

**FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JOEY CLESS BROUSSARD
(CRD No. 5653033),

Respondent.

Disciplinary Proceeding
No. 2013035039101

Hearing Officer—RES

DEFAULT DECISION

August 9, 2016

**For forgery and creating a false document in violation of FINRA Rule 2010,
Respondent Joey Broussard is barred from associating with any FINRA
member firm.**

For the Complainant: Paul D. Taberner, Esq., Christopher Kelly, Esq., Bonnie McGuire, Esq.,
Department of Enforcement, Financial Industry Regulatory Authority

For the Respondent: No appearance

DECISION

I. Introduction

Respondent Joey Cless Broussard (“Broussard”) was associated with FINRA-regulated broker-dealer Source Capital Group Inc. (“Source Capital” or the “Firm”) as a Direct Participation Programs Representative from July 2010 through April 2014. The Complaint alleges that, while associated with Source Capital, Broussard created a false letter, making it look like it was from one of his customers, to cancel a request for rescission of the purchase of an interest in an oil and gas limited partnership. Broussard forged the customer’s signature on the letter.

Broussard did not answer the Complaint. The Department of Enforcement filed a motion for the entry of a default decision (“Default Motion”), together with counsel’s declaration (“Decl.”) and supporting exhibits. Broussard did not respond to the motion.

For the reasons stated below, I find Broussard in default and grant Enforcement’s Default Motion.

II. Findings of Fact and Conclusions of Law

A. Respondent's Background

Broussard became registered with FINRA as a Direct Participation Programs Representative in 2009.¹ From July 2010 through April 2014, Broussard was registered in that capacity with Source Capital. He has not been associated or registered with a FINRA member since the termination of his registration with Source Capital in April 2014.

B. FINRA's Jurisdiction

FINRA retains jurisdiction over Broussard pursuant to Article V, Section 4(a) of FINRA's By-Laws. Enforcement filed the Complaint within two years after the termination of his registration with Source Capital, and the Complaint charges him with violations committed while he was registered with Source Capital.

C. Origin of the Investigation

FINRA's investigation of Broussard arose out of the 2013 routine examination of Source Capital by the Member Regulation staff of FINRA's Boston District Office.²

D. Respondent's Default

On April 7, 2016, Enforcement served the First Notice of Complaint and Complaint by certified and first-class mail sent to Broussard at his residential address recorded in the Central Registration Depository (the "CRD Address") in accordance with FINRA Rule 9134(b)(1).³ The postal service made at least one unsuccessful attempt to serve the certified mailing on Broussard and returned it to Enforcement unclaimed.⁴ The first-class mailing was never returned.⁵ Broussard did not file an answer to the First Notice of Complaint.⁶

On May 6, 2016, Enforcement served the Second Notice of Complaint and Complaint by certified and first-class mail sent to Broussard's CRD address.⁷ The postal service made at least one unsuccessful attempt to serve the certified mailing and returned it to Enforcement

¹ Declaration of Paul D. Taberner ("Decl.") ¶ 4.

² *Id.* ¶ 7.

³ *Id.* ¶¶ 8, 9.

⁴ *Id.* ¶ 10.

⁵ *Id.* ¶ 10.

⁶ *Id.* ¶ 11.

⁷ *Id.* ¶ 12. The Second Notice of Complaint warned Broussard that his failure to answer would allow the Hearing Officer to treat the allegations in the Complaint as admitted by Broussard and enter a default decision. Decl. ¶ 13.

unclaimed.⁸ The first-class mailing was never returned.⁹ Broussard did not file an answer to the Second Notice of Complaint, and it is now past the 14-day deadline of FINRA Rule 9215(f).¹⁰ The Hearing Officer therefore finds that Broussard defaulted.

E. Broussard's Default Warrants the Issuance of a Default Decision

FINRA Rule 9269(a) authorizes the Hearing Officer to issue a default decision against a respondent who “fails to answer the complaint within the time afforded under Rule 9215.” Similarly, FINRA Rule 9215(f) provides that, “[i]f the Respondent fails to file an answer with the Office of Hearing Officers within the time required, the Hearing Officer may issue a default decision against the Respondent pursuant to Rule 9269.”

Broussard had two opportunities to file an answer but did not do so. The First and Second Notices of Complaint served by Enforcement put him on notice of the possible consequences of not answering—a default and a bar from associating or registering with a member firm. Enforcement sent the Notices of Complaint to Broussard at his CRD Address which, to the best of Enforcement’s knowledge, is his current residential address.¹¹ The Hearing Officer therefore finds that a default decision against Broussard is warranted.

F. Broussard Created a False Customer Letter and Forged the Customer's Signature

FINRA Rule 9269(a) provides that, “[i]f the defaulting Party is the Respondent, the Hearing Officer may deem the allegations against that Respondent admitted.” FINRA Rule 9215(f) contains a similar provision. The Hearing Officer deems the allegations in the Complaint against Broussard to be admitted.

The Complaint alleges that Broussard sold oil and gas limited partnership interests issued by Bayou City Exploration, Inc. (“Bayou City”) and another issuer.¹² On or about August 11, 2010, MH, an elderly customer of Broussard, purchased a \$15,000 Bayou City limited partnership interest that Broussard offered to her.¹³ Bayou City gave investors a right of rescission if they requested it in writing within ten days of their purchase.¹⁴

⁸ *Id.* ¶ 14.

