

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

BRAD A. WEAVER
(CRD No. 2505931),

Respondent.

Disciplinary Proceeding
No. E8A2004050201

Hearing Officer – SNB

DEFAULT DECISION

May 17, 2006

Respondent is barred from associating with any NASD member in any capacity for permitting a barred, unassociated person to engage in activities requiring registration, in violation of Rules 1031 and 2110. In light of the bar, no additional sanctions are imposed for: failing to maintain accurate books and records, in violation of Section 17(a) of the Exchange Act, SEC Rule 17a-3, and Rules 2110 and 3110; guaranteeing a customer against loss, in violation of Rules 2110 and 2330(e); and engaging in outside business activities, in violation of Rules 2110 and 3030.

Appearances

Dale A. Glanzman, Esq., Regional Counsel, Chicago, IL, Rory C. Flynn, Esq., Of Counsel, for the Department of Enforcement.

No appearance by Brad A. Weaver.

DECISION

I. Background

On January 9, 2006, the Department of Enforcement filed a four cause Complaint in this proceeding, attached to this Decision as Exhibit A. The Complaint alleges that Brad A. Weaver ("Respondent"): (1) permitted a barred, unregistered individual to conduct securities transactions, in violation of NASD Registration Rule 1031 and Conduct Rule 2110; (2) caused Respondent's firm to have inaccurate books and records, in violation of Section 17(a) of the

Exchange Act, SEC Rule 17a-3, and Rules 2110 and 3110; (3) guaranteed a customer against loss, in violation of Rules 2110 and 2330(e); and (4) engaged in outside business activities, in violation of Rules 2110 and 3030.

Respondent did not file an Answer to the Complaint. Accordingly, on March 27, 2006, Enforcement filed a motion for entry of default decision, supported by the Declaration of Dale A. Glanzman and eight exhibits. Respondent did not file a response to the motion.

For the reasons set forth below, Enforcement's motion is granted.¹

II. Respondent's Default

On January 6, 2006, Enforcement served the Complaint and Notice of Complaint on Respondent by first class and certified mail, sent to Respondent's current residential address as reflected in the Central Registration Depository (the CRD address).² Respondent did not file an Answer. On February 3, 2006, Enforcement served the Complaint and Second Notice of Complaint on Respondent in the same manner. Respondent again did not file an Answer.

Enforcement complied with Rule 9134(b)(1) by mailing the Complaint and Notices of Complaint to Respondent's CRD address, thereby giving Respondent constructive notice of this proceeding. By failing to file an Answer, Respondent defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), the allegations in the Complaint are deemed admitted.

III. Jurisdiction

Respondent was registered as a General Securities Representative with member firm Raymond James Financial Services, Inc. ("Raymond James") between June 1999 and April

¹ The factual determinations in this Decision are based on the allegations of the attached Amended Complaint, which are deemed admitted, and the declaration and exhibits filed by Enforcement with its motion.

² The Complaint and Notice of Complaint was also sent by first class mail to the attorney who represented Respondent in connection with Enforcement's requests for information under Rule 8210. However, the attorney informed Enforcement that he no longer represented Respondent.

2003. Respondent was also registered with Raymond James as a General Securities Principal between September 1999 and April 2003. Following this, between April 11, 2003 and January 26, 2004, Respondent was registered as a General Securities Representative and General Securities Principal with member firm Fiducial Investment Advisors, Inc. He is not currently registered with an NASD member firm.

Respondent is subject to NASD jurisdiction pursuant to Art. V, Section 4 of NASD's By-Laws, because the Complaint was filed within two years of termination of Respondent's last registration and alleges misconduct that occurred while he was registered.

IV. Violations

A. Permitting a Barred, Unassociated Person to Engage in Activities Requiring Registration.

The first cause of the Complaint alleges that Respondent permitted TB, an unassociated person who was barred from the securities industry, to engage in activities requiring registration, in violation of Rules 1031 and 2110. Specifically, the Complaint alleges that Respondent provided blank Raymond James New Account Forms to TB. TB then completed the forms on behalf of purported new customers and returned them to Respondent, who in turn signed them without speaking with the customers, or otherwise verifying account information. Respondent then forwarded the forms to Raymond James to open the accounts. TB was never employed by Raymond James. In fact, TB was barred by the SEC in February 1995 for conducting excessive, unsuitable, and unauthorized trading in customer accounts, and for making misrepresentations to customers, in violation of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act, and Rule 10b-5 promulgated thereunder.

