

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ANDRE PODESSER ALIANCE
(CRD No. 5846053),

Respondent.

Disciplinary Proceeding
No. 2013037604801

Hearing Officer – CC

DEFAULT DECISION

September 11, 2014

Respondent falsified a customer's signature card by cutting, copying, and affixing the customer's signature from a bank document onto the signature card without the customer's authorization, in violation of FINRA Rule 2010. For this misconduct, Respondent is suspended for three months and fined \$5,000.

Appearances

Robin W. Sardegna, Esq., and Perry C. Hubbard, Esq., for FINRA's Department of Enforcement, Complainant.

No appearance by or on behalf of Andre Podesser Alliance, Respondent.

DECISION

I. Introduction

On April 30, 2014, FINRA's Department of Enforcement ("Enforcement") filed the attached Complaint with FINRA's Office of Hearing Officers. The Complaint alleges that Respondent Andre Podesser Alliance ("Alliance") falsified a bank customer's checking account signature card by affixing a copy of the customer's signature from another document to the card without the customer's knowledge or consent, in violation of FINRA Rule 2010.¹

¹ FINRA's Rules are available at www.finra.org/rules.

Enforcement served Aliance with the Complaint in accordance with FINRA's Code of Procedure, and Aliance failed to file an Answer or otherwise respond. Accordingly, on July 30, 2014, Enforcement filed a Motion for Entry of Default Decision ("Default Motion"), together with a Memorandum of Law, the Declaration of Robin Sardegna in Support of the Default Motion ("Sardegna Decl."), and four exhibits.²

For the reasons set forth below, the Hearing Officer finds Aliance in default, grants Enforcement's Default Motion, and deems the allegations of the Complaint admitted, pursuant to FINRA Rules 9215(f) and 9269(a).

II. Findings of Fact and Conclusions of Law

A. Aliance's Background

Aliance first registered with FINRA in September 2010 as a general securities representative.³ From October 2012 through June 2013, Aliance was associated with FINRA member firm J.P. Morgan Securities LLC ("J.P. Morgan") and with J.P. Morgan's affiliated bank J.P. Morgan Chase Bank, N.A. ("Chase Bank").⁴ Aliance served as a registered representative for J.P. Morgan and a relationship banker with Chase Bank.⁵ On June 12, 2013, J.P. Morgan terminated Aliance's association with J.P. Morgan and Chase Bank.⁶ J.P. Morgan reported on a Uniform Termination Notice for Securities Industry Registration ("Form U5") that its affiliated bank terminated Aliance for cutting and pasting a bank client's signature onto a bank account

² Enforcement's exhibits are labeled CX-1 through CX-4.

³ Sardegna Decl. ¶ 4; CX-1.

⁴ *Id.*

⁵ Sardegna Decl. ¶ 4. As a relationship banker, Aliance's duties included profiling customers, opening bank accounts, and referring customers as appropriate to J.P. Morgan registered representatives. Complaint ("Compl.") ¶ 5.

⁶ CX-1.

signature card.⁷ Aliance has remained unregistered and has not re-associated with a FINRA member firm.⁸

B. FINRA's Jurisdiction

FINRA has jurisdiction over this disciplinary proceeding pursuant to Article V, Section 4(a) of FINRA's By-Laws, because (1) Enforcement filed the Complaint with the Office of Hearing Officers on April 30, 2014, which is within two years of J.P. Morgan's termination of Aliance's association with the firm in June 2013; and (2) the Complaint alleges that Aliance engaged in misconduct during the period when he was associated with J.P. Morgan.⁹

C. Origin of the Investigation

Enforcement commenced an investigation of Aliance after J.P. Morgan filed a Form U5 stating that it terminated Aliance because he admitted to cutting and pasting a bank customer's signature onto a bank account signature card.¹⁰ Enforcement's investigation led to the filing of the Complaint in this matter.¹¹

D. Aliance's Default

On April 30, 2014, Enforcement served Aliance with the First Notice of Complaint and Complaint by certified mail sent to Aliance's residential address of record as indicated in the Central Registration Depository ("CRD").¹² Aliance's address in CRD was a street address in Long Island City, New York, but did not include an apartment number ("CRD Address").¹³

⁷ CX-1.

⁸ *Id.*

⁹ See Article V, Sec. 4, FINRA By-Laws, *available at* www.finra.org/rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

¹⁰ Sardegna Decl. ¶ 3.

¹¹ *Id.*

¹² Sardegna Decl. ¶ 6; CX-1.

