

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

PAOLO FRANCA IIDA,  
(CRD No. 6020324),

Respondent.

Disciplinary Proceeding  
No. 2012033351801

Hearing Officer—CC

**HEARING PANEL DECISION**

April 28, 2015

**Respondent violated FINRA Rule 2010 by structuring five cash deposits into his personal bank accounts to avoid federal filing requirements. For this misconduct, Respondent is suspended in all capacities for two years.**

**Appearances**

Perry C. Hubbard and Robin W. Sardegna, Rockville, Maryland, representing FINRA’s Department of Enforcement.

Adrienne M. Ward and Irwin Wetz, Ellenhoff Grossman & Schole LLP, New York, New York, representing Paolo Franca Iida.

**I. Introduction**

Respondent Paolo Franca Iida (“Iida”) structured four cash deposits of \$10,000 each and one cash deposit of \$8,000, to avoid federal reporting requirements. At the time of the deposits, Iida was associated with member firm HSBC Securities (USA), Inc. (“HSBC”). Although Iida was never registered with FINRA, he admitted that FINRA properly exercised jurisdiction over him as an associated person of HSBC, and he admitted the factual allegations of the Complaint.<sup>1</sup> The issue before us is the imposition of sanctions for Iida’s violation of FINRA Rule 2010.

On December 23, 2013, FINRA’s Department of Enforcement (“Enforcement”) filed a Complaint, alleging that, between April 19 and 25, 2012, Iida made five cash deposits into his personal bank accounts at the HSBC Bank branch in the building where Iida worked for HSBC.<sup>2</sup>

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<sup>1</sup> Dec. 8, 2014 Stipulations (“Stip.”) ¶¶ 1, 2, 4.

<sup>2</sup> FINRA commenced the investigation that led to the filing of the Complaint when HSBC disclosed in a Uniform Termination Notice for Securities Industry Registration (“Form U5”) that it had terminated Iida’s association with the firm because of the misconduct at issue in this case. Hearing Transcript (“Tr.”) at 93-94, 303; Joint Exhibit (“JX”)-3.

The Complaint alleges that, when questioned by HSBC about the deposits, Iida stated that he intended to make one \$48,000 cash deposit, but chose instead to break the deposit into smaller deposits of \$10,000 or less after a bank teller advised him that a \$48,000 cash deposit would necessitate the filing of a Currency Transaction Report (“CTR”).<sup>3</sup> The Complaint alleges that Iida acted with the purpose of preventing HSBC Bank from filing a CTR for Iida’s \$48,000 deposit and that, in doing so, he acted unethically and violated FINRA Rule 2010.

Iida admits the allegations of the Complaint, but denies that his conduct was for the purpose of circumventing federal laws. Iida states that he acted negligently. He contends that he accepts responsibility for his actions.

The parties participated in a hearing in New York, New York on January 21, 2015.<sup>4</sup> Enforcement argued that Iida’s misconduct was egregious, necessitating the imposition of a bar in all capacities to protect investors. Iida requested that the Hearing Panel consider his willingness, immediately upon detection by HSBC, to admit his misconduct and that, although he acted negligently, he never deliberately set out to violate federal law. Iida seeks a lesser sanction.

The Hearing Panel concludes that Iida violated FINRA Rule 2010 by structuring cash deposits to evade federal reporting requirements, which the Hearing Panel deems serious misconduct. For this misconduct, the Hearing Panel suspends Iida from associating in any capacity with any member firm for two years.

## **II. Findings of Fact**

Iida testified that in 2005, while still attending a university in Brazil, he began working for HSBC in Brazil as an intern.<sup>5</sup> In 2007, he moved to HSBC’s New York City office and worked as a derivatives trader on an HSBC trading desk that traded on a Brazilian exchange.<sup>6</sup> Iida testified that he worked long hours, sometimes starting as early as 5:00 a.m. and ending as late as 9:00 p.m., depending on the season and the corresponding time difference between Brazil

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<sup>3</sup> The Currency and Foreign Transactions Reporting Act of 1970, as amended by the USA PATRIOT Act of 2001 and other legislation, is commonly identified as the “Bank Secrecy Act.” 12 U.S.C. § 1829b; 12 U.S.C. §§ 1951-1959; 18 U.S.C. § 1956; 18 U.S.C. § 1957; 18 U.S.C. § 1960; and 31 U.S.C. §§ 5311-5332 and notes thereto, with implementing regulations at 31 C.F.R. Chapter X. The BSA requires financial institutions to assist federal agencies in detecting and prosecuting money laundering, tax evasion, and other criminal activity by filing “a report of each deposit, withdrawal . . . or other payment or transfer . . . which involves a transaction in currency of more than \$10,000. . . .” 31 C.F.R. § 1010.311. At all times pertinent to this case, financial institutions used Form 104 (identified above as the “CTR”) to comply with the reporting requirements. *See* JX-10.

