

**NASD  
OFFICE OF HEARING OFFICERS**

|                            |                         |
|----------------------------|-------------------------|
| Department of Enforcement, | Disciplinary Proceeding |
|                            | No. C07050020           |
| Complainant,               | Hearing Officer:        |
| v.                         | <b>COMPLAINT</b>        |
| Mitchell A. Weisberg       |                         |
| CRD No. 1882341            |                         |
| Respondent.                |                         |

Upon information and belief, Complainant alleges as follows:

1. Respondent Mitchell A. Weisberg was registered with NASD member L.H. Ross & Company, Inc. ("L.H. Ross") from about June 26, 2003, until about June 25, 2004. His employment end date with L.H. Ross was June 25, 2004. Weisberg first became registered with NASD in November 1996. He is not currently registered with an NASD member firm. NASD retains jurisdiction over Weisberg pursuant to Article V, Section 4 of NASD Bylaws.

**FIRST CAUSE OF COMPLAINT  
Unauthorized Transactions  
NASD Conduct Rules 2110, IM-2310-2**

2. From in or about August 2003, through in or about October 2003, Respondent Weisberg effected or caused to be effected the following stock purchases in the following customer accounts, without the customers' prior knowledge or authorization:
  - the purchase of 250 shares of Consolidated Mercantile stock for \$1,457.45 on October 31, 2003, in the joint account of customers J&SG;
  - the purchase of 200 shares of Nextel stock for \$3,896.95 on September 15, 2003, in the account of customer ML; and

- the purchase of 1000 shares of Consolidated Mercantile stock for \$5,219.95 on August 18, 2003, in the account of customer LR.
3. Each such unauthorized purchase constitutes a separate and distinct violation of NASD Conduct Rule 2110 by Respondent Weisberg.

**SECOND CAUSE OF COMPLAINT**  
**Failure to Respond to Information Requests**  
**NASD Procedural Rule 8210; NASD Conduct Rule 2110**

4. By letter dated October 15, 2004, sent via first class mail to Respondent Weisberg's CRD address, at [REDACTED] the staff requested Weisberg, pursuant to Rule 8210, to provide a written statement by October 29, 2004 in response to specific questions relating to the allegations made by customers J&SG, ML, and LR. The mailing was not returned by the Postal Service.
5. No response having been received, by letter dated November 1, 2004, sent via first class and certified mail to Respondent Weisberg's CRD address, the staff again requested, pursuant to Rule 8210, that Weisberg provide the same information as requested in the October 15 letter, this time by November 12, 2004. Neither the first class mailing nor the certified mailing was returned by the Postal Service; nor did the staff receive a delivery receipt for the certified mailing.
6. To date, Respondent Weisberg has not responded to the staff's Rule 8210 requests.
7. Respondent Weisberg's failure to respond to the staff's Rule 8210 information requests constitutes separate and distinct violations of NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

**PRAYER FOR RELIEF**

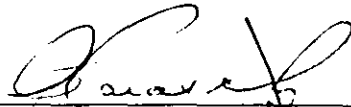
**WHEREFORE**, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent Weisberg committed the violations charged and alleged herein;

- B. An order imposing sanctions upon the Respondent in accordance with NASD Rule 8310.
- C. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330; and
- D. An order imposing any other fitting sanction.



David E. Paulukaitis, Associate Director  
NASD District 7  
One Securities Centre, Suite 500  
3490 Piedmont Road, N.E.  
Atlanta, GA 30305  
404-239-6148



Gene E. Carasick, Regional Counsel  
NASD Department of Enforcement  
One Securities Centre, Suite 500  
3490 Piedmont Road, N.E.  
Atlanta, GA 30305  
404-239-6125

Rory C. Flynn,  
NASD Department of Enforcement  
1801 K Street, N.W., Suite 800  
Washington, D.C. 20006  
(202) 974-2874

Andrew A. Favret, Regional Chief Counsel  
NASD Department of Enforcement  
1100 Poydras Street  
Energy Centre, Suite 850  
New Orleans, LA 70163  
(504) 412-2404