motion and deems the allegations in the attached Complaint admitted.

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

A. Respondent's Falsification Of Books And Records

The Complaint alleges that in June 2010 Frye falsified customer account records by changing a customer's address and telephone number in the Firm's books and records so that Respondent's residential address and telephone number were substituted for the customer's.

⁹ Sanders Decl. ¶ 19; CX-6.

¹⁰ Sanders Decl. ¶ 20.

¹¹ A copy of the initial Notice of Complaint and Complaint that was sent by certified mail return receipt requested was returned "unclaimed." But that did not signify that the address was incorrect. Sanders Decl. ¶ 11.

Frye did so without the customer's permission or authority.¹² These allegations are deemed admitted. Enforcement in addition represents that it has underlying evidence supporting the allegations.¹³

B. Attempted Conversion Of Customer Funds

The Complaint alleges that in June 2010 Frye attempted to convert customer funds by diverting funds from a whole life insurance policy to himself without authorization from the customer by means of the falsified customer address and telephone number.¹⁴ These allegations are deemed admitted. Enforcement in addition represents that it has underlying evidence supporting the allegations.¹⁵

C. Respondent's Failure To Provide Requested Information Or Appear For Rule 8210 On-The-Record Testimony

FINRA Rule 8210 requires FINRA members and their associated persons to cooperate with FINRA investigations by providing information when requested by FINRA staff. Pursuant to Rule 8210, FINRA may require an associated person "to provide information orally, in writing, or electronically . . . and to testify at a location specified by FINRA staff, under oath or affirmation" in connection with any investigation. The Rule is crucial to FINRA's ability to oversee and regulate member firms and associated persons because FINRA does not have subpoena power. Instead, FINRA must depend on member firms and associated persons to

¹² Sanders Decl. ¶¶ 21-22; Compl. ¶¶ 9-15. The evidentiary support for this charge includes documents and information provided by the Firm, including records relating to the changing of the customer's address, and notes of an interview with the customer.

¹³ *Id.*

¹⁴ Sanders Decl. ¶ 23; Compl. ¶¶ 16-21. The evidentiary support for this charge includes all the information provided by the Firm and notes of customer and witness interviews.

¹⁵ *Id.*

cooperate fully and promptly with requests for information.¹⁶ A failure to respond promptly and completely to information requests frustrates FINRA's ability to detect misconduct and protect investors and markets.¹⁷

In this case, Enforcement sent a letter on April 28, 2011 to Respondent at his CRD address requesting, pursuant to FINRA Rule 8210, that Respondent provide a written statement concerning his conduct while associated with the Firm. The letter was sent by certified mail, return receipt requested and first-class mail at Frye's CRD address. Enforcement received the return receipt for the certified mailing. The first-class mailing was not returned. Respondent failed to provide the requested information by the date specified in the letter or at any time since then.¹⁸

Enforcement sent a letter on May 3, 2011, to Respondent at his CRD address requesting, pursuant to Rule 8210, that Respondent appear and provide testimony on May 26, 2011. This letter was sent by Express Mail and first-class mail. The United States Postal Service provided a letter to Enforcement indicating that Respondent had signed for the copy sent by Express Mail on May 4, 2011. On May 24, 2011, Enforcement received a telephone message from

¹⁶ See, e.g., *Dep't of Enforcement v. Valentino*, No. FPI010004, 2003 NASD Discip. LEXIS 15, at *12 (N.A.C. May 21, 2003), *aff'd*, 2004 SEC LEXIS 330 (Feb. 13, 2004) ("It is well established that because NASD [FINRA's predecessor] lacks subpoena power over its members, a failure to provide information fully and promptly undermines NASD's ability to carry out its regulatory mandate.") (citation omitted); *Joseph G. Chiulli*, 54 S.E.C. 515, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000) (noting that Rule 8210 provides a means for NASD to effectively conduct its investigations, and emphasizing that NASD members and associated persons must fully cooperate with requests for information). See also *Morton Bruce Erenstein*, 316 Fed. Appx. 865, 871, 2008 U.S. App. LEXIS 19746, at *13 (11th Cir. Sept. 16, 2008) ("[I]t is critically important to the self-regulatory system that members and associated persons cooperate with NASD investigations, especially because the NASD lacks subpoena power."); *Robert Fitzpatrick*, 55 S.E.C. 419, 2001 SEC LEXIS 2185, at *11-12 (Oct. 19, 2001).