<sup>4</sup> In mid-June 2012, Iida left the United States and returned to Brazil. *Tr.* at 218-219. He has not returned to the United States since then. *Tr.* at 254. Enforcement consented to Iida’s request to participate in the hearing by video conference. By Order dated January 16, 2015, the Hearing Officer granted Iida’s request to participate in the hearing by video conference. Iida’s counsel was present in the hearing room.

<sup>5</sup> *Tr.* at 99.

<sup>6</sup> *Tr.* at 100-102.

and the United States.<sup>7</sup> Iida never handled customer accounts or cash at HSBC.<sup>8</sup> Iida testified that, during the period at issue (April 2012), he was approximately 28 years old, and he predominantly spoke his native language (Portuguese) during the work day because his boss and co-workers on the trading desk were Brazilian and also spoke Portuguese.<sup>9</sup> He further testified that outside of work, he predominantly spoke Portuguese as well because the majority of his friends and his girlfriend were Brazilian.<sup>10</sup>

Iida testified that the “way of life” in Brazil differs significantly from the United States. He stated that the banking system and economy are less reliable in Brazil, where hyperinflation is rampant and that, in the past, the government has frozen bank accounts.<sup>11</sup> Iida testified that Brazilians are less comfortable with maintaining cash in bank accounts and are accustomed to keeping very large amounts of cash at home and accessible at all times.<sup>12</sup> He testified that all purchases in Brazil – cars, homes, property, health care, even hospitalizations – require cash.<sup>13</sup> Iida testified that, although he was living in New York in April 2012, he continued to follow his old habits of keeping significant amounts of cash at home, on his person, and at his office.<sup>14</sup>

Iida admitted that he completed HSBC’s mandatory anti-money laundering (“AML”) training in or around May 2007, March 2009, October 2010, and July 2011.<sup>15</sup> Although Iida could not recall details regarding the content of HSBC’s training, other than to remember that its purpose was to detect misconduct by drug dealers and terrorists, he stipulated that his most recent AML training in July 2011 included a module on the reporting of cash transactions and indicated that all cash transactions in excess of \$10,000 must be reported.<sup>16</sup> Notwithstanding the AML training that Iida received at HSBC, he testified that, when he entered an HSBC Bank office in New York on April 19, 2012, he was not aware that cash deposits in excess of \$10,000 would trigger federal reporting requirements, and he did not understand the significance of circumventing the requirements.<sup>17</sup>

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<sup>7</sup> Tr. at 102-103.

<sup>8</sup> Tr. at 198.

<sup>9</sup> Tr. at 196, 200.

<sup>10</sup> Tr. at 201.

<sup>11</sup> Tr. at 208-211.

<sup>12</sup> Tr. at 208-209.

<sup>13</sup> Tr. at 209-211.

<sup>14</sup> Tr. at 125, 152, 166-168, 208-210. Iida also explained that Brazil is not a safe place to live. He explained that his father recently had been murdered and that the police advised Iida, his mother, and his brother to hire personal security for protection. Tr. at 210-211.

<sup>15</sup> Stip. ¶ 7; Tr. at 104-108; Complainant’s Exhibit (“CX”)-4.

<sup>16</sup> Stip. ¶ 8; Tr. at 107-108, 174-175.

<sup>17</sup> Tr. at 179-180.

Iida testified that, on April 19, 2012, he walked into the HSBC Bank located in the lobby of the building in which his HSBC office was located, intending to deposit approximately \$50,000 in cash.<sup>18</sup> He testified that, at the time, he actually had approximately \$70,000 cash on him.<sup>19</sup> Iida testified that his friend, ES, lent him \$50,000 in cash that day, and Iida held approximately \$20,000 to \$25,000 of his own money in cash in his desk at HSBC.<sup>20</sup> He had approximately \$70,000 to \$75,000 on him when he went into HSBC Bank. When Iida approached the bank teller to make the deposit of \$48,000 to \$50,000, she advised him that a deposit of that size would trigger the filing of a CTR.<sup>21</sup> Iida became concerned that he would waste too much time completing a CTR, so he asked the teller how much he could deposit without triggering the filing requirement.<sup>22</sup> Iida did not ask the teller how long it would take to complete a CTR.<sup>23</sup> The teller advised Iida that he could deposit up to \$10,000 without triggering the filing of a CTR, so on April 19, 2012, Iida deposited \$10,000 into his personal savings account at HSBC Bank.<sup>24</sup> He returned to the HSBC Bank in the lobby of his workplace on April 20, 2012, and again on April 23 and 24, 2012. On each of those dates, he made cash deposits of \$10,000.<sup>25</sup> On April 25, 2012, he deposited \$8,000 in cash, for total cash deposits of \$48,000.<sup>26</sup>

