

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MAJIED ALZID
(CRD No. 4710052),

Respondent.

Disciplinary Proceeding
No. C8A050041

Hearing Officer – DRP

DEFAULT DECISION

April 18, 2006

Respondent is barred from association with any member firm in any capacity for failing to respond to requests for information, in violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110, and for improper use of customer funds, in violation of NASD Conduct Rules 2330(a) and 2110. In light of the bars, no additional sanctions are imposed for placing equity trades using the representative number of another registered person without authorization or proper license to do so, in violation of NASD Conduct Rule 2110 and Membership and Registration Rule 1032.

Appearances

For the Department of Enforcement: Kevin G. Kulling, Regional Counsel, Chicago, IL (Rory C. Flynn, Washington, DC, and Roger D. Hogoboom, Denver, CO, Of Counsel).

For the Respondent: Majied Alzid, *pro se*.

DECISION

I. Procedural History

On May 25, 2005, the Department of Enforcement filed a three-count Complaint against Respondent Majied Alzid (Alzid or Respondent), attached to this Decision as Exhibit A. The Complaint alleges that Respondent improperly used customer funds, in violation of NASD Conduct Rules 2330(a) and 2110, placed equity trades using the representative number of

another registered person without authorization or proper license to do so, in violation of Conduct Rule 2110 and Membership and Registration Rule 1032, and failed to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2110. On July 7, 2005, Respondent filed an Answer in which he stated that he did not “have enough information to admit or deny each allegation in the complaint.” Respondent, who appeared *pro se*, requested a hearing.

On July 28, 2005, the Hearing Officer held an initial pre-hearing conference by telephone to discuss the principal issues in the case and the anticipated length, location and dates for the hearing, among other topics. The hearing was scheduled for October 24, 2005 in Chicago.

II. Jurisdiction

Respondent was registered as an investment company/variable contracts representative with NASD member firm Banc One Securities Corporation (Banc One) from September 2003 until the firm terminated his registration in February 2004. Since that time, he has not been associated or registered with any NASD member.

Respondent is subject to NASD jurisdiction pursuant to Art. V, Section 4 of NASD’s By-Laws, because the Complaint, which was filed within two years of the termination of his employment at Banc One, alleges misconduct that occurred while he was registered and failure to comply with requests for information made during the two-year period following the termination.

III. Respondent’s Default

On September 9, 2005, the Hearing Officer issued an Order pursuant to Rule 9241(b), requiring the parties to participate in a pre-hearing conference by telephone conference call on September 15, 2005. The Order was sent via overnight and first class mail to Respondent’s

current mailing address, as reflected in the Central Registration Depository (the CRD address).¹ The Office of Hearing Officers (OHO) also telephoned Respondent to inform him of the Conference and left a voice mail message.² On September 15, Respondent failed to appear at the scheduled time.

Accordingly, the Hearing Officer issued an Order on September 16, 2005, scheduling another pre-hearing conference for September 27, and instructing Respondent to be prepared to explain his failure to appear on September 15. Respondent was reminded that under Rule 9241(f), a failure to appear at the September 27 pre-hearing conference may be deemed a default. The Order was sent via overnight and first class mail to Respondent's CRD address. On September 27, Respondent again failed to appear at the scheduled time.³

For failing to appear at two pre-hearing conferences of which he had due notice, the Hearing Officer held Respondent in default, pursuant to Rules 9269(a) and 9241(f), and deemed admitted the allegations in the Complaint. Enforcement was directed to file a statement setting forth its sanction recommendation and any other information or evidence Enforcement believed would be helpful for the Hearing Officer to consider. A copy of the October 4, 2005 Order Holding Respondent in Default was sent by first class and overnight mail to Respondent's CRD address. The hearing scheduled for October 24, 2005 was cancelled.

¹ The CRD address is [REDACTED] Respondent confirmed this as his correct current address during the initial pre-hearing conference on July 28.

² OHO had reached Respondent by telephone earlier on September 9 regarding Enforcement's pending motion for leave to offer telephone testimony at the hearing.

³ The Hearing Officer granted Enforcement's oral motion to stay the proceeding.

IV. Respondent's Motion to Set Aside the Default

Respondent phoned OHO on November 21, 2005. When told he had been defaulted, he requested a hearing.⁴ By Order dated November 28, the Hearing Officer directed Respondent to show cause why his default should be excused at a telephonic hearing scheduled for December 13.

At the hearing, Respondent again confirmed that the CRD address is his correct current address. Nevertheless, he claimed to have received notice of only one telephonic pre-hearing conference, which he said he failed to attend due to "a bad case of the flu." Respondent was unable to provide any date or time frame for his illness, even after consulting his calendar, and failed to supply any documentation to support his explanation. He also claimed to have been sick "before, during, and after the date of the scheduled hearing," but did not know the date of the hearing when asked.

