

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

Department of Enforcement,

Complainant,

v.

Angela Duyao,
CRD No. 2139976,

Respondent.

Disciplinary Proceeding
No. 2012031810102

Hearing Officer: MAD

**ORDER ACCEPTING OFFER OF
SETTLEMENT**

Date: August 16, 2013

INTRODUCTION

Disciplinary Proceeding No. 2012031810102 was filed on February 1, 2013, by the Department of Enforcement of the Financial Industry Regulatory Authority (FINRA) (Complainant). Respondent Angela Duyao submitted an Offer of Settlement (Offer) to Complainant dated June 17, 2013. Pursuant to FINRA Rule 9270(e), the Complainant and the National Adjudicatory Council (NAC), a Review Subcommittee of the NAC, or the Office of Disciplinary Affairs (ODA) have accepted the uncontested Offer. Accordingly, this Order now is issued pursuant to FINRA Rule 9270(e)(3). The findings, conclusions and sanctions set forth in this Order are those stated in the Offer as accepted by the Complainant and approved by the NAC.

Under the terms of the Offer, Respondent has consented, without admitting or denying the allegations of the Complaint as amended by the Offer of Settlement, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of FINRA, or to

which FINRA is a party, to the entry of findings and violations consistent with the allegations of the Complaint as amended by the Offer of Settlement, and to the imposition of the sanctions set forth below, and fully understands that this Order will become part of Respondent's permanent disciplinary record and may be considered in any future actions brought by FINRA.

BACKGROUND

RESPONDENT AND JURISDICTION

1. Respondent Duyao was associated with FINRA member Morgan Stanley Smith Barney (the Firm) as an unregistered sales assistant from 2007 until on or about March 2, 2012. Her association was terminated by the Firm for entering inaccurate information concerning communications with a customer on the firm's internal records.
2. Respondent Duyao was previously associated with three other FINRA-member broker-dealers prior to her association with the Firm. In October 1999 and February 2000, her then-employer submitted, respectively, an application and an amended application for registration on Form U4 and examination windows were opened for the Series 7 and Series 63 examinations. Respondent Duyao did not become registered with that firm and a Form U5 terminating her applicant status was filed in December 2001. She remained an unregistered sales assistant at all times until her association was terminated on March 2, 2012.
3. Although Respondent Duyao is no longer associated with a FINRA member, she remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years after March 2, 2012, the date upon which she ceased to be associated

with a FINRA member, and (2) the Complaint charges her with failing to appear for on-the-record testimony during the two-year period after the date upon which she ceased to be associated with a FINRA member.

FINDINGS AND CONCLUSIONS

4. It has been determined that the Offer be accepted and that findings be made as follows:
5. On or about March 15, 2012, the Firm submitted a FINRA Rule 4530 disclosure (Form 4530) in which it reported that Respondent Duyao had completed account-related documents representing that she had spoken to a customer concerning fund transfers when, in fact, she had relied on e-mail instructions from "fraudulent third parties."
6. The firm later provided FINRA with the internal forms completed by Respondent Duyao and represented that she had acknowledged to firm personnel that she had not spoken to the customer. The Firm did not obtain a written statement from Respondent Duyao. The Firm also represented that the customer's e-mail account had been compromised and was used by an unknown third party to transfer funds from the customer's account without authorization.
7. Upon receipt of the Form 4530, FINRA staff sent a written request for information pursuant to Rule 8210 to Respondent Duyao on March 23, 2012. The request was sent to a residential address on record with CRD. When Respondent Duyao did not provide the requested information by the stated due date, FINRA staff sent a second written Rule 8210 request to her on April 10, 2012, at the same address.