Iida testified that he intended to purchase property in Brazil.<sup>27</sup> He stated that his father was a real estate broker in Brazil and that he was negotiating possible property purchases for Iida.<sup>28</sup> Iida testified that he needed large amounts of cash to be available in Brazil for this purpose.<sup>29</sup> During March, April, and May 2012, Iida made several transfers of funds from his HSBC Bank accounts in the United States to an HSBC Bank account that he maintained in Brazil. Iida testified that he often transferred money to Brazil when the exchange rate was in his

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<sup>18</sup> Tr. at 152.

<sup>19</sup> Tr. at 121-123.

<sup>20</sup> Tr. at 122-124.

<sup>21</sup> Tr. at 152-153.

<sup>22</sup> Tr. at 153-154. Iida testified that, in Brazil, you could lose two hours completing government-required forms, and he assumed the same applied in the United States. Tr. at 157-158.

<sup>23</sup> Tr. at 156.

<sup>24</sup> Stip. ¶ 4; Tr. at 153.

<sup>25</sup> Stip. ¶ 4.

<sup>26</sup> Stip. ¶ 4. Iida's April 20, 2012 deposit was into his checking account at HSBC Bank. CX-11. His April 19, 23, 24, and 25, 2012 deposits were into his savings account at HSBC Bank. CX-11. Immediately after making the deposits into the savings account, Iida used online banking to transfer the funds into his checking account. Tr. at 162-166; CX-6 at 9-10. Iida testified that he did not care which account he deposited the funds into. Tr. at 164. He recalled that the deposit slips already contained an account number, and he did not know which account was savings and which was checking. Tr. at 164-165. Iida recalled that each individual deposit took less than five minutes. Tr. at 154. He stated that his intention was always to transfer the funds to Brazil when the exchange rates were in his favor. Tr. at 203-205.

<sup>27</sup> Tr. at 126, 129.

<sup>28</sup> Tr. at 129, 205.

<sup>29</sup> Tr. at 129-130, 204-205.

favor.<sup>30</sup> On March 29, 2012, he transferred \$25,000 from his HSBC Bank checking account to his HSBC Bank account in Brazil.<sup>31</sup> On April 20, 2012, he transferred \$45,000 from his HSBC Bank checking account to his HSBC Bank account in Brazil.<sup>32</sup> On May 9, 2012, Iida transferred \$15,000 from his HSBC Bank checking account to his HSBC Bank account in Brazil.<sup>33</sup>

Iida's cash deposits between April 19, 2012, and April 25, 2012, triggered an inquiry by HSBC Bank. On April 25, 2012, TP, an employee of HSBC Bank, contacted Iida by telephone.<sup>34</sup> She identified herself as "calling from downstairs in the sales area," and indicated that she was calling "in reference to a couple of transactions that have been made in [Iida's] account."<sup>35</sup> She stated that there had been "large \$10,000 deposits," and she had to "question it because it's been consistent."<sup>36</sup> Iida indicated that he was in the middle of a trade, and she stated that she would keep the conversation brief.<sup>37</sup> When questioned, Iida readily admitted that he "was going to deposit \$50,000 in one shot, but then it was going to go to the Federal Reserve."<sup>38</sup> He stated that he did not want to spend "two hours" filling out a form, so he decided to make several \$10,000 deposits instead.<sup>39</sup> He offered to "file for a Federal Reserve," and TP declined.<sup>40</sup> Iida admitted that he had made four \$10,000 deposits and stated that he intended to make one more deposit of \$8,000 "if it's ok."<sup>41</sup> TP responded "Okay. No problem. I'll let them know then."<sup>42</sup> During this call, TP and Iida often spoke over each other and cut off each other's sentences.<sup>43</sup> TP asked Iida where the cash was coming from. Iida responded that "most of it" he held at home, he intended to wire it all to Brazil, and he already had wired \$45,000.<sup>44</sup>

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<sup>30</sup> Tr. at 203.

