

## NASD OFFICE OF HEARING OFFICERS

---

DEPARTMENT OF ENFORCEMENT,

Complainant

v.

WILLIAM JOSEPH JULIAN  
(CRD No. 2797249),

Respondent.

---

Disciplinary Proceeding  
No. ELI20030464-01

Hearing Officer – RSH

**DEFAULT DECISION**

March 17, 2006

**Respondent prepared a false account statement and presented it to a customer for the purpose of misleading her as to the value of her investments. Respondent thereby violated NASD Conduct Rule 2110 and for this violation is barred from associating with any NASD member in any capacity.**

### *Appearances*

Paul Hare, Esq., Regional Counsel and David Jaffe, Esq., Regional Chief Counsel, New York, NY (Rory C. Flynn, Esq., Washington, DC, Of Counsel, Roger D. Hogoboom, Esq., Denver, CO, Of Counsel) for Complainant.

No appearance by or for Respondent.

### **DECISION**

#### **I. Introduction**

The Department of Enforcement filed a Complaint (attached to this decision as Exhibit A) on November 14, 2005, alleging that Respondent William Joseph Julian violated NASD Conduct Rule 2110 by falsifying a customer's account statement and presenting it to her for the purpose of misleading her as to the value of her account, which had declined significantly.

Respondent did not file an Answer to the Complaint. On January 27, 2006, Enforcement filed a Motion for Entry of Default Decision, which was supported by the Declaration of Paul Hare and thirteen exhibits. Respondent did not file a response to the motion. Accordingly, for the reasons set forth below, Enforcement's motion is granted.<sup>1</sup>

## **II. Respondent's Default**

Enforcement sent the Complaint and Notice of Complaint to Respondent on November 11, 2005, by certified and first class mail to the address listed in the Central Registration Depository ("CRD address"), to an address Enforcement learned of during the course of its investigation ("Long Beach address"), and to Respondent's attorney.<sup>2</sup> The certified mailings were returned as undeliverable, the first class mailing to the CRD address was not returned and the first class mailing to the Long Beach address was returned. In response to the mailing, the Respondent's attorney sent a letter stating that he no longer represented Respondent and directed the Office of Hearing Officers to send all future correspondence directly to Respondent.

Respondent did not file an Answer by the December 9, 2005 due date. On December 12, 2005, Enforcement sent the Complaint and Second Notice of Complaint by first class and certified mail to Respondent's CRD address and his Long Beach address. The certified mailings were returned marked "unclaimed" and "moved, left no address," respectively. The first class mailings were not returned.<sup>3</sup>

The Second Notice of Complaint required Respondent to submit an answer to the Complaint by December 30, 2005. To date, Respondent has failed to answer or otherwise

---

<sup>1</sup> The factual determinations in this decision are based on the allegations in the attached Complaint, which are deemed admitted, as well as the additional materials filed by Enforcement with its motion.

<sup>2</sup> Hare Declaration, ¶¶ 7-10 and attached exhibits.

<sup>3</sup> Hare Declaration, ¶¶ 18-22 and attached exhibits.

respond to the Complaint.<sup>4</sup> On January 26, 2006, Enforcement sent the Motion for Entry of Default Decision by overnight mail to Respondent's CRD address and his Long Beach address. To date, Respondent has not answered.

Enforcement served the Complaint and Notices of Complaint on Respondent in accordance with Rule 9134, thereby giving him constructive notice of this proceeding. By failing to file an Answer or otherwise respond to the Complaint, Respondent defaulted. Pursuant to Procedural Rule 9269(a)(2), the Hearing Officer will deem the allegations in the Complaint admitted.