¹⁷ *PAZ Sec., Inc.*, 2008 SEC LEXIS 820, at *13 (Apr. 11, 2008), *petition for review denied sub nom. Paz Sec. v. SEC*, 566 F.3d 1172, 2009 U.S. App. LEXIS 11500 (D.C. Cir. May 29, 2009).

¹⁸ Sanders Decl. ¶¶ 26-27, ¶ 38; Compl. ¶¶ 31-32.

Respondent stating that he would not appear for the testimony on May 26, 2011, and, in fact, Respondent failed to appear on the specified date.¹⁹

Enforcement then sent two more letters to Respondent pursuant to Rule 8210 on May 27, 2011, one asking for a written statement and the other rescheduling testimony for June 10, 2011. Again, the United States Postal Service reported to Enforcement that Respondent signed for the copies of the two letters that were sent by Express Mail. Again, Respondent failed to provide the requested information or to give testimony.²⁰

Enforcement represents that Respondent's failure to provide the information and testimony requested by Enforcement has materially impeded the staff's investigation.²¹

The Hearing Officer finds that Respondent violated FINRA Rule 8210 by failing to respond in any manner, either by providing the requested information in documentary form or by appearing for On-The-Record testimony. Respondent's failure to cooperate materially impeded FINRA's efforts to conduct the investigation.

In addition, the Hearing Officer finds that Respondent violated FINRA Rule 2010. FINRA Rule 2010 requires the observance of "high standards of commercial honor and just and equitable principles of trade." It is well-established that a violation of the duty to cooperate and provide information pursuant to Rule 8210 is also a violation of Rule 2010.²²

¹⁹ Sanders Decl. ¶¶ 28-31, ¶ 38; Compl. ¶¶ 33-34.

²⁰ Sanders Decl. ¶¶ 32-34, ¶ 38; Compl. ¶¶ 37-39.

²¹ Sanders Decl. ¶ 35; Compl. ¶ 40.

²² See *CMG Inst. Trading, LLC*, 2009 SEC LEXIS 215, at *30 (Jan. 30, 2009); *Stephen J. Gluckman*, 54 S.E.C. 175, 1999 SEC LEXIS 1395, at 22 (July 20, 1999).

V. Sanctions

The FINRA Sanction Guidelines (“Sanction Guidelines”) recommend a range of sanctions for violations of the recordkeeping requirements of Rule 3110 and Rule 2010.²³ The responsible person may be suspended in any and all capacities for up to 30 business days, or, in egregious cases, a lengthier suspension or even a bar may be appropriate.²⁴ This is an egregious case. Here the Respondent purposely altered the Firm’s customer records in an attempt to channel customer funds to himself without authorization. A bar is warranted for violation of Rules 3110 and 2010.

The Sanction Guidelines recommend a bar for conversion, regardless of the amount involved,²⁵ but contain no recommendation specifically for attempted conversion. Overarching principles and considerations provide guidance, however. One of the Principle Considerations in Determining Sanctions is whether the respondent attempted to deceive his or her FINRA member firm.²⁶ Another is whether the respondent’s misconduct was intentional rather than reckless or negligent.²⁷ General Principles Applicable to All Sanctions include the fundamental purpose of a sanction to deter the particular respondent from future misconduct but also to deter others from engaging in similar misconduct.²⁸

The Hearing Officer finds that all of these considerations warrant barring Frye from associating with any FINRA member firm in all capacities for his attempted conversion of

²³ FINRA Sanction Guidelines (2011), available at www.finra.org/oho (then follow “Enforcement” hyperlink to “Sanction Guidelines”) at 29.

²⁴ *Id.*

²⁵ Sanction Guidelines at 38.