8. After Respondent Duyao failed to provide the requested information by the due date stated in the second request, Enforcement initiated a non-summary proceeding pursuant to FINRA Rule 9552. On July 10, 2012, FINRA sent a Notice of Suspension to Respondent Duyao informing her that she would be suspended from associating with a FINRA member firm unless she provided information responsive to the requests for information described in paragraph 6 above on or before August 3, 2012. The Notice of Suspension was sent to the address on record with CRD and to what appeared to be a more current address for Duyao obtained from an address search.
9. On July 25, 2012, FINRA received a letter dated July 15, 2012, from Respondent Duyao responding to the Notice of Suspension. In the letter, she stated “[i]n mid-February I received several requests via e-mail to wire transfer funds. There was a very brief conversation with whom I thought was the client confirming these requests.” The return address on the envelope transmitting the letter was the address the staff had obtained from the address search.
10. Upon receipt of the letter, FINRA terminated the non-summary proceeding in order to further investigate whether Respondent Duyao’s conduct in connection with the unauthorized transfers violated FINRA Rules.
11. On September 4, 2012, FINRA sent to Respondent Duyao a written request pursuant to Rule 8210 for additional information concerning her communications with the customer whose e-mail account was compromised. Among other things, the request sought specific information about her communications with the customer in connection with each of the unauthorized transfer requests and an explanation of her

failure to respond to the requests for information sent in March and April 2012. The requested information was due to FINRA on or before September 24, 2012.

12. On September 27, 2012, FINRA staff received a letter from Respondent Duyao, dated September 24, 2012, that provided information responsive to the September 4, 2012, request, but did not provide a full response. In order to obtain sufficient information to determine whether Respondent Duyao had violated FINRA rules in processing the unauthorized fund transfer requests, the staff requested her sworn testimony.

FIRST CAUSE OF ACTION

(Failure to Appear for Sworn Testimony (FINRA Rules 2010 and 8210))

13. On October 30, 2012, FINRA staff sent to Respondent Duyao a letter informing her that the staff intended to take her sworn testimony in order to further discuss the questions asked in the September 4, 2012, request for information and the answers she provided in her September 24, 2012 response. The letter offered Respondent Duyao a choice of seven dates between December 2, 2012, and December 12, 2012, for her testimony and requested that she advise the staff of her preferences on or before November 16, 2012. Respondent Duyao did not respond to the October 30, 2012, letter.
14. On November 21, 2012, FINRA staff sent to Respondent Duyao a written request pursuant to Rule 8210 for her appearance at an on-the-record interview on December 10, 2012, at 1:00 P.M. in FINRA's San Francisco District Office. Respondent Duyao was instructed to contact the staff on or before December 3, 2012, if the scheduled date presented a conflict.

15. On December 3, 2012, FINRA received a letter dated November 28, 2012, and signed by Respondent Duyao. The letter stated:

In response to your letter dated November 21, 2012, I find that your request is absolutely unnecessary. I have provided you a signed written statement with the pertinent information you had previously requested on September 24, 2012. I will not inconvenience myself with your ridiculous request as said written statement is sufficient. ... I understand and accept that I may no longer work for any FINRA associated company and I am fine with that. ...

16. Respondent Duyao did not appear for testimony on December 10, 2012.

17. By failing to appear and testify as requested pursuant to FINRA Rule 8210,

Respondent Duyao provided an incomplete response to FINRA's requests for information and violated FINRA Rules 2010 and 8210.

Based on the foregoing, Respondent violated FINRA Rules 2010 and 8210

Based on these considerations, the sanctions hereby imposed by the acceptance of the Offer are in the public interest, are sufficiently remedial to deter Respondent from any future misconduct, and represent a proper discharge by FINRA, of its regulatory responsibility under the Securities Exchange Act of 1934.

SANCTIONS

It is ordered that Respondent be suspended from association with any FINRA-member broker-dealer in any capacities for a period of 18 months and fined in the amount of \$5,000.00

The fine shall be due and payable either immediately upon reassociation with a member firm following the 18-month suspension noted above, or prior to any application or request for relief from any statutory disqualification resulting from this or any other event or proceeding, whichever is earlier.

The sanctions imposed herein shall be effective on a date set by FINRA staff.

SO ORDERED.

FINRA

Signed on behalf of the
Director of ODA, by delegated authority


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