The Hearing Officer found Respondent's explanation for his failure to participate in two pre-hearing conferences unpersuasive. There was no change of address; thus his claim that he received notice of only one of two conferences lacked credibility. Furthermore, his only reason for failing to attend the conference of which he had notice was an unsubstantiated claim of illness. Finally, Respondent did not respond to, or initiate contact with, OHO for two months, which the Hearing Officer believed was a deliberate ploy to postpone the hearing.⁵

⁴ Prior to his telephone call on November 21, Respondent had not been in touch with OHO since September 9, 2005.

⁵ During the initial pre-hearing conference, Respondent expressed displeasure about the hearing date, saying it would be "a hardship" to attend a hearing on October 24, without further explanation.

The Hearing Officer thus found that Respondent failed to establish good cause for setting aside his default, as required by Rule 9269(c) and *Department of Enforcement v. Hodde*.⁶

Accordingly, Respondent's motion was denied.

V. Findings of Fact and Conclusions of Law⁷

A. Improper Use of Customer Funds and Placing Trades Using Another Representative's Number

On January 12, 2004, customer MM⁸ opened an annuity account worth \$70,000 with Respondent. In addition, MM withdrew funds from her savings account and tendered a money order for \$7,000 to Respondent, who represented that the additional funds would be invested with Banc One. The money order was made payable to Morgan & Morgan Corp., Inc.

The following day, Respondent opened a checking account at Bank One and a brokerage account at Banc One in the name of Morgan & Morgan Corp., Inc. Respondent designated "Darryl Morgan" as the sole authorized signatory on the accounts and "Majied Alzid" as the investment representative for the brokerage account. Morgan and Alzid are one and the same, i.e., Respondent.⁹

After depositing MM's funds in the Morgan & Morgan checking account, Respondent began trading in the Morgan & Morgan brokerage account, using funds from the checking account. Respondent, who held a Series 6 license, placed several equity trades for the account

⁶ No. C10010005, 2002 NASD Discip. LEXIS 4, at *6 (NAC Mar. 27, 2002).

⁷ The factual determinations in this Decision are based on the allegations of the attached Complaint, which are deemed admitted, and the exhibits filed by Enforcement with its Supplement to Sanctions Submission, dated January 23, 2006.

⁸ At the time, MM was 77 years old.

⁹ Darryl Morgan's Social Security number on the Morgan & Morgan Account Application Form matches Respondent's Social Security number in CRD. Furthermore, the address for Morgan & Morgan Corp., Inc. is Respondent's current CRD address.

with Banc One's trading desk using another registered representative's number, without the representative's knowledge or consent.

Customer MM did not authorize Respondent to deposit her funds in the Morgan & Morgan checking account, transfer her funds to the Morgan & Morgan brokerage account, place trades in the Morgan & Morgan brokerage account using her funds, or otherwise consent to Respondent's using her funds for his personal benefit.

Improper use of a customer's funds occurs when the funds are not used as intended by the customer,¹⁰ and is "patently antithetical" to the standards and principles that NASD seeks to promote through Rule 2110.¹¹ The allegations in the first cause of the Complaint, which are deemed admitted, are sufficient to establish for purposes of this default decision that Respondent violated NASD Conduct Rules 2330(a) and 2110.

Furthermore, as an investment company/variable contracts representative, Respondent's activities in the investment banking and securities business were limited,¹² and he was not authorized to place equity trades. Thus, the allegations in the second cause of the Complaint, which are deemed admitted, are sufficient to establish for purposes of this default decision that Respondent violated NASD Membership and Registration Rule 1032 and Conduct Rule 2110.¹³

¹⁰ *Bernard D. Gorniak*, Exchange Act Release No. 35,996, 1995 SEC LEXIS 1820 (1995) (respondent violated Rule 2110 when he accepted customer funds and failed to make timely investments with the funds as instructed and failed to promptly return the funds).

¹¹ *Brian L. Shegon*, No. C9A960030, 1997 NASD Discip. LEXIS 66, at *5 (NBCC Nov. 20, 1997) (quoting *Wheaton D. Blanchard*, 1976 SEC LEXIS 1571, at *2 (May 27, 1976)).

¹² See NASD Membership and Registration Rule 1032(b).

¹³ A violation of a Registration Rule is also a violation of Conduct Rule 2110. *William S. Mentis*, Exchange Act Release No. 37,952, 1996 SEC LEXIS 3192, at *5 (Nov. 15, 1996).

B. Failure to Respond to Requests for Information

On April 13, 2004,¹⁴ NASD staff sent a letter pursuant to Procedural Rule 8210 to Respondent, by first class and certified mail to his address of record in CRD, requesting that he provide certain documents and information related to its investigation of the Morgan & Morgan accounts.¹⁵ Respondent submitted a partial response but failed to supply bank documents the staff requested.