<sup>31</sup> CX-6 at 6; Tr. at 206.

<sup>32</sup> CX-6 at 7; Tr. at 208.

<sup>33</sup> CX-6 at 10; Tr. at 208-209. Overall, the Hearing Panel found Iida's testimony credible. His statements regarding common practice in Brazil, his tendency to carry and keep at home and in his office large amounts of cash, his receipt of an undocumented loan from ES, and his intention to transfer funds to Brazil to purchase property were corroborated by ES's testimony, transactions in his bank accounts, and his Rule 8210 responses to FINRA.

<sup>34</sup> JX-8; JX-9.

<sup>35</sup> JX-8; JX-9 at 2.

<sup>36</sup> JX-8; JX-9 at 2.

<sup>37</sup> JX-8; JX-9 at 2.

<sup>38</sup> JX-8; JX-9 at 4.

<sup>39</sup> JX-8; JX-9 at 5.

<sup>40</sup> JX-8; JX-9 at 5.

<sup>41</sup> JX-8; JX-9 at 5-6.

<sup>42</sup> JX-8; JX-9 at 6.

<sup>43</sup> JX-8.

<sup>44</sup> JX-8; JX-9 at 4.

On June 4, 2012, EW, a senior vice president in the Human Resources department at HSBC, called Iida into her office.<sup>45</sup> EW testified that PW, HSBC's AML officer, asked Iida "what happened regarding these different transactions?"<sup>46</sup> Iida responded that different members of his family had been visiting the United States and that, when they purchased high-priced items, they used his credit card and reimbursed him with cash.<sup>47</sup> She also recalled that he mentioned that some of the money came from a roommate and related to a transaction involving the joint purchase of a car, but she could not recall details and could not recall how much money Iida contended came from which of the sources.<sup>48</sup> Iida told them that he already had wired money to Brazil and that he intended to wire the remainder to Brazil as well.<sup>49</sup>

On June 13, 2012, EW called Iida to her office again.<sup>50</sup> EW could not recall the particulars of this meeting, but remembered that she and PW again asked Iida where the money for his cash deposits came from, and he again stated that he had cash from family members who had used his credit card to make purchases when they visited the United States.<sup>51</sup> EW scheduled a follow-up meeting for Iida to provide receipts to corroborate his claim.<sup>52</sup> Iida met with EW a third time in EW's office on June 18, 2012.<sup>53</sup> At that meeting, Iida gave EW a credit card statement showing items that Iida purchased for family members with his credit card.<sup>54</sup> EW could not recall all of the items.<sup>55</sup> She testified that they included an expensive bag and a computer and that they added up to some amount less than \$48,000, although she could not recall how much less.<sup>56</sup> EW testified that she did not keep copies of the documentation.<sup>57</sup>

Iida thereafter responded to FINRA Rule 8210 requests for information regarding his conduct and the sources of funds for his cash deposits.<sup>58</sup> Iida stated that the majority of the funds came from a friend who he identified as ES, and the rest came from various family

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<sup>45</sup> Tr. at 70.

<sup>46</sup> Tr. at 71. PW participated in the meeting by telephone. Tr. at 70. PW did not testify at the hearing.

<sup>47</sup> Tr. at 71. Iida testified that his family often used his credit card so that he could earn flight miles. Tr. at 150.

<sup>48</sup> Tr. at 72.

<sup>49</sup> Tr. at 73.

<sup>50</sup> Tr. at 75-76. PW again participated by telephone. Tr. at 76.

<sup>51</sup> Tr. at 76.

<sup>52</sup> Tr. at 76.

<sup>53</sup> Tr. at 76-77.

<sup>54</sup> Tr. at 78-79.

<sup>55</sup> Tr. at 78.

<sup>56</sup> Tr. at 78-79.

<sup>57</sup> Tr. at 80.