¹³ *Id.*

Enforcement also sent a copy of the First Notice of Complaint and Complaint by first-class mail to Aliance's CRD Address and by first-class and certified mail to an address that Enforcement located through a LEXIS/NEXIS search.¹⁴ The address that Enforcement discovered during a LEXIS/NEXIS search was the same street address as Aliance's CRD Address in Long Island City, New York, but it included an apartment number ("Lexis Address").¹⁵ The United States Postal Service ("USPS") returned the certified mailings to Aliance's CRD Address and Lexis Address with the notations "Return to Sender – Unable to Forward."¹⁶ The USPS did not return the first-class mailings to Aliance's CRD Address and Lexis Address.¹⁷ Aliance's Answer to the First Notice of Complaint was due on or before May 28, 2014, but Aliance did not file an Answer or otherwise respond to the Complaint.¹⁸

On May 29, 2014, Enforcement served Aliance at the CRD Address and the Lexis Address with the Second Notice of Complaint and Complaint by certified mail.¹⁹ Enforcement also sent copies of the Second Notice of Complaint and Complaint to both addresses by first-class mail.²⁰ The USPS returned both certified mailings as unclaimed and marked with the notations "Return to Sender – Attempted Not Known – Unable to Forward."²¹ The USPS did not return the first-class mailings to Aliance's CRD Address and Lexis Address.²² Aliance's Answer

¹⁴ Sardegna Decl. ¶ 6.

¹⁵ *Id.*

¹⁶ Sardegna Decl. ¶ 7; CX-2.

¹⁷ Sardegna Decl. ¶ 7.

¹⁸ Sardegna Decl. ¶ 9.

¹⁹ Sardegna Decl. ¶ 8.

²⁰ *Id.*

²¹ Sardegna Decl. ¶ 8; CX-3.

²² Sardegna Decl. ¶ 8.

to the Second Notice of Complaint was due on or before June 16, 2014, but Aliance did not file an Answer or otherwise respond to the Complaint.²³

FINRA Rule 9134(b) provides for service of a complaint on a natural person by certified mailing to the person's residential address as indicated in the CRD. The Hearing Officer finds that Aliance received constructive notice of the Complaint in this proceeding.²⁴ Accordingly, the Hearing Officer finds that Aliance defaulted by failing to file an Answer or otherwise respond to the Complaint.

E. Improperly Affixing Customer Signature to Firm Document without Authority

In an undated, written statement to FINRA, Aliance admitted many of the facts alleged in the Complaint.²⁵ On Saturday, April 27, 2013, while employed as a relationship banker at Chase Bank, Aliance opened a checking account for customers TF and MF, a married couple.²⁶ TF and MF arrived at Aliance's Chase Bank branch close to closing time, and Aliance's manager encouraged him to complete his business with the couple by closing time.²⁷ Aliance obtained the couple's signatures on numerous account documents, and Chase Bank procedures required Aliance to scan all signed documents into the bank's system while the customers were still on the bank's premises.²⁸ But Aliance's manager was anxious to close the branch on time, so he suggested to Aliance that he wait to scan the signed documents until the following Monday.²⁹

²³ Sardegna Decl. ¶ 9.

²⁴ See *Dep't of Enforcement v. Moore*, Complaint No. 2008015105601, 2012 FINRA Discip. LEXIS 45, at *21 (FINRA NAC July 26, 2012) (finding constructive notice of a complaint served on respondent at his last known residential address, as indicated in CRD, by first-class and certified mail).

²⁵ CX-4.

²⁶ Compl. ¶¶ 6-7; CX-4.

²⁷ CX-4.

²⁸ *Id.*

²⁹ *Id.*

Aliance proceeded as his manager suggested, locked all of TF's and MF's account opening documents in his desk drawer, and allowed TF and MF to leave the branch with a packet of materials related to their new checking account.³⁰

The following Monday, April 29, 2013, Aliance realized that he did not have a signed signature card for TF's and MF's new checking account.³¹ Without a signed signature card, Chase Bank would not complete the process to open an account for TF and MF.³² Rather than ask TF and MF to return to the branch office to sign another signature card, Aliance cut TF's signature from another document that he had signed and pasted it to a new signature card.³³ Aliance drew a line through the place on the card for MF's signature because MF was not the primary account holder and her signature was not required.³⁴

Aliance thereafter scanned the account opening documents, including the signature card, for submission to Chase Bank to complete the account opening process.³⁵ TF and MF were unaware of Aliance's actions and did not consent to his cutting and pasting TF's signature.³⁶ Both J.P. Morgan's and Chase Bank's procedures prohibited Aliance's conduct.³⁷

The Hearing Officer finds that Aliance violated FINRA Rule 2010 by cutting TF's signature from a bank document and affixing it to a Chase Bank signature card without TF's authorization or knowledge. FINRA Rule 2010 requires FINRA members to observe high

³⁰ *Id.*

³¹ Compl. ¶ 7; CX-4. In Aliance's undated written statement to FINRA, he contended that TF and MF signed a signature card but, in his haste to enable the branch manager to close the branch office, he gave the signed signature card to TF and MF with other materials that he had given them. CX-4.