These allegations, which are deemed admitted, are sufficient to establish for purposes of this default decision that Respondent permitted an unregistered individual to engage in securities

transactions, in violation of NASD Registration Rule 1031 and Conduct Rule 2110, as alleged in the Complaint.³

B. Recordkeeping Violations

The second cause of the Complaint alleges that Respondent failed to maintain complete, accurate and current books and records, in violation of Section 17(a) of the Exchange Act, SEC Rule 17a-3, and NASD Rules 3110 and 2110. In particular, the Complaint alleges that Respondent deposited \$118,825 of TB's funds in Respondent's securities account, used the funds to purchase securities, and then distributed \$178,800 to TB.

Section 17(a) and Rule 17a-3 require that broker-dealers make and keep certain records. The obligation to make and keep records carries the implication that those records must be accurate.⁴ Here, the Complaint alleges that Respondent used his account to purchase securities for TB, resulting in inaccurate records as to the nature of the account.

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 Section 17(a), Rule 17a-3 and NASD Rules 3110 and 2110.

C. Guarantees Against Loss

The third cause of the Complaint alleges that Respondent guaranteed customer DH against loss in DH's securities account, in violation of Rules 2330(e) and 2110. In particular, the

³ Rule 1031(a) requires that "[A]ll persons engaged....in the investment banking or securities business of a member who are to function as representatives shall be registered...." Rule 1031(b) defines "representative" to include any person who is engaged in, among other things, the "solicitation or conduct of business in securities...." See, e.g., DBCC No 2. v Gallison, No. C02960001, 1999 NASD Discip LEXIS 8 (Feb. 5, 1999).

⁴ Stephen M. Sohmer, Exchange Act Release No. 49052, 2004 SEC LEXIS 41, at *24 (Jan. 12, 2004) ("The requirement that records be kept entails that those records must be true and accurate.") (citation omitted); James F. Novak, Exchange Act Release No. 19660, 1983 SEC LEXIS 2023, at *12 (Apr. 8, 1983) ("The requirement that records be kept embodies the requirement that such records be true and correct.") (citation omitted).

Complaint alleges that Respondent admitted to giving funds to customer DH in order to compensate DH for losses in his securities account.

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 violated Rules 2330(e) and 2110.

D. Outside Business Activities

The fourth cause of the Complaint alleges that Respondent engaged in outside business activities in violation of Rules 3030 and 2110. In particular, the Complaint alleges that Respondent received approximately \$16,016 in compensation for selling fixed annuities to seven members of the public, through a firm other than the one with which he was registered, without giving prompt written notice to his firm.

The allegations in the fourth cause of the Complaint, which are deemed admitted, are sufficient to establish for purposes of this default decision that Respondent violated Rules 3030 and 2110.

V. Sanctions

The NASD Sanction Guidelines (“Guidelines”) for registration violations suggests a fine between \$2,500 and \$50,000, and a suspension up to six months. In egregious cases, the Guidelines suggest a lengthier suspension, up to a bar. Guidelines at 48 (2006 ed.).

The Guidelines specify two principal considerations in determining appropriate sanctions for this type of violation: (1) whether the respondent had filed a registration application; and (2) the nature and extent of the unregistered person’s responsibilities. Id. Here, TB was never employed by Respondent’s firm. Rather, according to the Declaration in support of Enforcement’s Motion, Respondent admitted in an on-the-record interview that TB was a long-

