

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

David M. Mansour (CRD # 4082348),

Respondent.

DISCIPLINARY PROCEEDING
No. 2014041526002

HEARING OFFICER: _____

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent David M. Mansour (“Mansour” or “Respondent”), while associated with Frost Brokerage Services, Inc. (“Frost Brokerage” or the “Firm”), a FINRA member firm, willfully failed to timely disclose a misdemeanor charge for wrongful taking of property on his Uniform Application for Securities Industry Registration (“Form U4”). As a result of this conduct, Mansour willfully acted in contravention of Article V, Section 2(c) of FINRA’s By-Laws and violated FINRA Rules 1122 and 2010.

2. In addition, Mansour, without the authority to do so and without advising anyone of his actions, agreed on behalf of FB (which was a bank affiliated with Frost Brokerage) for FB to become the trustee of a trust that was established for the benefit of one of Mansour’s customers. In connection with the sale of mineral rights from that trust and withdrawal of the proceeds from the trust, Mansour also misrepresented that he was a “Trust Officer” of FB, when

in fact he held no such position with FB. By engaging in this conduct, Mansour violated FINRA Rule 2010.

RESPONDENT AND JURISDICTION

3. Mansour received his Series 7 registration in December 1999. Since that date, Mansour has been associated with a number of different FINRA member firms. From February 2001 through June 10, 2014, Mansour was associated with Frost Brokerage and registered with FINRA as a General Securities Representative. On June 10, 2014, the Firm filed a Form U5 Uniform Termination Notice for Securities Industry Registration (“Form U5”) involuntarily terminating Mansour’s employment at Frost Brokerage. During the course of his career in the securities industry, Mansour also obtained his Series 63 license. Mansour is not currently associated with a FINRA member firm.

4. Although Mansour 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 Frost Brokerage, namely, June 10, 2014, and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member.

STATEMENT OF FACTS

Mansour willfully failed to timely disclose a misdemeanor theft charge on his Form U4.

5. On July 16, 2013, Mansour completed his annual “Registered Person Certification” and provided it to Frost Brokerage. Mansour attested that “I know I have to report to the Compliance Specialist, in writing, all changes that need to be made to my U-4 (i.e. address change, new disclosures, name change, arrests, etc.).”

6. On October 28, 2013, Mansour was arrested and charged with theft of an amount between \$50 and \$500, a Class B misdemeanor in Texas.

7. On November 18, 2013 – approximately three weeks after he had been arrested and charged – Mansour submitted a revised Form U4 to a Compliance Specialist at Frost Brokerage to notify the Firm that Mansour had moved to a new address. Mansour did not, however, disclose the misdemeanor theft charge in this updated Form U4.

8. From October 28, 2013 through June 10, 2014, Mansour willfully failed to timely amend his Form U4 to disclose the material fact that he had been charged with a misdemeanor charge for the wrongful taking of property.

9. Finally, on June 10, 2014, after a brief internal investigation, Frost Brokerage terminated Mansour's association and filed a Form U5 disclosing the charge against Mansour for the first time, stating: "Registered Representative violated FINRA Bylaws and FINRA Rule 2010 by failing to notify the Firm of a U4 disclosure event. The disclosure event is a misdemeanor charge of wrongful taking of property."

10. On March 16, 2015, Mansour pled no contest to a reduced charge of misdemeanor theft in an amount less than \$50, and was placed in a deferred adjudication program. On August 18, 2015, Mansour was granted an order of expungement regarding this charge.

11. Mansour was aware that he was required to timely disclose certain criminal charges on the Form U4. Indeed, Mansour specifically attested to this knowledge on an annual basis when he completed his "Registered Person Certification." Moreover, Mansour had previously been charged with various reportable criminal offenses, and thus was aware that he had an obligation to timely disclose such offenses. Specifically, Mansour was charged with

misdeemeanor theft in May 1995, a fact that was first disclosed on his Form U4 in April 2001, when he first associated with Frost Brokerage. In October 2002, Mansour was charged with one count of felony credit abuse, which was disclosed on Mansour's Form U4 in September 2003, after the charge had been dismissed.

Mansour improperly acted as a "Trust Officer" at FB.

12. On December 12, 2014, Frost Brokerage amended Mansour's Form U5 to disclose the resolution of a customer complaint pertaining to the fact that Mansour "misrepresented himself as an appointed trust officer of FB to a client."

13. One of Mansour's customers at the Firm, TS, was the beneficiary of a trust that owned property and mineral rights. This customer had previously inherited this property pursuant to one of her parent's last will and testament, and she held these properties in a trust that was formed for her benefit (the "Trust").

14. FB has specific procedures in place for the acceptance of new trust relationships, including a mandatory review and approval of prospective trust relationships by a Bank committee. These procedures are designed to ensure that FB properly executes its fiduciary role as trustee. Mansour circumvented these procedures. Without any authority to do so, and without advising anyone at FB of his actions, Mansour unilaterally committed FB to serve as the successor trustee of the Trust.

