

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

Department of Enforcement,

Complainant,

v.

Valentino Infante (CRD No. 5707731),

Respondent.

DISCIPLINARY PROCEEDING  
No. 2013038021001

**COMPLAINT**

The Department of Enforcement alleges:

**SUMMARY**

1. From in or about August 2012 through at least in or about October 2012, Respondent engaged in unapproved outside business activities by twice soliciting a customer of his FINRA-member broker-dealer employer to provide funding for the purchase and resale of tractors that were to be subsequently resold at an expected profit on the spread. Respondent received compensation with respect to one of these two transactions and expected to receive compensation in connection with the other.

2. On September 18, 2012, Respondent established a limited liability company in the State of Florida called IMonsters Machinery (IMonsters). He was the sole proprietor of IMonsters and expected to receive compensation in connection with any business transacted through that entity. Respondent failed to disclose his association with IMonsters to his FINRA-member broker-dealer employer.

3. In or about May 2013, Respondent falsely represented to his FINRA-member broker-dealer employer in a Registered Associate Compliance Questionnaire (Compliance Questionnaire) that he was not currently engaged in any outside activities including as a proprietor, partner, director or otherwise.

4. In addition, on March 5, 2015 and March 31, 2015, Respondent failed to appear for testimony as required by FINRA staff pursuant to FINRA Rule 8210.

#### RESPONDENT(S) AND JURISDICTION

5. Respondent entered the securities industry in 2009 as a Registered Representative trainee with a FINRA-member broker-dealer. He has since been associated with two FINRA-member broker-dealers.

6. Respondent obtained a Series 7 securities license, a Series 63 securities license and a Series 65 securities license in November 2009, March 2010 and December 2011, respectively.

7. From May 2010 through July 2013, Respondent was employed as a Registered Client Associate with Wells Fargo Advisors LLC (Wells Fargo or the Firm). Wells Fargo terminated Respondent's employment on or about July 24, 2013. On August 19, 2013, the Firm filed a Uniform Termination Notice for Securities Industry Registration reporting that Infante was discharged for "recommend[ing] investments to a client which were not conducted through the firm and not recorded on firm books and records and fail[ing] to disclose outside business activity to the firm." Although Respondent is no longer registered or associated with a FINRA member, he 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 the effective date of termination of Respondent's registration with Wells Fargo, namely,

August 19, 2015 and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member and with failing to appear for on-the-record testimony during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

**FIRST CAUSE OF ACTION  
(Outside Business Activities)  
Violations of FINRA Rules 3270 and 2010**

8. The Department realleges and incorporates by reference paragraphs 1 through 7 above.

9. FINRA Rule 3270 prohibits any registered person from being an employee, independent contractor, sole proprietor, officer, director or partner of another person, or being compensated, or having the reasonable expectation of compensation, from another person as a result of any business activity outside the scope of the relationship with his FINRA-regulated broker dealer employer, unless he or she has provided prior written notice to his FINRA-regulated broker dealer employer.

10. FINRA Rule 2010 provides that, "A member, in the conduct of [his] business, shall observe high standards of commercial honor and just and equitable principles of trade."

*The Outside Business*

11. Respondent engaged in outside business activities concerning the purchase and resale of tractors and similar machinery. In furtherance of his outside business activities, Respondent located individuals financially ready and willing to provide funding for the purchase, transportation and storage of an identified tractor or similar machinery. Respondent and/or his associates also located potential buyers, either in or outside the United States, for the resale of

the purchased equipment. The anticipated return on the transactions consisted of the expected spread between the purchase and resale prices, with the individual who funded the transaction and Respondent and/or his associates sharing in the profits of the resale.

*The August 2012 Transaction*

12. In or about August 2012, Respondent and/or his associates located a 2003 JD Loader Hoe for sale by an entity herein referred to as ABC Tractor Incorporated. The purchase price of the equipment was approximately \$22,000.

13. In or about August 2012, Respondent solicited Wells Fargo Customer PS to provide funds for the purchase of the 2003 JD Loader Hoe. Respondent was the Registered Client Associate who worked on Customer PS' Wells Fargo Account. Customer PS agreed to provide funds for the purchase of the 2003 JD Loader Hoe.

14. On or about August 20, 2012, Respondent prepared a Letter of Authorization to Transfer Funds or Securities (LOA) directing the transfer of \$22,000 from Customer PS' Wells Fargo brokerage account to ABC Tractor Incorporated for the purchase of the 2003 JD Loader Hoe. Customer PS signed the LOA and the \$22,000 was wired as directed in the LOA.

15. On or about August 22, 2012, Respondent prepared an LOA directing the transfer of \$2,000 from Customer PS' Wells Fargo brokerage account to XYZ Machinery Co. for the transport of the 2003 JD Loader Hoe cross country. Customer PS signed the LOA and the \$2,000 was wired as directed in the LOA.