²⁶ Sanction Guidelines at 6.

²⁷ Sanction Guidelines at 7.

²⁸ Sanction Guidelines at 2.

customer funds in violation of Rule 2010. The fact that he was unable to accomplish the conversion does not change the nature of his conduct, which was reprehensible and totally inconsistent with his duties to his customer. Moreover, Frye sought to deceive his Firm by falsely claiming that the customer had authorized the payment from the life insurance account. This was intentional misconduct. A bar is the appropriate remedial sanction to prevent and discourage Respondent and others from engaging in such conduct, which is completely at odds with the high standards of commercial honor and just and equitable principles of trade required by Rule 2010.

The Sanction Guidelines state that a bar should be the standard sanction for a complete failure to respond to a request for information pursuant to Rule 8210.²⁹ In addition, the Sanction Guidelines recommend a monetary sanction of \$25,000 to \$50,000 in appropriate cases. Among the principal considerations in determining sanctions for this type of violation, is the importance of the information requested, as viewed from FINRA's perspective. 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.³⁰ A principle consideration in determining the appropriate sanction for an individual is whether the person engaged in an intentional act (as opposed to a reckless or negligent act).³¹

The Hearing Officer finds that all of these considerations warrant barring Frye from associating with any FINRA member firm in all capacities for his violation of Rule 8210. Frye

²⁹ Sanction Guidelines at 33.

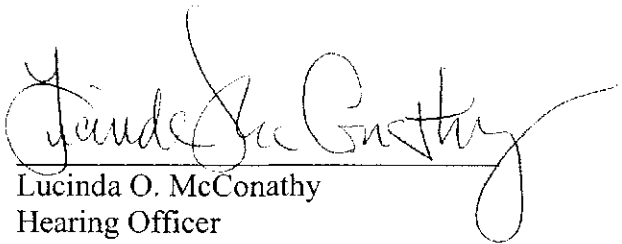
³⁰ Sanction Guidelines at 2.

³¹ Sanction Guidelines at 7.

failed to respond at all to the Rule 8210 requests. The information sought by Enforcement was important for FINRA's investigation, and the refusal to provide it impeded FINRA's ability to perform its duties as a self-regulatory organization. FINRA simply cannot perform its oversight function effectively if associated persons refuse to provide FINRA information when requested to do so pursuant to Rule 8210.

VI. Order

Enforcement's Default Motion is granted and the allegations of the Complaint are deemed to be true. For each of the three claims, both separately and all together, Respondent Jeffrey James Frye is barred from association with any FINRA member firm in any capacity. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.



Lucinda O. McConathy
Hearing Officer

Copies: Jeffrey J. Frye (via first-class mail and overnight courier)
Clarence E. Sanders, Esq. (via first-class and electronic mail)
David R. Sonnenberg, Esq. (via electronic mail)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Jeffrey James Frye
CRD No. 1916522,

Respondent.

DISCIPLINARY PROCEEDING
No. 20100248136

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In June 2010 (the "Relevant Period"), while associated as a registered representative with Thrivent Investment Management, Inc. ("Thrivent" or the "Firm"), Jeffrey James Frye ("Respondent") falsified customer account records by changing or causing a customer's address and telephone number listed on the Firm's books and records to be changed to his residential address and telephone number and, attempted to convert funds belonging to the customer. Respondent also failed to comply with requests by FINRA for information.
2. By virtue of this conduct, Respondent violated NASD Conduct Rule 3110, FINRA Conduct Rule 2010 and FINRA Procedural Rule 8210.