<sup>58</sup> JX-1; JX-2; JX-5; JX-6; JX-7; CX-6.

members.<sup>59</sup> Iida provided FINRA with a page of a Citibank account statement that ES identified as his account.<sup>60</sup> The account statement showed that ES withdrew \$50,000 on April 19, 2012, the day of Iida's first cash deposit.<sup>61</sup>

Iida and ES testified as follows about ES's April 19, 2012 withdrawal of \$50,000 in cash and \$50,000 loan to Iida. Iida and ES met in 2006 or 2007 and became close friends.<sup>62</sup> Both were Brazilian and, for a short time, they shared living space.<sup>63</sup> When both lived in New York City, they purchased a Porsche together and shared costs and expenses.<sup>64</sup> In April 2012, Iida asked ES to lend him \$50,000 so that Iida could send money to Brazil for a land purchase.<sup>65</sup> ES agreed. The loan was not documented or secured, and did not call for the payment of interest.<sup>66</sup> ES withdrew \$50,000 from his account and gave it to Iida as cash on April 19, 2012.<sup>67</sup> Neither Iida nor ES could recall how much of the \$50,000 loan remained outstanding.<sup>68</sup> They both stated that at times they each covered the other's expenses and that, after Iida returned to Brazil, ES sold the Porsche for approximately \$22,000, half of which he treated as repayment of part of his loan to Iida.<sup>69</sup> Iida had borrowed money from ES before, and always paid it back.<sup>70</sup> ES stated that he had borrowed money from Iida as well.<sup>71</sup> Iida is currently employed as a trader in Brazil.<sup>72</sup> He testified that he intends to repay ES.<sup>73</sup>

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<sup>59</sup> CX-6 at 3; JX-7 at 1. Iida testified, for example, that while his brother was visiting New York, he bought a ring for his girlfriend at Tiffany & Co. for \$5,000. Tr. at 150. Tiffany & Co. called Iida, he gave the store his credit card number to pay for the ring, and his brother later reimbursed him with cash. Tr. at 150.

<sup>60</sup> CX-6 at 16; JX-7 at 1; Tr. at 268.

<sup>61</sup> CX-6 at 16. The Hearing Panel found credible Iida's statements regarding the sources of the cash that he deposited in April 2012 (a cash loan from ES and cash that he held at home and work, some of which he received from family members as repayment for use of his credit card). The Hearing Panel also found, however, that Iida was not forthright about those sources when he spoke with TP. Although EW's recollections of her meetings with Iida were incomplete, it appears from EW's testimony that Iida was not as clear as he should have been with TP as to the sources of the funds that he deposited.

<sup>62</sup> Tr. at 128, 283.

<sup>63</sup> Tr. at 128, 285.

<sup>64</sup> Tr. at 213, 284-285.

<sup>65</sup> Tr. at 120-121, 126, 267-270. ES could not recall how much cash he actually gave to Iida. Tr. at 269. He recalls that he withdrew \$50,000 from a Citibank branch on Park Avenue, near his apartment, but he believes that he kept some of the cash for himself. Tr. at 269-270.

<sup>66</sup> Tr. at 131-132, 278-279.

<sup>67</sup> Tr. at 135-136, 275-277. ES testified that Iida specifically asked for the loan in cash. Tr. at 277. Iida stated that he did not want ES to wire the funds to his account because he was accustomed to dealing in cash and, as such, preferred it. Tr. at 255.

<sup>68</sup> Tr. at 138, 279-280.

<sup>69</sup> Tr. at 135-138, 279-280, 283-285.

<sup>70</sup> Tr. at 213, 283-285.

<sup>71</sup> Tr. 283-285. The Hearing Panel generally found ES's testimony to be credible. Although ES is not registered, he currently works in the securities industry for an inter-dealer broker that facilitates transactions between banks. Tr. at

### III. Conclusions of Law

The Bank Secrecy Act (“BSA”) requires financial institutions such as HSBC Bank to file a CTR for, among other things, cash deposits in excess of \$10,000.<sup>74</sup> The required report must be filed by the financial institution, HSBC Bank in this case, within 15 days following the date on which the reportable transaction occurred.<sup>75</sup>

Structuring occurs when a person “conducts or attempts to conduct one or more transactions in currency, in any amount, at one or more financial institutions, on one or more days, in any manner, for the purpose of evading the reporting requirements.”<sup>76</sup> The BSA prohibits “structur[ing] or assist[ing] in structuring” any transaction with one or more financial institutions for the purpose of evading the BSA’s reporting requirements.<sup>77</sup> The regulation implementing this provision similarly proscribes “evading the transactions in currency reporting requirements” by structuring.<sup>78</sup>

FINRA Rule 2010 requires members and associated persons to “observe high standards of commercial honor and just and equitable principles of trade.” Rule 2010 is violated when an associated person engages in unethical conduct.<sup>79</sup> “The principal consideration is whether the misconduct reflects on an associated person’s ability to comply with regulatory requirements necessary to the proper functioning of the securities industry and protection of the public.”<sup>80</sup>

Iida admits that, when he determined, on April 19, 2012, that the \$48,000 cash deposit he intended to make would trigger the federal reporting requirements, he decided to break the deposits into four cash deposits of \$10,000 and one cash deposit of \$8,000 so as to avoid triggering the reporting requirements.<sup>81</sup> The Hearing Panel finds that, by structuring cash

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258-259. ES had little incentive to misrepresent his actions, and he provided proof that he withdrew \$50,000 in cash from his bank account on April 19, 2012.