### **III. Findings of Fact and Conclusions of Law**

#### **A. Jurisdiction**

The Complaint alleges, and the Respondent's CRD record shows, that Respondent was registered as a general securities representative with various NASD member firms between September 1996 and June 2000. Respondent was registered with Investec Ernst & Company ("Investec") from June 5, 2000 through May 14, 2002. On or about May 14, 2002, Investec filed a Uniform Termination Notice for Securities Industry Registration ("Form U-5") terminating Respondent's registration (the "Investec U-5"). From December 17, 2002 through September 12, 2003, Respondent was registered with NASD through other member firms. On or about April 26, 2004, an amendment to the Investec Form U-5 was filed with NASD, and disclosed for the first time potentially actionable conduct. Respondent has not been registered since September 12, 2003; however, NASD retains jurisdiction over him for purposes of this proceeding pursuant to Article V, Section 4 of NASD's Bylaws, because the Investec U-5 disclosing potentially actionable conduct was amended within two years of its original filing and the Complaint was filed within two years following the amended Investec U-5.

---

<sup>4</sup> Hare Declaration, ¶¶ 18-24.

## **B. Falsification of Records**

The First Cause of the Complaint alleges that in or about February 2002, while registered with Investec, Respondent violated Conduct Rule 2110 by preparing a false account statement for Investec customer MG that misrepresented the account's net worth and securities positions. Respondent then presented this falsified account statement to a representative of MG as if it were an actual Investec account statement, for the purpose of misleading MG as to the value of her investments.

NASD Conduct Rule 2110 requires that members and associated persons "observe high standards of commercial honor and just and equitable principles of trade." Falsification of records is inconsistent with these principles.<sup>5</sup> Enforcement's allegations, which are deemed admitted, are sufficient to establish for purposes of this proceeding that Respondent violated Conduct Rule 2110 by falsifying a customer's account statement.

## **IV. Sanctions**

### **A. Falsification of Records**

For the falsification of records, the NASD Sanction Guidelines recommend a fine of between \$5,000 and \$100,000 and in cases where mitigating factors exist, a suspension for up to two years or, in egregious cases, a bar.<sup>6</sup>

As set forth in the Hare Declaration, Enforcement's investigative record contains evidence that MG's investment funds were the proceeds of an insurance policy left to MG by her recently-deceased husband. The funds were intended to provide income for MG and her children. From June 2002 through April 2002, MG's account suffered significant losses. Upon

---

<sup>5</sup> See *Charles E. Kautz*, Exchange Act Rel. No. 34-37072, 1996 SEC LEXIS 994 (1996); *Department of Enforcement v. Bendetsen*, Complaint No. C01020025, 2004 NASD Discip. LEXIS 13, at \*15 (NAC August 9, 2004) (respondent violated Rule 2110 when he created false account statements and provided them to the customer).

<sup>6</sup> NASD Sanction Guidelines at 39 (2005 ed.).

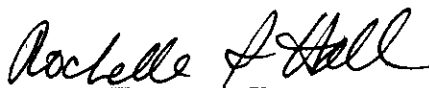
noticing the losses, MG asked Respondent for an explanation. In response to MG's inquires, Respondent lied to MG about the net worth and stock positions in her account. He then created a false account statement to corroborate his lies.

Respondent's conduct was clearly egregious and there do not appear to be any mitigating circumstances that would justify a sanction of less than a bar in this case. Consequently, a bar is appropriate and will be imposed. Because of the bar, a fine would not serve any additional purpose and will not be imposed.<sup>7</sup>

#### V. Conclusion

Respondent William Joseph Julian violated NASD Conduct Rule 2110 by falsifying an account statement and presenting it to a customer for the purpose of misleading her as to the value of her investments. For this violation, Respondent is barred from associating with any NASD member in any capacity. The bar will become effective immediately if this decision becomes NASD's final disciplinary action in this proceeding.