On or about June 3, 2004, the staff sent a second request for information pursuant to Procedural Rule 8210 to Respondent's CRD and alternate addresses by first class and certified mail. The certified mailing to the CRD address was returned, marked "Unclaimed," while the certified mailing to the alternate address was returned, marked "Refused." Respondent did not respond to the request in any manner.

On or about July 23, 2004, the staff sent a third request for information pursuant to Procedural Rule 8210 to Respondent's CRD and alternate addresses by first class and certified mail. The certified mailings were returned, marked "Unclaimed." To date, Respondent has not responded to the requests for information.

In the absence of subpoena power, NASD must rely on Rule 8210 to obtain information from members in the course of its investigations. Accordingly, members and associated persons have a duty to cooperate fully and promptly with NASD requests for information.¹⁶

¹⁴ There appears to be a typographical error in the Complaint, which alleges that the staff sent an 8210 request letter to Respondent on or about April 3, 2004. CX-14 is an 8210 request letter dated April 13, 2004.

¹⁵ The staff sent a duplicate request to Respondent by first class and certified mail to an alternate address, which is the Respondent's current CRD address. The certified mail receipt from the alternate address was returned bearing Respondent's signature.

¹⁶ *Brian L. Gibbons*, Exchange Act Release No. 37,170, 1996 SEC LEXIS 1291, at *7 (May 8, 1996), aff'd, 112 F.3d 516 (9th Cir. 1997).

The staff served the requests in accordance with Rule 8210(d), and pursuant to that rule, Respondent is deemed to have received them. Thus, the allegations in the third cause of the Complaint, which are deemed admitted, are sufficient to establish for purposes of this default decision that Respondent failed to respond to the staff's requests for information, in violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

VI. Sanctions

NASD Sanction Guidelines provide that a bar is standard for failure to respond to requests for information.¹⁷ While Respondent cooperated with some aspects of the investigation by supplying a partial response to the April 13, 2004 request for information, "providing selective responses does not mitigate" or excuse his misconduct.¹⁸ There are thus no mitigating circumstances that would warrant any sanction less than a bar. Accordingly, Respondent will be barred in all capacities for this violation.

For improper use of customer funds, a fine of \$2,500 to \$50,000, and a bar are recommended, absent mitigating factors such as evidence of a misunderstanding regarding the customer's intentions.¹⁹ There is no evidence of mitigating factors that would warrant a lesser sanction. Indeed, the circumstances support the conclusion that Respondent, who deposited MM's funds in a bank account he set up while using an alias, acted in a dishonest and calculated manner to hide his misdeeds. Enforcement contends that Respondent's conduct was egregious, and the Hearing Officer concurs. Accordingly, a bar is also imposed for this violation.²⁰

¹⁷ *NASD Sanction Guidelines* at 35 (2005 ed.).

¹⁸ *Dep't of Market Regulation v. Ryan & Co.*, No. FPI040002, http://www.nasd.com/web/groups/enforcement/documents/nac_disciplinary_decisions/nasdw_015645.pdf (citing *Barry C. Wilson*, 52 S.E.C. 1070, 1075 (1996)).

¹⁹ *Guidelines* at 38. At the initial pre-hearing conference, Respondent claimed that the funds represented a loan from MM, but there is no evidence to support his contention.

²⁰ For reasons not known to the Hearing Officer, Enforcement does not seek restitution.

In light of the bars imposed, additional sanctions for placing equity trades using the representative number of another registered person without authorization or proper license to do so would be redundant.²¹ Accordingly, no separate sanctions will be imposed for that violation.

VII. Conclusion

Respondent Majied Alzid is barred from association with any member firm in any capacity for failure to respond to requests for information, in violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110 and for improper use of customer funds, in violation of NASD Conduct Rules 2330(a) and 2110. In light of the bars, no separate sanctions are imposed for placing equity trades using the representative number of another registered person without authorization or proper license to do so, in violation of NASD Membership and Registration Rule 1032 and NASD Conduct Rule 2110.

The bars shall become effective immediately if this Decision becomes the final disciplinary action of NASD.

SO ORDERED.


Dana R. Pisanelli
Hearing Officer

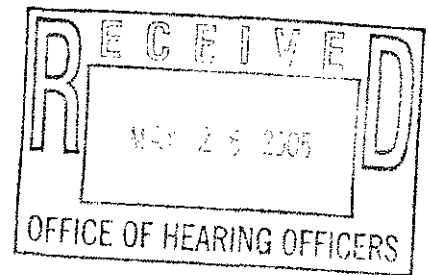
Dated: April 18, 2006
Washington, DC

Copies to: Majied Alzid (*via overnight and first class mail*)
Kevin G. Kulling, Esq. (*via electronic and first class mail*)
Roger D. Hogoboom, Esq. (*via electronic and first class mail*)
Rory C. Flynn, Esq. (*via electronic and first class mail*)

²¹ See *Hodde*, 2002 NASD Discip. LEXIS 4, at *17.