RESPONDENT AND JURISDICTION

3. Respondent entered the securities industry in January 1989 with a FINRA regulated entity and was approved as a registered representative in January 1989.
4. From January 1989 to July 2002, Respondent was associated as a registered representative with FINRA regulated entities. In July 2002, Respondent became associated with Thrivent as a registered representative.
5. On October 26, 2010, Thrivent filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") reporting the termination of Respondent's association with the firm on October 15, 2010. Among other things, the Form U5 reported that Respondent changed a customer's address to his own residential address without the customer's knowledge or authorization and then requested unauthorized withdrawals or loans from the same customer's whole life insurance contract for his personal benefit.
6. Since the termination of his employment with Thrivent, Respondent has not been associated with a FINRA regulated entity.
7. Although Respondent has not been associated with a FINRA regulated entity since October 15, 2010, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, in that the misconduct occurred while Respondent was associated with a FINRA regulated entity and the Complaint was filed within two years after the date upon which Respondent ceased to be associated with a FINRA regulated entity.
8. In addition, the Complaint charges Respondent with failing to respond to FINRA requests for information and testimony, during the two-year period after the date upon which Respondent ceased to be associated with a FINRA regulated entity.

FIRST CAUSE OF ACTION
FALSIFICATION OF CUSTOMER ACCOUNT RECORDS
FINRA Conduct Rule 2010 and NASD Conduct Rule 3110

9. Enforcement realleges and incorporates by reference paragraphs 3 through 8 above.
10. During June 2010 (the "Relevant Period"), Respondent worked as a registered representative in Lawrence, Kansas.
11. Respondent serviced the securities account of SM, his elderly mother-in-law.
12. On or about June 1, 2010, Respondent changed or caused SM's address of record at the Firm to be changed to Respondent's residential address reflected in Central Registration Depository, [REDACTED] (the "CRD Address"), without SM's knowledge or authorization.
13. Respondent also caused SM's telephone number of record at the Firm to be changed to Respondent's telephone number, without SM's knowledge or authorization.
14. At the time of these changes, SM's home address was not the CRD Address and SM's telephone number was not the same as Respondent's telephone number.
15. As a result of the foregoing conduct, Respondent violated FINRA Conduct Rule 2010 by falsifying or causing the falsification of customer account records and NASD Rule 3110 by causing the books and records of the Firm to be inaccurate.

SECOND CAUSE OF ACTION
ATTEMPTED CONVERSION OF CUSTOMER FUNDS
FINRA CONDUCT RULE 2010

16. Enforcement realleges and incorporates by reference paragraphs 3 through 8 and paragraphs 10 and 11 above.

17. On or about June 2, 2010, Respondent called the Firm's Customer Interaction Center ("CIC") on a recorded telephone line and requested a \$4,500 loan from SM's life insurance contract, without SM's knowledge or authorization.
18. Respondent requested that the Firm electronically transfer the loan proceeds to SM's bank account.
19. On or about June 3, 2010, Respondent called CIC on a recorded line and represented that SM changed her mind about having the loan proceeds electronically transferred to her bank account. Respondent told the CIC representative that SM wanted the electronic transfer reversed and a check for \$4,500 issued.
20. The CIC representative advised Respondent that it would take about 10 days to reverse the electronic transfer and recover the funds before a \$4,500 check could be issued. Respondent confirmed to the representative that the \$4,500 check was to be sent to the CRD Address.
21. On or about June 4, 2010 Respondent called CIC again on a recorded line and told the CIC representative that SM did not want to wait the 10 days that it would take to reverse the electronic transfer and issue a \$4,500 check. Respondent instructed the representative that the request for the \$4,500 check was cancelled and the funds were to be returned to SM's insurance contract. Respondent then requested a new loan of \$4,000 from SM's insurance contract and confirmed that the check be sent to the CRD Address, without SM's knowledge or authorization.
22. On or about June 5, 2010, the Firm mailed a \$4,000 loan check from SM's insurance contract to the CRD Address.

