

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Michael Royce Minghenelli (CRD No.
6067409),

Respondent.

DISCIPLINARY PROCEEDING
No. 2017053549901

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From November 2016 to February 2017 (the “Relevant Period”), Michael Royce Minghenelli (“Minghenelli” or “Respondent”), while registered with Merrill Lynch, Pierce, Fenner & Smith (“Merrill Lynch” or the “Firm”) converted approximately \$200 from the Firm in violation of FINRA Rule 2010 by taking a cash advance – unrelated to any business purpose and made in contravention of the Firm’s written policies and procedures – against his corporate issued credit card.

2. During FINRA’s investigation into allegations of conversion, Minghenelli repeatedly failed to provide documents and information requested pursuant to FINRA Rule 8210, in violation of FINRA Rules 8210 and 2010.

3. Merrill Lynch terminated Minghenelli's employment in connection with his conversion of firm funds. Five months after his termination from Merrill Lynch, Minghenelli sought and attained employment with another FINRA-regulated broker dealer.

RESPONDENT AND JURISDICTION

4. Minghenelli entered the securities industry in June 2011 when he became associated with the Firm and became registered with the Firm as an Investment Banking Representative in August 2012. On March 13, 2017, the Firm filed a Form U5 reporting Minghenelli's February 21, 2017 "discharge" for "[c]onduct involving improper personal use of a corporate credit card."

5. From July 2017 through November 2017 Minghenelli was associated with another FINRA-regulated broker dealer. On January 9, 2018, this other FINRA-regulated broker dealer filed an Amended Non-Registered Fingerprint Form reporting the termination of Minghenelli's employment on November 6, 2017.

6. Although Minghenelli 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 association with his last FINRA-member employer, namely, November, 6, 2017; and (2) the Complaint charges him with misconduct committed while he was registered or associated with a FINRA member and with failing to respond to FINRA requests for information 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
CONVERSION
(FINRA RULE 2010)**

7. The Department of Enforcement realleges and incorporates by reference paragraphs 1 through 6 above.

8. FINRA Rule 2010 states that “[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade.”

9. Conversion of funds is a violation of FINRA Rule 2010.

10. In connection with his employment with the Firm, Minghenelli was issued a corporate credit card by a bank affiliated with the Firm (the “Affiliated Bank”). The corporate credit card was held in Minghenelli’s name. Minghenelli was also issued a PIN number for use in connection with the corporate credit card.

11. The Firm’s Code of Conduct, in effect during 2016, prohibited the use of business credit cards for any purpose other than appropriate business expenses and required that employees report business expenses accurately and in a timely manner.

12. The Firm’s Corporate Expense Standards, applicable to Minghenelli during the Relevant Period, directed that corporate cards “must not be used for personal expenditures and must be expensed and paid in full each month.” These procedures further require employees to submit travel and entertainment expenses within 30 days of incurring the expense.

13. On November 27, 2016, the Sunday following the Thanksgiving holiday, Minghenelli used the corporate credit card at the Northfield Financial Center in Northfield, NJ to take a \$200 cash advance against his corporate credit card.

14. This transaction was not related to any business purpose or incurred in connection with any business expense. Instead, Minghenelli kept the \$200 and employed it for his personal use.

15. In November 2016, Minghenelli held two checking accounts at the Affiliated Bank. On November 27, 2016 the first of Minghenelli's Affiliated Bank checking accounts had a balance of approximately \$134. On November 27, 2016, the second of Minghenelli's Affiliated Bank checking accounts had a negative balance and was overdrawn.

16. The Firm made payment to the issuer of the corporate credit card in connection with this transaction.

17. On December 8, 2016, Minghenelli's manager was notified by the Firm's Card Program Servicing Department of transaction exceptions on Minghenelli's corporate credit card that did not meet expense guidelines.

18. Subsequently, Minghenelli falsely represented to his manager that he had not made the November 27, 2016 cash advance transaction.

19. In connection with the November 27, 2016 \$200 cash advance transaction, on December 9, 2016 Minghenelli called the credit card issuer and reported ATM fraud on his corporate credit card.

20. In or about January or February 2017, Minghenelli spoke to an investigator from the Firm's Internal Investigations Group. During that conversation, Minghenelli again denied having made the November 27, 2016 cash advance transaction until he was advised that security cameras had captured his image using the ATM at the time and place of the transaction.

21. By the conduct detailed above, Minghenelli converted \$200 from the Firm, and failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

**SECOND CAUSE OF ACTION
FAILURE TO COMPLY WITH FINRA REQUESTS
FOR DOCUMENTS AND INFORMATION
(FINRA Rules 8210 and 2010)**

22. The Department of Enforcement realleges and incorporates by reference paragraphs 1 through 21 above.

23. FINRA Rule 8210 provides, in relevant part, that FINRA staff “shall have the right to require a member, person associated with a member, or any other person subject to FINRA’s jurisdiction to provide information . . . with respect to any matter involved in [an] investigation.”

24. A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010.

25. As set forth below, as part of its investigation into Minghenelli’s possible conversion of funds from his member firm employer, staff sent out multiple requests for documents and information pursuant to FINRA Rule 8210. Minghenelli failed to comply with these requests.

26. From July 17, 2017 through August 31, 2017, Enforcement sent to Minghenelli pursuant to FINRA Rule 8210 four requests - dated July 17, 2017, August 1, 2017, August 16, 2017 and August 31, 2017 – directing him to provide certain documents and information including: (i) a list of every bank account he maintained from June 1, 2016 through March 31, 2017; (ii) copies of bank account statements for each personal bank account he maintained

during the referenced period; and (iii) documentary evidence of his status as a holder of an identified luxury benefits card.