³² Compl. ¶ 7.

³³ Compl. ¶ 8; CX-4.

³⁴ Compl. ¶ 8.

³⁵ *Id.*

³⁶ Compl. ¶ 9.

³⁷ Compl. ¶¶ 10-11. Aliance contended in his statement to FINRA that he did not act with malicious intent and that he acted in this manner to avoid having to request that TF and MF return to the branch office. CX-4.

standards of commercial honor and just and equitable principles of trade in connection with the conduct of their business. FINRA Rule 0140 applies this requirement to associated persons such as Aliance. FINRA Rule 2010 “states a broad ethical principle” and is violated when a respondent engages in unethical conduct.³⁸ “FINRA’s authority to pursue disciplinary action for violations of FINRA Rule 2010 encompasses unethical business-related misconduct, regardless of whether the misconduct involves a security.”³⁹ The Hearing Officer finds that, by cutting and pasting TF’s signature to a Chase Bank signature card without TF’s knowledge and misrepresenting to Chase Bank that TF had personally signed the signature card, Aliance acted unethically and violated FINRA Rule 2010.⁴⁰

III. Sanctions

The FINRA Sanction Guidelines (“Guidelines”) for forgery and falsification of documents recommend a fine of \$5,000 to \$100,000 and, in cases in which mitigation exists, a suspension of up to two years.⁴¹ The Guidelines further recommend that a bar be considered in egregious cases.⁴²

The Hearing Officer does not find that Aliance’s misconduct is egregious and notes the absence of aggravating factors in this case. The Guidelines recommend consideration of the nature of the falsified documents and whether the Respondent held a good faith, but mistaken,

³⁸ *Heath v. SEC*, 586 F.3d 122, 132 (2d Cir. 2009), (citing *Benjamin Werner*, 44 S.E.C. 622 (1971)). See *Dep’t of Enforcement v. Taylor*, Complaint No. C8A050027, 2007 NASD Discip. LEXIS 11, at *22 (Feb. 27, 2007); *Dep’t of Enforcement v. Davenport*, Complaint No. C05010017, 2003 NASD Discip. LEXIS 4, at *8 (May 7, 2003).

³⁹ *Dep’t of Enforcement v. West*, Complaint No. 2009018076101, 2014 FINRA Discip. LEXIS 1, at *21 (FINRA NAC Feb. 20, 2014).

⁴⁰ See *Dep’t of Enforcement v. Vines*, Complaint No. 2006005565401, 2008 FINRA Discip. LEXIS 24, at *11 (FINRA OHO May 30, 2008) (finding violation of FINRA Rule 2010 where respondent approved the copying of customer signatures onto IRA Adoption Agreements); *Dep’t of Enforcement v. Ritchey*, Complaint No. 2006004493301, 2007 NASD Discip. LEXIS 19, at *4-5 (NASD OHO Apr. 9, 2007) (finding violation of NASD Rule 2110 where respondent affixed a customer’s signature on a distribution request form without the customer’s knowledge or consent).

⁴¹ FINRA Sanction Guidelines at 37 (2013), available at www.finra.org/Industry/Enforcement/sanctionguidelines.

⁴² *Id.*

belief as to implied authority.⁴³ Aliance obtained TF's signature on many bank documents on April 27, 2013, when TF was present in Chase Bank's branch office. Although Aliance did not have TF's permission to affix TF's signature to a new signature card, Aliance believed that he was accommodating TF by enabling TF to complete the account opening process without a second visit to the Chase Bank branch office.⁴⁴

Additionally, the Principal Considerations for Determining Sanctions recommend consideration of a variety of potentially aggravating and mitigating factors.⁴⁵ The Hearing Officer does not find that these factors aggravate Aliance's misconduct. Aliance was not motivated by financial gain, and his actions did not harm TF or any other customer.⁴⁶ Aliance did not seek to conceal his actions; rather, he freely and repeatedly admitted them during an internal Chase Bank investigation, in a written statement provided to FINRA, and during on-the-record, sworn testimony.⁴⁷ Aliance's misconduct appeared to be an isolated incident, and Enforcement found no evidence of any pattern of similar misconduct.⁴⁸

Although fabricating a customer's signature on an official document is a serious violation of FINRA rules, the Hearing Officer finds that the facts and circumstances of this case and the lack of aggravating factors warrant sanctions of a \$5,000 fine and three-month suspension in all capacities. Accordingly, Aliance is fined \$5,000 and suspended from associating with any FINRA member firm in any capacity for three months.

⁴³ *Id.*

⁴⁴ CX-4; Sardegna Decl. ¶ 14.