<sup>72</sup> Tr. at 247.

<sup>73</sup> Tr. at 213.

<sup>74</sup> 31 U.S.C. § 5313(a); 31 C.F.R. § 1010.311. The term “financial institution” is defined broadly and includes commercial banks, trust companies, insured banks, an agency or branch of a foreign bank in the United States, investment bankers, currency exchanges, brokers, dealers, and other institutions. 31 U.S.C. § 5312(a)(2).

<sup>75</sup> 31 C.F.R. § 1010.306(a).

<sup>76</sup> 31 C.F.R. § 1010.100(xx).

<sup>77</sup> 31 U.S.C. § 5324(a)(3).

<sup>78</sup> 31 C.F.R. § 1010.314(c).

<sup>79</sup> See *Dep’t of Enforcement v. Taylor*, No. C8A050027, 2007 NASD Discip. LEXIS 11, at \*22 (NASD NAC Feb. 27, 2007) (“[Rule 2010] is violated when a respondent engages in unethical conduct.”); *Henry E. Vail*, 52 S.E.C. 339, 342 (1995) (finding violation of NASD Rule 2110, now FINRA Rule 2010, by respondent who misappropriated the funds of the Young Professional Republicans, a club for which he served as treasurer), *aff’d* 101 F.3d 27 (5th Cir. 1996).

<sup>80</sup> *Dep’t of Enforcement v. Taylor*, 2007 NASD Discip. LEXIS 11, at \*22.

<sup>81</sup> Answer (“Ans.”) at ¶¶ 10, 11, 12; JX-2 at 2; Respondent’s Exhibit (“RX”)-4 at 4; Tr. at 228-230.



deposits to avoid federal reporting requirements, Iida acted unethically and violated FINRA Rule 2010.<sup>82</sup>

#### IV. Sanctions

FINRA's Sanction Guidelines ("Guidelines") do not include a specific guideline for violations of Rule 2010 involving structuring.<sup>83</sup> Enforcement argues that Iida's misconduct was egregious and deserving of a bar in all capacities. Enforcement contends that the importance of the prohibition against structuring to the integrity of our country's financial system must be considered in assessing sanctions. Additionally, Enforcement argues that Iida exhibited a lack of candor and evasiveness about his conduct and the sources of his cash deposits and refused to accept responsibility for his actions. Enforcement argues that these two factors are aggravating. Enforcement further argues that Iida attempted to shift blame for his actions to a bank teller and HSBC's purportedly lax AML enforcement and that these factors also are aggravating. Finally, Enforcement argues that it must be considered aggravating that Iida received AML training and nonetheless violated the BSA. Enforcement argues that no mitigating factors exist.

Iida argues that his misconduct, while significant, should not end his career in the securities industry. Iida notes that, notwithstanding Enforcement's efforts to describe him as evasive, Iida admitted to TP during the first call from HSBC Bank that he broke up deposits to avoid taking what he assumed would be a significant amount of time to complete federal forms and that he intended to make a fifth and final deposit. He notes that he offered to TP to complete the CTR and that he honestly admitted that he had made four deposits and intended to make a fifth. Her response, Iida notes, was not to tell him that he had done anything wrong or to warn him against making the fifth deposit. Rather, she suggested that it was not a problem. Iida argues that he has been forthright and honest with HSBC and FINRA. Iida takes issue with Enforcement's suggestion that he lied about the sources of the funds. Iida contends that, while none of these factors excuse his conduct, they support his position that a bar from the securities industry is an unduly harsh sanction and punitive.