EXHIBIT A

**NASD
OFFICE OF HEARING OFFICERS**



Department of Enforcement,

Complainant,

v.

Majied Alzid,
CRD No. 4710052

Respondent.

Disciplinary Proceeding
No. C8A050041

Hearing Officer

COMPLAINT

Upon information and belief, Complainant alleges as follows:

1. Respondent Majied Alzid was associated with Banc One Securities Corp., a member of NASD, from October 2003 until February 2004. As a result, pursuant to Article V, Section 4 of NASD's By-Laws, Respondent Alzid is subject to the jurisdiction of NASD.

**FIRST CAUSE FOR COMPLAINT
NASD Conduct Rules 2310 and 2110
Improper Use of Customer Funds**

2. On or about January 12, 2004, customer MM withdrew \$7,000 from her savings account at Bank One, the Member's bank affiliate, at the request of Respondent Alzid. MM tendered the funds to Alzid, who represented that the funds would be invested with Banc One Securities Corp., the Member.
3. On or about January 13, 2004, Respondent Alzid opened a checking account at the Member's bank affiliate and a brokerage account at the Member. Both the checking account and the

brokerage account were opened in the name of Morgan & Morgan, Inc., and designated Darryl Morgan as the sole authorized signatory on the accounts.

4. Respondent Alzid, whose alias is Darryl Morgan, is the individual who opened the Morgan & Morgan accounts.
5. Also on or about January 13, 2004, Respondent Alzid deposited into the Morgan & Morgan checking account the \$7,000 that he received from customer MM the day before. The checking account was opened with a cashier's check and the \$7,000 constituted the entire balance of the Morgan & Morgan checking account.
6. On or about January 15, 2004, Respondent Alzid began trading in the Morgan & Morgan brokerage account. The funds for the trades came from the Morgan & Morgan checking account that contained the \$7,000 from customer MM.
7. At no time did customer MM authorize Respondent Alzid to deposit her funds in the bank checking account of Morgan & Morgan, to use her funds for Alzid's personal benefit, to transfer the funds to the Morgan & Morgan brokerage account, or to place trades in the Morgan & Morgan brokerage account using her funds.
8. The above activities constitute violations of NASD Conduct Rules 2330 and 2110.

SECOND CAUSE FOR COMPLAINT
NASD Conduct Rule 2110
NASD Membership and Registration Rule 1032

9. Respondent Alzid placed several equity trades in the Morgan & Morgan brokerage account using customer MM's funds through the Member's trading desk.
10. Respondent Alzid placed the trades using another registered representative's representative number, without that representative's knowledge or consent.

11. Respondent Alzid, a Series 6 representative, was not authorized to place the equity trades or to use the representative number of another registered individual to make the trades.
12. The above activities are in violation of NASD Conduct Rule 2110 and Membership and Registration Rule 1032.

THIRD CAUSE FOR COMPLAINT
NASD Conduct Rule 2110
NASD Procedural Rule 8210
Failure to Respond

13. On or about April 3, 2004, NASD staff sent to Respondent Alzid a request for additional information pursuant to NASD Rule 8210 to his address of record as shown in CRD.
14. Staff sent a duplicate request to an alternate address that it had obtained.
15. The requests were sent by regular first class mail and by certified mail, return receipt requested.
16. The requests sent by first class mail to the CRD address and to the alternate address were not returned to staff.
17. The certified mail receipt for the mailing sent to the alternate address was returned to staff signed by Respondent Alzid.
18. Respondent Alzid never fully responded to the request.
19. On or about June 3, 2004, staff sent a second request for information to Alzid's CRD address of record and to the alternate address, both by first class mail and by certified mail, return receipt requested.
20. The first class mailing was not returned and the certified mailing was returned, marked "Refused."

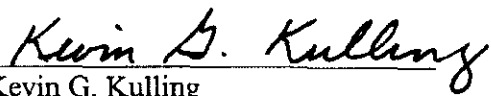
21. On or about July 23, 2004, staff sent a third request for information to Alzid's CRD Address of record and to the alternate address, both by first class mail and by certified mail, return receipt requested.
22. The first class mailings were not returned and the certified mailings were returned, marked "refused."
23. To date, Alzid has not responded to the requests for information and the deadline date for responding has passed.
24. The above constitutes violations of NASD Conduct Rule 2110 and NASD Procedural Rule 8210.

PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. An order imposing sanctions upon the Respondent in accordance with NASD Rule 8310.
- C. An order requiring Respondent to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- D. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330; and
- E. An order imposing any other fitting sanction.

Date: May 23, 2005


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