⁴⁵ Guidelines at 6-7.

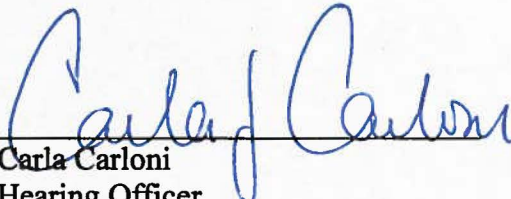
⁴⁶ CX-4; Sardegna Decl. ¶ 14.

⁴⁷ *Id.*

⁴⁸ *Id.*

IV. Order

Respondent Andre Podesser Aliance is fined \$5,000 and suspended for three months from associating with any FINRA member firm in any capacity for falsifying a customer's signature card by copying and affixing the customer's signature from another document to the signature card, in violation of FINRA Rule 2010. If this Default Decision becomes the final disciplinary action of FINRA, the suspension of Aliance shall become effective with the opening of business on Monday, October 20, 2014, and end on Monday, January 19, 2015. The fine shall be due and payable if and when Aliance re-enters the securities industry.


Carla Carloni
Hearing Officer

Copies to:

Andre Podesser Aliance (*via overnight courier and first-class mail*)
Robin W. Sardegna, Esq. (*via electronic and first-class mail*)
Perry C. Hubbard, Esq. (*via electronic mail*)
Jeffrey Pariser, Esq. (*via electronic mail*)

EXHIBIT A

FINANCIAL INDUSTRY REGULATORY AUTHORITY
OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Andre Podesser Aliance (CRD No.
5846053),

Respondent.

DISCIPLINARY PROCEEDING
No. 2013037604801

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. On or about April 29, 2013, Andre Podesser Aliance ("Aliance"), at the time a registered representative at J.P.Morgan Securities LLC ("J.P.Morgan" or "the Firm") and an employee at the Firm's affiliated bank, J.P.Morgan Chase Bank, N.A. ("J.P.Morgan Chase" or "the Bank"), cut, copied, and pasted a customer's signature from a bank document onto a bank account signature card without the customer's authorization to do so. By virtue of his conduct, Aliance violated FINRA Rule 2010.

RESPONDENT AND JURISDICTION

2. Aliance was first associated with a FINRA member firm in September 2010. He obtained his General Securities Representative (Series 7) license on September 18, 2010 and his Uniform Securities Agent (Series 63) license the following month. Aliance was registered with J.P.Morgan as a General Securities Representative from

October 2012 through June 2013. Aliance has not been registered or associated with a FINRA member firm since June 12, 2013.

3. FINRA retains jurisdiction over Aliance pursuant to Article V, Section 4(a) of FINRA's By-Laws because the complaint 1) was filed within two years after the effective date of the termination of Aliance's registration with his last firm and 2) charges him with misconduct committed while he was registered or associated with a FINRA member.

CAUSE OF ACTION

Affixing Customer Signature Without Authority (FINRA Rule 2010)

4. The Department realleges and incorporates by reference paragraphs 1 through 3 above.
5. In April 2013, Aliance was employed as a Relationship Banker at J.P. Morgan Chase. Aliance's duties as a Relationship Banker included profiling customers, opening bank accounts, and, where appropriate, referring customers interested in purchasing securities to a J.P. Morgan registered representative. He would share in any resulting commissions.
6. On Saturday, April 27, 2013, TF and MF entered Aliance's J.P.Morgan Chase branch office to open a checking account.
7. The following Monday, April 29, 2013, Aliance realized that the signature card for TF and MF's new checking account was not signed. Without a signed signature card, Aliance could not open the account.
8. To remedy the problem, instead of asking TF and MF to return to the branch, Aliance took TF's signature from another document and cut and pasted it to a new signature card he printed out for the account. Aliance accomplished this by printing out a copy

of the other document, cutting out the signature, and taping it to the signature card.

He also drew a line through the place on the signature card for MF's signature.

Because she was not the primary account holder, her signature was not necessary on the card. He then scanned the account documents, including the signature card with the inauthentic signature, into the Bank's system to complete the account opening process.

9. TF and MF had no knowledge of and did not consent to Aliance's actions.
10. This conduct was contrary to both Bank and Firm policies and procedures.
11. Aliance was aware, or should have been aware, of these procedures.
12. FINRA Rule 2010 states that a member or associated person "in the conduct of his business, shall observe high standards of commercial honor and just and equitable principles of trade."
13. By affixing TF's signature to the checking account signature card without TF's knowledge and consent, Respondent Aliance violated FINRA Rule 2010.


RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent(s) committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and,
- C. order that Respondent(s) bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330;

FINRA DEPARTMENT OF ENFORCEMENT

Date: 4/30/14



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