The Hearing Panel concurs with prior Hearing Panel decisions that have found that structuring is a serious offense.<sup>84</sup> "A violation of the anti-structuring statute undermines the

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<sup>82</sup> See *Dep't of Enforcement v. Highland Fin., Ltd.*, No. 2011025591601, 2013 FINRA Discip. LEXIS 39, at \*38-39 (FINRA OHO Sept. 27, 2013) (finding that respondent who structured cash deposits for a client to avoid federal reporting requirements violated FINRA Rule 2010); *Dep't of Enforcement v. Trenham*, No. 2007007377801, 2010 FINRA Discip. LEXIS 15, at \*9 (FINRA OHO Mar. 18, 2010) (finding that respondent who made a conscious decision to circumvent the federal reporting requirements by breaking up cash deposits violated NASD Rule 2110, now FINRA Rule 2010); *Dep't of Enforcement v. Baker*, No. C8A010048, 2002 NASD Discip. LEXIS 40, at \*21-22 (NASD OHO Aug. 5, 2002) (finding that structuring is a violation of NASD Rule 2110, now FINRA Rule 2010).

<sup>83</sup> See *FINRA Sanction Guidelines* (2013), available at <http://www.finra.org/web/groups/industry/@ip/@enf/@sg/documents/industry/p011038.pdf>.

<sup>84</sup> See *Dep't of Enforcement v. Highland Fin., Ltd.*, 2013 FINRA Discip. LEXIS 39, at \*52 ("Structuring is quintessential suspicious financial activity."); *Dep't of Enforcement v. Trenham*, 2010 FINRA Discip. LEXIS 15, at \*17 ("In reaching the conclusion that Respondent's conduct was egregious with respect to each of the violations [including structuring], the Panel considered their common theme – an intentional refusal to follow rules with which

purposes of the federal securities laws, as set forth in the Exchange Act, because such a violation is inimical to the federal taxing power and the integrity of the national banking system.”<sup>85</sup> With this in mind, we consider the many underlying factors present here.

FINRA’s Guidelines direct us to consider whether the Respondent attempted to conceal his misconduct or mislead his member firm.<sup>86</sup> Enforcement contends that this factor is aggravating. We do not agree. We find no evidence that Iida endeavored to hide his actions from HSBC Bank or his employer. Iida went to the same HSBC Bank branch for each of the five deposits. The HSBC Bank branch was located in the lobby of his employer. He advised the teller that he wanted to deposit approximately \$48,000, and when informed by the teller that the deposit would trigger the filing of a CTR, he asked how much he could deposit without triggering the requirement. He then deposited \$10,000 immediately. He also deposited \$10,000 in the same bank once per day on several of the following days. When TP contacted Iida, he readily admitted to her that he intended to deposit \$48,000 and broke up the deposit because a teller told him that deposits in excess of \$10,000 trigger the requirement to file a CTR. He also admitted to TP that he intended to make a fifth and final deposit of \$8,000 the following day.<sup>87</sup> While this is not mitigating, it counters Enforcement’s contention that Iida refused to accept responsibility for his actions, endeavored to conceal his misconduct, or tried to mislead his employer about his misconduct. It also factors against finding Iida’s violation so egregious as to merit a bar in all capacities.

FINRA’s Guidelines direct adjudicators to consider whether Respondent attempted to delay FINRA’s investigation, conceal information from FINRA, or provide inaccurate or misleading information to FINRA.<sup>88</sup> Enforcement suggests that Iida’s Rule 8210 answers were not fully responsive and that this factor is aggravating. We do not find that Iida’s Rule 8210 responses were evasive. Between July 2012, and May 2013, Enforcement issued three sets of Rule 8210 requests for information, to which Iida timely responded.<sup>89</sup> When Enforcement sought clarification and additional information, Iida provided it. Although he was not fully forthcoming with HSBC as to the multiple sources of the cash he deposited, his answers to FINRA’s inquiries were responsive. As an associated person, he was obligated to respond to

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Respondent disagreed.”); *Dep’t of Enforcement v. Baker*, 2002 NASD Discip. LEXIS 40, at \*27 (“The seriousness of Baker’s conduct is reflected by the statutory penalty prescribed for a structuring violation – a fine in accordance with Title 18 United States Code, imprisonment for not more than five years, or both.”).

<sup>85</sup> *Dep’t of Enforcement v. Baker*, 2002 NASD Discip. LEXIS 40, at \*21.

<sup>86</sup> *FINRA Sanction Guidelines* at 6 (Principal Consideration No. 10).

<sup>87</sup> The tape recording of the telephone conversation between TP and Iida demonstrates that their conversation was very brief and that he was involved in a trade on the trading desk at the time of the call. They often talked over each other, and TP did not clearly communicate to Iida the significance to HSBC of Iida’s actions. When he, in essence, asked for permission to make his fifth and final deposit, TP responded “Okay. No problem. I’ll let them know then.” We do not suggest that TP’s response in any way excuses Iida’s actions, but it furthers our conclusion that he did not try to hide his actions from HSBC Bank or his employer.