23. On or about June 7, 2010, SM called CIC and, in the process of attempting to authenticate her identity, SM discovered that SM's residential address and telephone number had changed to Respondent's contact information. SM told the CIC representative that her contact information had not changed and she had not authorized Respondent to make changes to her contact information.
24. The CIC representative asked SM if she was aware of the recent loan transactions that had been requested on her insurance contract. SM stated that she was not aware of the loan transactions and had not authorized any loan transaction. The CIC representative placed a request for a stop payment order on the \$4,000 loan check.
25. On or about June 8, 2010, Respondent called CIC on a recorded line, after he received automated service contact reports from SM's June 7, 2010 conversations with CIC. Respondent requested that the CIC representative explain to him why SM had contacted CIC.
26. Respondent told the CIC representative that SM was getting confused about what she wanted and that all loan transactions needed to be reversed. The CIC representative informed Respondent that the Firm's disbursement group would review the loan requests and contact Respondent to discuss the matters.
27. The Firm's disbursement group called Respondent on a recorded line and explained to Respondent that SM had requested that the loan transactions be cancelled and the funds applied back to her insurance contract. The representative also told Respondent that the \$4,000 check was mailed to the CRD Address and that a stop payment order had been placed on the check.

28. As a result of the foregoing conduct, Respondent violated FINRA Rule 2010 by attempting to convert funds belonging to a customer.

THIRD CAUSE OF ACTION
FAILURE TO COMPLY WITH REQUESTS FOR INFORMATION AND TESTIMONY
FINRA PROCEDURAL RULE 8210 AND FINRA CONDUCT RULE 2010

29. Enforcement realleges and incorporates by reference paragraphs 3 through 8 above.
30. Respondent failed to provide information and testimony requested pursuant to FINRA Rule 8210.
31. On April 28, 2011, Enforcement sent a letter to Respondent requesting that, pursuant to FINRA Rule 8210, Respondent provide a written statement concerning his conduct while associated with the Firm. The letter was sent by certified mail, return receipt requested and a copy was sent by first class mail to Respondent at the CRD Address.
32. Enforcement received a Domestic Return Receipt for the letter sent by certified mail, return receipt requested, indicating that the letter was delivered at the CRD Address on May 3, 2011. The copy of the letter sent by first class mail to Respondent at the CRD Address was not returned to Enforcement. Respondent failed to provide the requested information to Enforcement by May 3, 2011. Respondent failed to provide the requested information to Enforcement.
33. On May 3, 2011, Enforcement sent a letter to Respondent requesting that, pursuant to FINRA Rule 8210, Respondent appear and provide testimony on May 26, 2011 at Enforcement's office located at 14 Wall Street in New York. The letter was sent by Express Mail and a copy was sent by first class mail to Respondent at the CRD Address.
34. Enforcement obtained a letter from the United States Postal Service ("USPS") for the letter sent to Respondent by Express Mail at the CRD address indicating that Respondent

- signed for the letter on May 4, 2011. The copy of the letter sent by first class mail to Respondent at the CRD Address was not returned to Enforcement.
35. On May 24, 2011, Enforcement received a telephone message from Respondent stating that he would not appear for testimony on May 26, 2011.
 36. On May 26, 2011, Respondent failed to appear and provide the requested testimony.
 37. On May 27, 2011, Enforcement sent two letters to Respondent. One letter requested pursuant that, pursuant to FINRA Rule 8210, Respondent provide a written statement concerning his conduct while associated as a registered representative with the Firm. The other letter requested that, pursuant to FINRA Rule 8210, Respondent appear and provide testimony on June 10, 2011 at Enforcement's office located at 14 Wall Street in New York. The letters were sent by Express Mail and copies were sent by first class mail to Respondent at the CRD Address.
 38. Enforcement obtained letters from the USPS for the letters sent to Respondent by Express Mail at the CRD Address indicating that Respondent signed for the letters on May 28, 2011. The copies of the letters sent by first class mail to Respondent at the CRD Address were not returned to Enforcement. Respondent failed to provide the requested information and failed to appear and provide the requested testimony.
 39. To date, Respondent has failed to provide the requested information and testimony to Enforcement.
 40. Respondent's failure to provide the information and testimony requested by Enforcement has materially impeded the staff's investigation.
 41. Accordingly, Respondent violated FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010 by failing to provide the requested information and testimony.

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).
- 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: September 13, 2011



Clarence E. Sanders, Jr., Senior Counsel
Richard R. Best, Chief Counsel
FINRA Department of Enforcement
14 Wall Street, 14th Floor
New York, New York 10005
T(646) 315-7399 F(202) 689-3465
clarence.sanders@finra.org