⁹ *Id.* ¶ 14.

¹⁰ *Id.* ¶ 15.

¹¹ *Id.* ¶ 9.

¹² Complaint ¶ 7.

¹³ *Id.* ¶ 8.

¹⁴ *Id.* ¶ 8.

On or about August 17, 2010, MH sent a rescission letter to Bayou City canceling her investment in the limited partnership.¹⁵ On learning this, Broussard contacted MH and spoke with her about keeping the investment.¹⁶ He explained to MH that to do so she had to send a second letter to Bayou City canceling her rescission request.¹⁷ MH never sent such a letter.¹⁸

Instead, on or about August 26, 2010, Broussard handwrote a letter purportedly from MH canceling her rescission request and forged her signature.¹⁹ He faxed the letter to Bayou City.²⁰ He did not have MH's permission to write the letter or forge her signature.²¹

G. Broussard Violated FINRA Rule 2010

The National Adjudicatory Council (the "NAC") has held that signing a customer's name to a document without authority is forgery and a violation of high standards of commercial honor and just and equitable principles of trade.²² The Securities and Exchange Commission has affirmed a finding of forgery where the forged document defrauded another person or otherwise resulted in a benefit to the forger.²³ Forgery is a violation of FINRA Rule 2010 even if the registered person does it for the benefit of a customer.²⁴

Broussard wrote a letter to make it look like it was written by MH and forged her signature. Broussard did not have MH's permission to do these things. He sought to deprive MH of her right to rescission and the return of her \$15,000 investment.²⁵ If Broussard's forgery had been successful, MH's money would have been placed at risk in an investment she did not want. This conduct violated FINRA Rule 2010.

¹⁵ *Id.* ¶ 9.

¹⁶ *Id.* ¶ 10.

¹⁷ *Id.* ¶ 10.

¹⁸ *Id.* ¶ 10.

¹⁹ *Id.* ¶ 11.

²⁰ *Id.* ¶ 11.

²¹ *Id.* ¶ 12.

²² *Dep't of Enforcement v. Kirlin*, No. EAF0400300001, 2009 FINRA Discip. LEXIS 2, at *57 (NAC Feb. 25, 2009).

²³ *Mark F. Mizenko*, 58 S.E.C. 846, 853 (Oct. 13, 2005).

²⁴ *See Donald M. Bickerstaff*, 52 S.E.C. 232, 235 (1995) (respondent liable for forging customers' names even though he "thought it was the clients' wish and in their best interests").

²⁵ MH's \$15,000 eventually was returned to her after she complained to Bayou City. Decl. ¶ 19. Broussard's commission was rebated back to her. *Id.*

III. Sanctions

“Forgery is an extremely serious offense that, absent mitigating circumstances, may warrant a bar.”²⁶ The Sanction Guideline for forgery and falsification of documents recommends a bar in egregious cases or, if there is mitigation, a suspension of up to two years and a fine of \$5,000 to \$146,000.²⁷ The Guideline instructs the adjudicator to consider the nature of the document falsified and whether the respondent had a good-faith, but mistaken, belief that he had express or implied authority to sign the document.²⁸

Broussard deliberately created a letter to make it look like it was written by a customer and forged her signature. He faxed the fake and forged letter to Bayou City in an attempt to continue an investment the customer did not want. The forged letter was material in that it sought to defraud an elderly customer and prevent her from controlling her investments. Broussard did not have a good-faith belief that he had authority to create the forged letter.²⁹

Several aggravating factors from the Principal Considerations apply here. First, Broussard’s forgery was the result of an intentional act.³⁰ Second, if it had been successful, it would have enabled him to keep his commission.³¹ Third, Broussard did not admit his forgery when the subject of MH’s rescission request was raised in an email from Bayou City.³²

There are no mitigating factors. The Hearing Officer therefore concludes that the appropriate sanction against Broussard is a bar in all capacities.

²⁶ *Dep’t of Enforcement v. Grafenauer*, No. C8A030068, 2005 NASD Discip. LEXIS 29, at *7 (NAC May 17, 2005).

²⁷ Sanction Guidelines at 37.

²⁸ *Id.*

²⁹ *Id.*


³⁰ *Id.* at 7 (Principal Consideration No. 13: Whether the respondent’s misconduct was the result of an intentional act).

³¹ *Id.* (Principal Consideration No. 17: Whether the respondent’s misconduct resulted in the potential for the respondent’s monetary or other gain).

³² *Id.* at 6 (Principal Consideration No. 10: Whether the respondent attempted to conceal his misconduct from the member firm with which he was associated). *See* Decl. ¶ 18.

IV. Order

Joey Cless Broussard is barred from associating with any member firm in any capacity because of his forgery and falsification of a document in violation of FINRA Rule 2010. The bar shall be effective immediately if this Default Decision becomes the final disciplinary action of FINRA.


Richard E. Simpson
Hearing Officer

Copies to:

Joey Cless Broussard (via first-class mail)
Paul D. Taberner, Esq. (via email)
Christopher Kelly, Esq. (via email)
Bonnie McGuire, Esq. (via email)
Jeffrey D. Pariser, Esq. (via email)