16. On or about August 28, 2012, the 2003 JD Loader Hoe was resold to individual ME for approximately \$33,000.

17. Customer PS received approximately \$28,000 at the conclusion of this transaction, including a profit of approximately \$4,000.

18. Respondent received compensation of approximately \$1,100 in connection with this transaction.

*IMonsters Machinery & IMMachinery*

19. On or about September 18, 2012, Respondent established a corporation in the State of Florida called IMonsters Machinery (IMonsters). Respondent is the sole owner of IMonsters. The mailing address for IMonsters registered with the Florida Department of State, Division of Corporations appears to be the same as Respondent's residential address as listed in the Central Registration Depository (CRD) (hereinafter the Miami Address), with the exception of the word "Boulevard" which appears after the street name in the IMonsters mailing address. The word "Boulevard" is not contained in the Miami Address as it appears in CRD. As of at least June 11, 2015, IMonsters was an "active" corporation in the State of Florida.

20. On or about October 1, 2012, Respondent's girlfriend, ER, established a corporation in the State of Florida called IMMachinery. ER is the sole owner of IMMachinery. The mailing address listed for IMMachinery with the Florida Department of State, Division of Corporations is the same as the mailing address listed with the Florida Department of State, Division of Corporations for IMonsters. As of at least June 11, 2015, IMMachinery was an "active" corporation in the State of Florida.

21. Both corporations were established by Respondent and ER to be used in connection with the above-referenced business involving the purchase and resale of heavy machinery.

*October 2012 Transaction*

22. In or about September or October 2012, Respondent and/or his associates identified a CPL 320 C Excavator for sale by an entity herein referred to as JKL Equipment Corp. The purchase price of the equipment was approximately \$68,500.

23. In or about September or October 2012, Respondent solicited Wells Fargo Customer PS to provide funds for the purchase of the CPL 320 C Excavator. Customer PS agreed to provide funds for the purchase of this machinery.

24. On or about October 15, 2012, Respondent prepared a Letter of Authorization to Transfer Funds or Securities (LOA) directing the transfer of \$34,250 from Customer PS' Wells Fargo brokerage account to JKL Equipment Corp. for the purchase of the CPL 320 C Excavator. Customer PS signed the LOA and the \$34,250 was wired as directed in the LOA.

25. On or about September 25, 2012, individual LM provided to Respondent and/or his associates a Cashier's Check in the amount of \$35,000 payable to IMonsters for the purchase of the CPL 320 C Excavator.

26. On or about October 31, 2012, Customer PS wrote and signed a check against her Wells Fargo brokerage account payable to EFG Tractor in the amount of \$2,550 for the transport of the CPL 320 C Excavator.

27. In or about June 2013, Customer PS received from EFG Tractor approximately \$25,000 in connection with this transaction. Customer PS incurred a loss of \$11,800 in connection with this transaction.

28. Wells Fargo subsequently reimbursed Customer PS in the amount of \$9,500.

29. Although Respondent expected to receive compensation in connection with the anticipated resale of the CPL 320 C Excavator, Respondent did not receive compensation in connection with this transaction.

30. The acts, practices and conduct described above constitute separate and distinct violations of FINRA Rules 3270 and 2010.

**SECOND CAUSE OF ACTION**  
***(False Statements on Annual Compliance Questionnaires)***  
**FINRA Rule 2010**

31. The Department realleges and incorporates by reference paragraphs 1 through 30 above.

32. Wells Fargo required its registered associates to complete annually a Registered Associate Compliance Questionnaire.

33. In or about May 6, 2013, Respondent completed his 2013 Registered Client Associate Questionnaire (the "2013 Questionnaire").

34. On May 6, 2013 IMonsters was an active corporation in the State of Florida.

35. One of the questions posed in the 2013 Questionnaire asked, "Are you currently engaged in any outside activity either as a proprietor, partner, officer, director, trustee, employee, agent, or otherwise?"

36. In response to this question, Respondent checked the box indicating, "No," which was not true.

37. Respondent's misrepresentation was material as it prevented the Firm from learning of his outside activities and his solicitation of Firm customers in connection with those activities.

38. The acts, practices and conduct described above constitute a violation of FINRA Rule 2010.

**THIRD CAUSE OF ACTION**  
***(Failure to Appear for Testimony)***  
**FINRA Rules 8210 and 2010**

39. The Department realleges and incorporates by reference paragraphs 1 through 38 above.

40. FINRA Rule 8210(a) 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.”

41. 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.”

*Respondent’s Relevant Addresses*

42. Since June 2012, Respondent’s residential address as listed in the Central Registrations Depository has been the Miami Address.

43. On or about April 15, 2014, Respondent informed Enforcement Staff of his new residential address in Memphis, Tennessee (First Memphis Address).

44. On or about January 8, 2015, Respondent informed Enforcement Staff that he had recently moved and provided another residential address in Memphis, Tennessee (Second Memphis Address).

