

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

NORMAN A. HARRIS
(CRD No. 4309293),

Respondent.

Disciplinary Proceeding
No. 2005001824501

Hearing Officer – DMF

DEFAULT DECISION

November 28, 2006

Summary

Respondent is barred from associating with any NASD member in any capacity for failing to respond to requests for information, in violation of Rules 8210 and 2110. In light of the bar, no additional sanctions are imposed for Respondent's failure to disclose outside business activities, in violation of Rules 3030 and 2110.

Appearances

Thomas K. Kilkenny, Esq., Philadelphia, PA (Rory C. Flynn, Esq., Washington, DC, and Mark Dauer, Esq., New Orleans, LA, Of Counsel), for Complainant.

No appearance by or for Respondent.

DECISION

I. Introduction

The Department of Enforcement filed the attached Complaint on April 19, 2006, alleging that Respondent Norman A. Harris failed to disclose outside business activities to his employer firm, in violation of Rules 3030 and 2110, and failed to respond to requests for information, in violation of Rules 8210 and 2110. Respondent did not file an

Answer to the Complaint. On July 14, 2006, Enforcement filed a motion for a default decision, supported by the declaration of Thomas K. Kilkenny and six exhibits.

Respondent did not reply to the motion.¹

II. Respondent's Default

Enforcement sent the Complaint and Notice of Complaint to Respondent on April 17, 2006, by regular and certified first class mail to Respondent's most current residential address listed in the Central Registration Depository (the CRD address). Enforcement sent the Complaint and Second Notice of Complaint to Respondent on May 22, 2006, by regular and certified first class mail to the CRD address. Respondent did not file an Answer or otherwise respond to the Complaint.

Enforcement served the Complaint and the Notices of Complaint on Respondent in accordance with Rule 9134, giving him constructive notice of this proceeding. By failing to respond, he defaulted. Pursuant to Rule 9269, the Hearing Officer will deem the allegations in the Complaint admitted.

III. Jurisdiction

Respondent was registered as an Investment Company and Variable Contracts Products Limited Representative through Wachovia Securities, LLC from December 2000 until June 2005. Although Respondent has not been associated with any NASD member since then, he remains subject to NASD jurisdiction for purposes of this proceeding, pursuant to Art. V, § 4 of NASD's By-Laws, because the Complaint was filed within two years after the termination of his registration, and it charges him with misconduct while

¹ The factual determinations in this decision are based on the allegations of the attached Complaint, which are deemed admitted, and the additional materials filed by Enforcement with its motion.

he was registered and with failing to provide information requested during that two-year period.

IV. Violations

The first cause of the Complaint alleges that beginning in or about April 2003 and continuing until at least April 2005, Respondent provided bill payment and other business-related services for a Wachovia Bank customer in connection with the customer's real estate investments and his accounts at Wachovia Bank, and received approximately \$24,000 total compensation from the customer for these services. Respondent failed to provide Wachovia Securities with prompt written notice of this outside business activity.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent violated Rules 3030 and 2110.

The second cause of the Complaint alleges that on or about November 17, 2005, in the course of its investigation of the circumstances described in the first cause, NASD staff sent Respondent a request for information, pursuant to Rule 8210, by certified and regular first-class mail to his CRD address. On or about November 30, 2005, Respondent telephoned NASD staff and stated that he would not cooperate further with NASD's inquiries. Nevertheless, the staff sent Respondent additional Rule 8210 requests for information on or about December 2 and December 14, 2005, by certified and regular first-class mail to his CRD address. Because the requests were sent to his CRD address, Respondent is deemed to have received them, but he failed to provide the requested information.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to respond to requests for information, in violation of Rules 8210 and 2110.

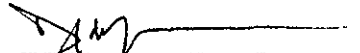
V. Sanctions

For failing to respond to requests for information, the Guidelines recommend a bar. NASD Sanction Guidelines at 35. There is no evidence of any mitigating facts that would support a lesser sanction. Enforcement suggests that a suspension and a fine would be appropriate sanctions for Respondent's failure to disclose his outside business activities. Although the Hearing Officer agrees, in light of the bar such sanctions would serve no remedial purpose. Accordingly, no separate sanctions will be imposed for that violation.

VI. Conclusion

Respondent Norman A. Harris is barred from associating with any NASD member in any capacity for failing to respond to requests for information, in violation of Rules 8210 and 2110. The bar will be effective immediately if this decision becomes NASD's final disciplinary action.

SO ORDERED.


David M. FitzGerald
Hearing Officer

Copies to: Norman A. Harris (*via overnight courier and first class mail*)
Thomas K. Kilkenny, Esq. (*via electronic and first class mail*)
Mark Dauer, Esq. (*via electronic and first class mail*)
Rory C. Flynn, Esq. (*via electronic and first class mail*)

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT

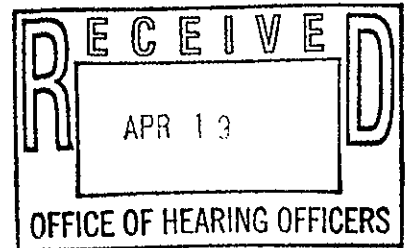
Complainant

v.
Norman A. Harris
CRD No. 4309293

Respondent

Disciplinary Proceeding
No. 2005001824501

Hearing Officer—



COMPLAINT

Complainant, upon information and belief, alleges that:

1. Norman A. Harris, during the period from December 19, 2000 to May 20, 2005, was associated with Wachovia Securities, LLC ("Wachovia Securities") and was registered with NASD as a Representative. Since then, he has not been associated with any other member of NASD or registered in any capacity.
2. NASD retains jurisdiction over Norman A. Harris pursuant to Article V, Section 4 of NASD's By-Laws.