**SO ORDERED.**



Rochelle S. Hall  
Hearing Officer

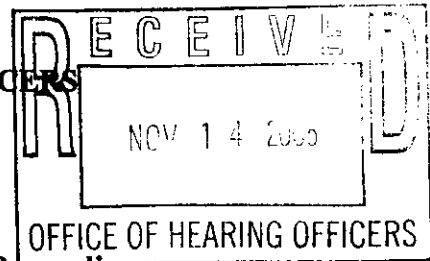
Copies to: William Joseph Julian (*overnight and first class mail*)  
Paul Hare, Esq. (*electronically and first class mail*)  
Rory C. Flynn, Esq. (*electronically and first class mail*)  
David Jaffe, Esq. (*electronically and first class mail*)  
Roger Hogoboom, Esq. (*electronically and first class mail*)

---

<sup>7</sup> See *DOE v. Hodde*, Complaint No. C10010005, 2002 NASD Discip. LEXIS 4, at \*17 (N.A.C. Mar. 27, 2002).

# **EXHIBIT A**

**NASD OFFICE OF HEARING OFFICERS**



**DEPARTMENT OF ENFORCEMENT,**

Complainant,

v.

**WILLIAM JOSEPH JULIAN  
(CRD No. 2797249),**

Respondent.

**Disciplinary Proceeding  
No. CLI20030464-01**

**Hearing Officer \_\_\_\_\_**

**COMPLAINT**

Upon information and belief, the Department of Enforcement ("Complainant") alleges as follows:

**JURISDICTION**

1. Respondent William Joseph Julian ("Respondent") first became registered with NASD as a General Securities Representative on September 23, 1996, through an association with NASD member firm. He was subsequently registered with NASD through several NASD member firms.
2. From June 5, 2000, through May 14, 2002, Respondent was registered with NASD as a General Securities Representative through his association with Investec Ernst & Company (BD No. 266)("Investec").
3. On or about May 14, 2002, Investec filed a Uniform Termination Notice for Securities Industry Registration ("Form U-5") terminating Respondent's registration. The Form U-5 disclosed that Respondent was voluntarily terminated.

4. From December 17, 2002, through September 12, 2003, Respondent was registered with NASD as a General Securities Representative through a member firm. Since September 12, 2003, Respondent has not been registered with NASD.
5. On April 26, 2004, Investec filed an amendment to Respondent's Form U-5, which disclosed for the first time potentially actionable conduct.
6. Although Respondent is not currently registered with NASD, Respondent remains subject to NASD jurisdiction pursuant to Article V, Section 4, of the Association's By-Laws.

**FIRST CAUSE OF COMPLAINT**  
**Falsification of Records**  
**(violation of NASD Conduct Rule 2110)**

7. Paragraphs 1 through 6, above, are re-alleged and incorporated herein by reference.
8. In or about February 2002, while registered with NASD through member firm Investec, Respondent prepared a falsified account statement for Investec customer MG that misrepresented the account's net worth and securities positions.
9. Furthermore, in or about February 2002, Respondent presented this falsified account statement to a representative of MG as if it were an actual Investec account statement, for the purpose of misleading MG as to the actual value of MG's investments.

By reason of the foregoing, Respondent NASD Conduct Rule 2110.

**PRAYER FOR RELIEF**

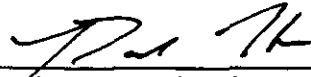
WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent committed the violations alleged within this Complaint;

- 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.

Dated: November 11, 2005

**DEPARTMENT OF ENFORCEMENT**

  
\_\_\_\_\_  
Paul Hare, Regional Attorney  
David Jaffe, Regional Chief Counsel  
NASD, District 10  
One Liberty Plaza, 48<sup>th</sup> Floor  
New York, New York 10006  
(212) 858-4773; Fax No. (212) 858-4770

NASD District Director  
Hans Reich  
NASD, District 10  
One Liberty Plaza  
New York, NY 10006

Of Counsel  
Rory C. Flynn  
NASD Department of Enforcement  
1801 K Street, N.W., Suite 800  
Washington, D.C. 20006  
(202) 974-2974; Fax No. (202) 721-8318

Roger D. Hogoboom  
NASD Department of Enforcement  
370 17<sup>th</sup> Street, Suite 2900  
Denver, CO 80202  
(303) 446-3114; Fax No. (303) 620-95401