### *Testimony Requests*

45. By letter dated January 5, 2015 (the January 5<sup>th</sup> Letter), Enforcement requested pursuant to FINRA Rule 8210 that Respondent appear and testify at the Offices of MNO Reporting, a court reporting company located in Memphis, TN on January 8, 2015, in connection with an investigation of the misconduct alleged herein.

46. Enforcement sent the January 5<sup>th</sup> Letter by FedEx and regular first class mail to the Miami Address and to the First Memphis Address.

47. On January 8, 2015 Respondent appeared at the Offices of MNO Reporting and gave testimony. At one point during his testimony, Respondent expressed a desire to retain counsel and the testimony was adjourned.

48. By letter dated February 17, 2015 (the February 17<sup>th</sup> Letter), Enforcement requested pursuant to FINRA Rule 8210 that Respondent appear and provide continued testimony on March 5, 2015 at the offices of MNO Reporting, in connection with its investigation into the misconduct alleged herein.

49. Enforcement sent the February 17<sup>th</sup> Letter by certified first-class mail, return receipt requested, and regular first class mail to the Miami Address, the First Memphis Address and the Second Memphis Address.

50. The copy of the February 17<sup>th</sup> Letter sent by certified first-class mail, return receipt requested to the Miami Address was returned to Enforcement on or about March 2, 2015 with the notation, "Return to Sender, Not Deliverable as Addressed, Unable to Forward." The copy of the February 17<sup>th</sup> Letter sent by regular first class mail to the Miami Address was

returned to Enforcement on or about April 21, 2015 bearing the notation "Return to Sender, Not Deliverable as Addressed, Unable to Forward."

51. The copy of the February 17<sup>th</sup> Letter sent by certified first-class mail, return receipt requested to the First Memphis Address was returned to Enforcement on or about June 9, 2015 with two USPS markings. The first USPS marking was dated March 25, 2015 and read, "Notify Sender of New Address Infante Valentino" followed by the Second Memphis Address. The second USPS marking was dated May 23, 2015 and bore the notation "Return to Sender, No Such Number, Unable to Forward." The copy of the February 17<sup>th</sup> Letter sent by regular first-class mail to the First Memphis Address was not returned to Enforcement.

52. The copy of the February 17<sup>th</sup> Letter sent by certified first-class mail, return receipt requested to the Second Memphis Address was returned to Enforcement on or about April 28, 2015 bearing the notation "Return to Sender, Unclaimed from Memphis, TENN." The copy of the February 17<sup>th</sup> Letter sent by regular first-class mail to the Second Memphis Address was not returned to Enforcement.

53. Respondent did not appear and give continued testimony at the Offices of MNO Reporting on March 5, 2015.

54. By letter dated March 9, 2015 (the "March 9<sup>th</sup> Letter"), Enforcement requested pursuant to FINRA Rule 8210 that Respondent appear and provide continued testimony on March 31, 2015 at the offices of MNO Reporting, in connection with the investigation into the misconduct alleged herein.

55. Enforcement sent the March 9th Letter by certified first-class mail, return receipt requested, and regular first class mail to the Miami Address , to the First Memphis Address and to the Second Memphis Address.

56. The copy of the March 9th Letter sent by certified first-class mail, return receipt requested to the Miami Address was returned to Enforcement on or about March 17, 2015 with the notation, "Return to Sender, Not Deliverable as Addressed, Unable to Forward." The copy of the March 9<sup>th</sup> Letter sent by regular first class mail to the Miami Address was returned to Enforcement on or about March 20, 2015 with the notation, "Return to Sender, Not Deliverable as Addresses, Unable to Forward."

57. The copy of the March 9<sup>th</sup> Letter sent by certified first-class mail, return receipt requested to the First Memphis Address was returned to Enforcement on June 1, 2015 with the notation, "Return to Sender, No Such Number, Unable to Forward." The copy of the March 9<sup>th</sup> Letter sent by regular first class mail to the First Memphis Address has not been returned to Enforcement.

58. The copy of the March 9<sup>th</sup> Letter sent by certified first-class mail, return receipt requested to the Second Memphis Address was returned to Enforcement on June 1, 2015 with the notation, "Return to Sender, No Such Number, Unable to Forward." The copy of the March 9<sup>th</sup> Letter sent by regular first class mail to the Second Memphis Address has not been returned to Enforcement.

59. Respondent did not appear and give continued testimony at the Offices of MNO Reporting on March 31, 2015.

60. The acts, practices and conduct described above constitute a violation of FINRA Rules 8210 and 2010.

**RELIEF REQUESTED**

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent(s) committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed, including that Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- C. order that Respondent(s) 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: July 13, 2015

Susan Light  
Susan Light  
Senior Vice President and Chief Counsel  
FINRA Department of Enforcement  
One Brookfield Place  
200 Liberty Street  
New York, NY 10281  
646.315.7333  
susan.light@finra.org