27. The July 17, 2017 and August 1, 2017 FINRA Rule 8210 Requests were sent by certified mail, return receipt requested and regular first class mail to Minghenelli's last known residential address as listed in the Central Registration Depository (the "CRD Address"). The August 16, 2017 FINRA Rule 8210 Request was sent to Minghenelli by regular first class mail to the CRD Address and to a PO Box in New Jersey (the "New Jersey PO Box Address") where Enforcement learned he received mail. The August 16, 2017 FINRA Rule 8210 Request was also sent by electronic mail to an electronic mail address (the "Minghenelli Email Address") used by Minghenelli. The August 31, 2017 FINRA Rule 8210 Request was sent by certified mail, return receipt requested and regular first class mail to Minghenelli at the CRD Address and the New Jersey PO Box Address and by electronic mail to the Minghenelli Email Address.

28. Beginning on or about August 30, 2017, Minghenelli acknowledged his receipt of the Rule 8210 letters and requested extensions and additional time to provide the requested documents. As of October 2, 2017, Minghenelli had not provided any of the referenced documents or information.

The October 2, 2017 Rule 8210 Request

29. On October 2, 2017, Enforcement sent another letter to Minghenelli pursuant to FINRA Rule 8210 requesting that he appear and provide testimony on October 23, 2017 and granting an additional extension to provide the previously requested documents and information until October 10, 2017 (the "October 2, 2017 Rule 8210 Request"). This Rule 8210 Request was sent by certified mail, return receipt requested and regular first class mail to the CRD Address

and the New Jersey PO Box Address. The October 2, 2017 Rule 8210 Request was also sent to the Minghenelli Email Address.

30. The copies of the October 2, 2017 Rule 8210 Request sent by certified mail to the CRD Address and the New Jersey PO Box Address were returned to Enforcement by the USPS each bearing the notation, "Return to Sender, Unclaimed, Unable to Forward." The copy of the October 2, 2017 Rule 8210 Request sent by regular first class mail to the CRD Address was returned to Enforcement by the USPS bearing the notation, "Return to Sender, Unclaimed, Unable to Forward. The copy of the October 2, 2017 Rule 8210 Request sent to the New Jersey PO Box Address was returned to Enforcement by the USPS bearing the notation, "Return to Sender, Not Deliverable as Addressed, Unable to Forward." The copy of the October 2, 2017 Rule 8210 Request sent to the Minghenelli Email Address was not returned to Enforcement as undeliverable.

31. On October 23, 2017, Minghenelli appeared and gave testimony but failed to produce the documents and information sought in the above-referenced FINRA Rule 8210 requests. During his testimony, Enforcement learned that Respondent was residing at an address in New York City (the "NYC Address").

32. During his testimony, Enforcement also repeated orally pursuant to FINRA Rule 8210 its requests for the immediate production of the documents and information previously requested including a list of his bank accounts, his bank account statements, documentary evidence of his status as a holder of an identified luxury benefits card and his communications with that card issuer.

The November 17, 2017 Rule 8210 Request

33. On November 17, 2017, Enforcement sent another letter to Minghenelli pursuant to FINRA Rule 8210 requesting that he provide copies of all bank statements for all bank accounts he maintained from June 2016 through March 2017 and email communications with the issuer of an identified luxury benefits card, among other things. Separately but on the same day, Enforcement sent the identical letter to Minghenelli at the NYC Address (collectively, the “November 17, 2017 Rule 8210 Request”). This Rule 8210 Request was sent by certified mail, return receipt requested and regular first class mail to the CRD Address and the NYC Address. The November 17, 2017 Rule 8210 Request was also sent by regular first class mail to the New Jersey PO Box Address and by electronic mail to the Minghenelli Email Address.

34. The copies of the November 17, 2017 Rule 8210 Request sent by certified mail to the CRD Address and by regular first class mail to the New Jersey PO Box Address were returned to Enforcement by the USPS each bearing the notation, “Return to Sender, Unclaimed, Unable to Forward.” The copy of the November 17, 2017 Rule 8210 Request sent by regular first class mail to the CRD Address was returned to Enforcement by the USPS bearing the notation, “Return to Sender, Undeliverable as Addressed, Unable to Forward.” Copies of the November 17, 2017 Rule 8210 Request sent by certified mail to the NYC Address and by regular first class mail to the NYC Address were not returned to Enforcement. The copy of the November 17, 2017 Rule 8210 Request sent to the Minghenelli Email Address was not returned to Enforcement as undeliverable.

35. Minghenelli did not provide any of the requested documents or information by the scheduled due date of December 1, 2017.

36. On December 14, 2017, Minghenelli provided only a copy of a single bank statement covering the one-month period of April 29, 2017 to May 31, 2017 purporting to show a check purchase on May 3, 2017 that he claimed was used to repay to the Firm amounts related to improper corporate card transactions, including the one at issue here. Respondent has otherwise failed to provide any of the requested documents and information.

37. By virtue of the foregoing, Minghenelli failed to provide the documents and information requested in connection with a FINRA investigation, in violation of FINRA Rules 8210 and 2010.

RELIEF REQUESTED

WHEREFORE, the Department of Enforcement 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), including monetary sanctions, be imposed; and
- 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: 2/15/19



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