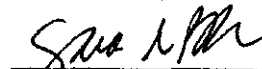
term client. Therefore, Respondent knew that TB did not have a registration application pending with Respondent's firm. In addition, by taking account opening forms for purported new customers completed by TB without independently contacting the purported customers, Respondent essentially allowed TB to open accounts at the firm. Accordingly, these two principal considerations alone suggest that Respondent's conduct is egregious, warranting severe sanctions. This, of course, is exacerbated by the fact that TB had been barred from the industry by the SEC for conducting excessive, unsuitable, and unauthorized trading in customer accounts, and for making misrepresentations to customers. Permitting an unregistered individual to engage in securities transactions undermines NASD's ability to effectively regulate the industry, particularly when the unregistered person has previously been barred for defrauding the investing public. For these reasons, the Hearing Officer concludes that Respondent's conduct was egregious, and warrants a bar. In light of the bar, no additional sanctions are imposed for: failing to maintain accurate books and records, in violation of Section 17(a) of the Exchange Act, SEC Rule 17a-3, and Rules 2110 and 3110; guaranteeing a customer against loss, in violation of Rules 2110 and 2330(e); and engaging in outside business activities, in violation of Rules 2110 and 3030.

VI. Conclusion

Respondent permitted an unregistered individual, who had been barred from the securities industry, to engage in securities transactions, in violation of NASD Registration Rule 1031 and Conduct Rule 2110. For this violation, Respondent is barred from associating with any NASD member in any capacity. In light of the bar, no additional sanctions are imposed for: failing to maintain accurate books and records, in violation of Section 17(a) of the Exchange Act, SEC Rule 17a-3, and Rules 2110 and 3110; guaranteeing a customer against loss, in violation of

Rules 2110 and 2330(e); and engaging in outside business activities, in violation of Rules 2110 and 3030. The bar shall become effective immediately if this Decision becomes the final disciplinary action of NASD.

SO ORDERED.



Sara Nelson Bloom
Hearing Officer

Dated: May 17, 2006

Copies to: Brad A. Weaver (via overnight and first class mail)
Dale A. Glanzman, Esq. (via electronic and first class mail)
Rory C. Flynn, Esq. (via electronic and first class mail)
Roger D. Hogoboom, Esq. (via electronic and first class mail)

**NASD
OFFICE OF HEARING OFFICERS**

Department of Enforcement, Complainant vs. BRAD A. WEAVER, Registered Representative (CRD No. 2505931) Respondent	Disciplinary Proceeding No. E8A2004050201 Hearing Officer COMPLAINT
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Upon information and belief, Complainant alleges as follows:

1. Brad A. Weaver ("Respondent") was registered with Raymond James Financial Services, Inc. ("RJFS"), a member of NASD, as a General Securities Representative between June 1999 and April 2003, and as a General Securities Principal between September 1999 and April 2003. Respondent then was registered with Fiducial Investment Advisors, Inc. as a General Securities Representative and a General Securities Principal between April 11, 2003 and January 26, 2004. Respondent therefore is subject to the jurisdiction of the NASD, pursuant to Article V, Section 4 of the NASD's By-Laws.

**FIRST CAUSE FOR COMPLAINT
NASD Conduct Rule 2110 and Membership and Registration Rule 1031
Permitting A Barred, Unassociated Person to Engage in the Activities Requiring
Registration**

2. Sometime prior to January 9, 2003, but while Respondent was registered

with RJFS, Respondent gave blank forms that RJFS used to open new securities accounts ("RJFS new account form") for members of the public to Thomas Bandyk.

3. On or about January 9, 2003, Respondent received an RJFS new account form that had been completed by Thomas Bandyk ("Bandyk"). The RJFS new account form that Respondent received from Bandyk was to open a securities account for public customer J.K.

4. Respondent never met with, or talked to, J.K. Respondent also did not verify any of the information, including J.K.'s signature, on the RJFS new account form.

5. Nevertheless, Respondent signed the new account form and submitted the RJFS new account form to RJFS, and a securities account was opened for J.K. at RJFS.

6. Bandyk was never a person associated in any way with RJFS. In fact, Bandyk was barred in February 1995 by the SEC for conducting excessive, unsuitable and unauthorized trading in customer accounts, and for making misrepresentations to customers, in violation of Section 17(a) of the Securities Act, Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder.