<sup>88</sup> *FINRA Sanctions Guidelines* at 7 (Principal Consideration No. 12).

<sup>89</sup> JX-1; JX-2; JX-5; JX-6; JX-7; CX-6.

FINRA's inquiries. Thus, we do not consider his actions mitigating. We reject, however, Enforcement's argument that his actions should be considered aggravating.

There also is no evidence that Iida misled HSBC, HSBC Bank, or FINRA as to his intention to continue transferring funds to his account in Brazil in order to purchase land in Brazil. There is no evidence to contradict Iida's assertion that his ultimate purpose was to transfer as much cash as possible to Brazil to purchase property. The Hearing Panel finds that he did not attempt to mislead FINRA and HSBC on this point.

FINRA's Guidelines further direct adjudicators to consider relevant disciplinary history and whether the Respondent engaged in numerous acts of misconduct, a pattern of misconduct, or misconduct over time.<sup>90</sup> There is no disciplinary history for us to consider here, and no evidence that Iida engaged in a pattern of misconduct or that he engaged in structuring over an extended period of time or on numerous occasions. Thus, these factors do not aggravate the misconduct. Other factors that the Guidelines indicate could aggravate or mitigate Iida's misconduct include whether Iida's actions caused harm to the investing public and whether HSBC disciplined him for this misconduct.<sup>91</sup> Neither of these factors aggravate the misconduct here. There is no evidence of customer harm, and HSBC fired Iida for his actions.

We do find, however, that Iida's explanations as to the sources of his cash deposits, while not wholly inconsistent, were not fully forthcoming. For instance, during his brief conversation with TP, he said only that he had the cash available that he used for his deposits. When he met with EW, he elaborated and explained that some of the cash came from his family and some from a friend. We acknowledge that EW had difficulty recalling all of the details of Iida's statements during their meeting. It was not until Iida responded to FINRA's Rule 8210 requests, however, that he identified ES and explained that he borrowed \$50,000 from ES. We find this aggravating.

Other aggravating factors include the fact that Iida received AML training less than one year prior to the misconduct, and he should have appreciated the significance of his actions.<sup>92</sup> FINRA's Guidelines also direct us to consider whether Iida's misconduct was negligent or intentional.<sup>93</sup> Although we do not find that Iida realized that his actions may have constituted the federal offense of structuring, as evidenced by his frank representations to the HSBC teller and TP, he intentionally broke his deposits into smaller amounts to avoid federal filing requirements. We find credible his assertion that the language barrier coupled with his lack of understanding of the laws of the United States led him mistakenly to misunderstand the seriousness of structuring. But as an associated person who received AML training, he should have understood the limitations on cash deposits and complied with all requirements.

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<sup>90</sup> *FINRA Sanction Guidelines* at 6 (Principal Consideration Nos. 1, 8, 9).

<sup>91</sup> *FINRA Sanction Guidelines* at 6-7 (Principal Consideration Nos. 11, 14).

<sup>92</sup> *FINRA Sanction Guidelines* at 7 (Principal Consideration No. 15).

<sup>93</sup> *FINRA Sanction Guidelines* at 7 (Principal Consideration No. 13).

We have balanced the many factors present in this case along with our finding that Iida expressed remorse for what he admitted was a significant lapse in judgment. We are concerned about Iida's lack of understanding of the significance of a structuring violation, and we conclude that he could have and should have more fully explained the sources of the funds for his cash deposits to EW and HSBC. In light of the unique circumstances present in this case, the Hearing Panel suspends Iida from associating with any member firm in any capacity for two years.

**V. Order**

Respondent Paolo Franca Iida is suspended from associating with any member firm in any capacity for two years for violating FINRA Rule 2010 by structuring cash deposits in order to avoid federal filing requirements. Iida is also ordered to pay the costs of the hearing in the amount of \$3,049.84, which includes a \$750 administrative fee and the cost of the hearing transcript. The costs shall be payable on a date set by FINRA, but not less than 30 days after this decision becomes FINRA's final disciplinary action in this matter.

If this decision becomes FINRA's final disciplinary action, the suspension shall become effective with the opening of business on Monday, July 6, 2015, and will conclude after two full years.

**SO ORDERED.**

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Carla Carloni  
Hearing Officer  
For the Hearing Panel