FIRST CAUSE OF COMPLAINT

Undisclosed Outside Business Activities
NASD Conduct Rules 3030 and 2110

3. Paragraphs 1 and 2, above, are realleged and incorporated herein by reference.

4. During the period of his association with Wachovia Securities, Norman A. Harris was dually employed by its affiliate, Wachovia Bank, N.A. ("Wachovia Bank").
5. Wachovia Securities' procedures required all Representatives to obtain the "written approval of the Regional Manager and the Conflict of Interest Committee, if necessary" before engaging in any "outside business activity." The term "outside business activity" was defined to include, inter alia, "Any other involvement that receives compensation of any kind for services rendered, or for ownership." The procedures required the Representative to complete an Outside Business Activity Form and submit it to the Regional Manager to be approved and forwarded to Compliance for review and approval. "Only then will any outside business activity request be permitted."
6. At no time did Norman A. Harris submit any Outside Business Activity Form to Wachovia Securities.
7. In or about April 2003, Norman A. Harris entered into an oral agreement with A.A., a customer of Wachovia Bank, to perform, for compensation, bill payment and other business-related services for him in connection with his real estate investments and his accounts with Wachovia Bank.
8. During the following two-year period, until at least April 2005, Norman A. Harris performed such services for A.A. and received approximately \$24,000.00 from A.A. total compensation.
9. Norman A. Harris failed to provide to Wachovia Securities the prompt written notice of such outside business activities and compensation in the form required by the firm and as otherwise required by NASD Conduct Rule 3030. Indeed, he failed to provide the firm with any written notice.
10. The aforesaid conduct constitutes violations by Norman A. Harris of NASD Conduct Rules 3030 and 2110.

SECOND CAUSE OF COMPLAINT

Failure to Provide Information NASD Procedural Rule 8210 and Conduct Rule 2110

11. Paragraphs 1 and 2, above, are realleged and incorporated herein by reference.
12. On or about November 17, 2005, the staff of NASD sent written notice to Norman A. Harris pursuant to NASD Procedural Rule 8210 requiring him to provide by December 2, 2005 information concerning payments received by him from A.A. The notice stated that it was made pursuant to NASD Rule 8210 and warned that failure to comply could result in disciplinary action. The notice was sent by certified mail and by first class mail to [REDACTED] the address maintained for him by the Central Registration Depository (the "CRD address"). Neither the certified mailing nor the first class mailing were returned to the District Office, nor was a delivery receipt received for the certified mailing.
13. On or about November 30, 2005, Norman A. Harris telephoned the NASD examiner and stated to her that he would not cooperate further with NASD's inquiries.
14. On or about December 2, 2005, the staff of NASD sent written notice to Norman A. Harris pursuant to NASD Procedural Rule 8210 requiring him to provide by December 12, 2005 information concerning payments received by him from A.A. The notice stated that it was made pursuant to NASD Rule 8210, warned that failure to comply could result in disciplinary action, and enclosed a copy of the notice of November 17, 2005. The notice was sent by certified mail and by first class mail to the CRD address. A certified mail delivery receipt signed "Lynnette Harris" reflects delivery of the notice on December 5, 2005. The first class mailing was not returned to the District Office.
15. On or about December 14, 2005, the staff of NASD sent written notice to Norman A. Harris pursuant to NASD Procedural Rule 8210 requiring him to provide by December 28, 2005 information concerning payments received by him from A.A. The notice stated that it was made pursuant to NASD Rule 8210 and warned that

failure to comply could result in disciplinary action, and enclosed copies of the November 17 and December 2, 2005 notices. The notice was sent by certified mail and by first class mail to the CRD address. The certified mailing was returned to the District Office marked "unclaimed, unable to forward." The first class mailing was not returned.

16. Norman A. Harris did not provide the information requested in the above notices.
17. The staff of NASD is not aware of a more current residential address or a business address for Norman A. Harris.
18. The aforesaid conduct constitutes violations of NASD Procedural Rule 8210 and Conduct Rule 2110 by Norman A. Harris.

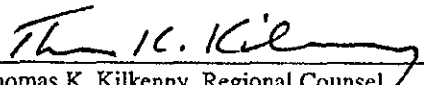
PRAYER FOR RELIEF

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 requiring Respondent to disgorge fully any and all ill-gotten gains, together with interest;
- D. An order imposing such costs of any proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330; and
- E. An order imposing any other fitting sanction.

NASD DEPARTMENT OF ENFORCEMENT

Dated: April 17, 2006


Thomas K. Kilkenny, Regional Counsel
John M. D'Amico, Regional Chief Counsel
NASD Department of Enforcement
1835 Market Street, 19th Floor
Philadelphia, Pennsylvania 19103
Phone (215) 665-1180; Fax (215) 496-0434

NASD District Director

John P. Nocella
Senior Vice President
and District Director
NASD, District 9
1835 Market Street, 19th Floor
Philadelphia, Pennsylvania 19103
Phone (215) 665-1180; Fax (215) 496-0434

Of Counsel

Rory C. Flynn, Of Counsel
NASD Department of Enforcement
1801 K Street, N.W., Suite 800
Washington, D.C. 20006
Phone (202) 974-2974; Fax (202) 721-8318

Roger D. Hogoboom, Of Counsel
NASD Department of Enforcement
370 17th Street, Suite 2900
Denver, Colorado 80202
Phone (303) 446-3114; Fax (303) 620-9540