7. Respondent, by simply signing the RJFS new account form, that was purportedly signed by J.K., and sending it on to RJFS on or about January 9, 2004, in order to open a securities account in J.K.'s name, permitted Bandyk to engage in the securities business while not only being unregistered, but barred, from the industry.

8. The acts, practices and conduct described above constituted a violation of NASD Conduct Rule 2110 and Membership and Registration Rule 1031 by Respondent.

SECOND CAUSE FOR COMPLAINT
SEC Rule 17a-3 and NASD Conduct Rules 2110 and 3110
Causing Inaccurate Books and Records

9 Between approximately May 6, 2002 and October 15, 2002, Respondent deposited \$118,825 belonging to Bandyk in Respondent's personal bank account, transferred the funds to Respondent's personal securities account at RJFS, and used the funds to purchase securities.

10. During the same approximate time period, Respondent distributed \$178,800 from the securities account to Bandyk.

11. Respondent, by placing Bandyk's funds into his personal bank account and then using the funds to purchase securities in his securities account, caused RJFS's books and records to be inaccurate. RJFS's records showed that securities were being purchased by Respondent for Respondent's securities account, when in fact, securities were being purchased by and for Bandyk. Moreover, RJFS's records showed that Respondent was receiving cash from the account when in fact Bandyk was receiving cash from the account.

12. The acts, practices and conduct described above constitute separate and distinct violations of SEC Rule 17a-3 and NASD Conduct Rules 2110 and 3110 by Respondent.

THIRD CAUSE FOR COMPLAINT
NASD Conduct Rules 2110 and 2330(e)
Guarantees Against Loss

13. At all times relevant, D.H. was a public customer who maintained a securities account that was serviced by Respondent.

14. In February 2002, Respondent sent a check, dated February 22, 2002, and

in the amount of \$5,500, to D.H. The check was written against Beta Asset Management's checking account, an account solely owned by Respondent, and was signed by Respondent.

15. In August 2002, Respondent sent a check, dated August 15, 2002, and was in the amount of \$6,300, to D.H. The check was written against Beta Asset Management's checking account, an account solely owned by Respondent, and was signed by Respondent.

16. On both occasions, Respondent directed D.H. to deposit the two checks, described in Paragraphs 17 and 18 above, into D.H.'s checking account and to send D.H.'s personal check to RJFS to credit Hansen's securities account. On both occasions, D.H. did as he was directed by Respondent.

17. Respondent, in a letter to NASD staff, admitted giving the checks to D.H. in order to compensate D.H. for losses in D.H.'s securities account at RJFS. Respondent, in the same letter, also admitted that, while could not explain how the amounts of the checks were determined, he did not feel he should be compensated when the client has a loss.

18. However, the deposit of Respondent's \$5,500 raised the cash balance in D.H.'s securities account at RJFS to \$1.05, and the \$6,300 deposit raised the cash balance in D.H.'s securities account to \$163.58. Respondent therefore was placing funds in D.H.'s account in the amounts needed to give D.H.'s account a positive balance.

19. The acts, practices and conduct described above constitute separate and distinct violations of NASD Conduct Rules 2110 and 2330(e).

**FOURTH CAUSE FOR COMPLAINT
NASD Conduct Rules 2110 and 3030
Outside Business Activities**

20. Between approximately April 15, 2003 and October 8, 2003, Respondent engaged in outside business activities by receiving approximately \$16,016 in compensation for selling fixed annuities through either Fidelity & Guaranty Life or Allianz to at least seven members of the public.

21. In connection therewith, Respondent failed and neglected to give prompt written notice of his engagement in such activities to Fiducial Investment Advisors, Inc.

22. The acts, practices and conduct described above constitute separate and distinct violations of NASD Conduct Rules 2110 and 3030.

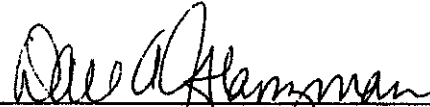
PRAYER FOR RELIEF

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 Respondent in accordance with NASD Procedural Rule 8310;
- C. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Procedural Rule 8330; and

D. An order imposing any other fitting sanction.

Dated: January 6, 2006



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