15. On March 1, 2013, Mansour executed a Fiduciary Warranty Deed, which purported that FB was the successor trustee of the Trust. By executing this document, Mansour, without authorization to do so, effectively committed FB to serve as trustee of the Trust. Pursuant to this document, FB, in its purported capacity as successor trustee, granted and conveyed certain mineral and/or royalty interests to a third party. The document further bound

FB to defend and warrant the property against any subsequent challenges to ownership. Under the heading “FB, TRUSTEE OF THE [TS] TRUST,” Mansour executed this document, falsely representing by his signature that he was an “Assistant Vice President and Trust Officer.”

16. On March 15, 2013, the trustees of the Trust resigned, and FB was appointed successor Trustee. Although he was not authorized by FB to do so, Mansour, unbeknownst to FB, accepted this appointment on behalf of FB.

17. On April 28, 2013, Mansour executed a second document in his purported capacity as a “Trust Officer” of FB. This document – a Letter Agreement specifying the terms of a purchase of mineral and/or royalty interests – set forth the terms and conditions of the Trust’s sale of interests to a third party, which on information and belief was owned by the former trustee of the Trust. Once again, Mansour signed this document under the heading “FB, Trustee,” in his purported capacity as “Assistant Vice President and Trust Officer.”

18. The purpose of the March 1, 2013 and April 28, 2013 documents was to complete a sale of mineral and/or royalty rights that was held by the Trust for TS’s benefit.

19. At no time was Mansour a Trust Officer at FB. His representation to the contrary on the March 1, 2013 and April 28, 2013 documents was false. As a result of Mansour’s unauthorized actions as a Trust Officer, FB entered into a settlement agreement with the Trust, pursuant to which it reconstituted the assets which had been removed from the Trust, in the amount of \$248,299.

FIRST CAUSE OF ACTION
WILLFUL FAILURE TO TIMELY REPORT MISDEMEANOR THEFT CHARGE
(VIOLATION OF ARTICLE V, SECTION 2(C) OF FINRA'S BY-LAWS
AND FINRA RULES 1122 AND 2010)

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

21. Article V, Section 2(c) of FINRA's By-Laws requires associated persons to keep their Form U4 applications "current at all times," and that amendments to Form U4s "be filed with [FINRA] not later than 30 days after learning of the facts or circumstances giving rise to the amendment."

22. FINRA Rule 1122 provides that: "No member or person associated with a member shall file with FINRA information with respect to membership or registration which is incomplete or inaccurate so as to be misleading or which could in any way tend to mislead, or fail to correct such filing after notice thereof."

23. FINRA Rule 2010 requires a registered person "shall observe high standards of commercial honor and just and equitable principles of trade."

24. Since at least 2012, Disclosure Question 14B.1 of Form U4 asks the following questions:

Have you ever:

- (a) been convicted of or pled nolo contendere ("no contest") in a domestic, foreign or military court to a *misdemeanor involving*: investments or an *investment-related* business or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?
- (b) been charged with a misdemeanor specified in 14(B)(1)(a)?¹

¹ Emphasis in original

25. Mansour was charged on October 28, 2013 with a misdemeanor charge involving the wrongful taking of property.

26. From October 28, 2013 through June 10, 2014, Mansour willfully failed to timely amend his Form U4 to disclose the material fact that he had been charged with a misdemeanor involving the wrongful taking of property.

27. As a result of the foregoing conduct, Mansour willfully acted in contravention of Article V, Section 2(c) of FINRA's By-Laws and violated FINRA Rules 1122 and 2010.

**SECOND CAUSE OF ACTION
ACTING AS TRUST OFFICER WITHOUT AUTHORITY
(FINRA RULE 2010)**

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

29. FINRA Rule 2010 requires a registered person "shall observe high standards of commercial honor and just and equitable principles of trade." This Rule prohibits registered representatives from executing documents without authority to do so, and from acting outside the scope of their designated authority with their employer.

30. Without the authority to do so, and without advising anyone at FB of his actions, Mansour agreed on behalf of FB for FB to become the successor trustee of the Trust. Mansour's actions circumvented the established procedures at FB for the review and acceptance of new trust relationships.

31. On March 1, 2013 and April 28, 2013, Mansour executed documents on behalf of FB, in its capacity of Trustee of the Trust. Mansour was not authorized by FB to execute documents on its behalf.

32. In executing these documents on March 1, 2013 and April 28, 2013, Mansour falsely represented that he was an "Assistant Vice President and Trust Officer" of FB. Mansour was never an appointed Trust Officer at FB.

33. As a result of the foregoing conduct, Mansour violated FINRA Rule 2010.

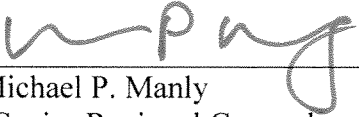
RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a) be imposed; and
- C. order that Respondent bear such costs of the proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330;
- D. make specific findings that Respondent's conduct, as alleged herein, was willful; the omitted information was material; and, the omission to state material facts was on a Form U4 application.

FINRA DEPARTMENT OF ENFORCEMENT

June 3, 2016



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