

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

MAUREEN C. SULLIVAN
(CRD No. 2192738),

Respondent.

Disciplinary Proceeding
No. 2005002129901

Hearing Officer – DMF

DEFAULT DECISION

January 3, 2007

Summary

Respondent is barred from associating with any NASD member in any capacity for failing to disclose a felony grand theft charge and guilty plea on her Form U-4, in violation of Rule 2110; failing to update her Form U-4 to disclose state regulatory actions, in violation of Rule 2110; and failing to appear and give testimony, in violation of Rules 8210 and 2110.

DECISION

I. Introduction

The Department of Enforcement filed the attached Complaint on September 5, 2006, alleging that Respondent Maureen C. Sullivan failed to disclose a felony grand theft charge and guilty plea on her Form U-4, in violation of Rule 2110; failed to update her Form U-4 to disclose state regulatory actions, in violation of Rule 2110; and failed to appear and give testimony, in violation of Rules 8210 and 2110. Respondent did not file an Answer to the Complaint. On December 1, 2006 Enforcement filed a motion for entry

of a default decision, and on December 4, 2006, Enforcement filed a revised motion for entry of a default decision. Respondent did not file any response to either motion.¹

II. Respondent's Default

Enforcement sent the Complaint and Notice of Complaint to Respondent on September 1, 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 October 5, 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 her constructive notice of this proceeding. By failing to respond, she defaulted. Pursuant to Rule 9269, the Hearing Officer will deem the allegations in the Complaint admitted.

III. Jurisdiction

In 1992, Respondent became registered as a General Securities Representative through NASD members IDS Life Insurance Company and American Express Financial Advisors, which subsequently became Ameriprise Financial Services Inc. Her registrations through IDS and Ameriprise were terminated on July 27, 2005. Although Respondent has not been associated with any NASD member since then, she remains subject to NASD jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of NASD's By-Laws, because the Complaint was filed within two years after

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 in support of its motion.

the termination of her registration, and it charges her with misconduct while she was an associated person and with failing to provide information requested during the two-year period following the termination of her registration.

IV. Violations

The first cause of the Complaint alleges that when Respondent first became associated with IDA and Ameriprise in 1991, she completed and submitted the required Uniform Application for Securities Industry Registration and Transfer (Form U-4). Among other things, the Form U-4 required that Respondent disclose whether she had ever been charged with or had ever pled guilty to a felony. Respondent willfully failed to disclose on the Form U-4 that she was charged with felony grand theft third degree in Orange County, Florida in January 1989, and that she pled guilty to that charge in February 1989. These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to disclose material information on her Form U-4, in violation of Rule 2110. Furthermore, Respondent should have known that the felony grand theft charge and her guilty plea were material facts that she was required to disclose when completing her Form U-4; therefore, the Hearing Officer finds that her failure to disclose the charge and guilty plea was willful.

The second cause of the Complaint alleges that Respondent failed to update her Form U-4 to disclose that on March 16, 2005, the Florida Department of Financial Services (FDFS) entered a Consent Order against her, pursuant to a "Settlement Stipulation for Consent Order" that alleged that Respondent made a material misstatement on her application for Florida insurance licensure by failing to disclose her February 1989 guilty plea. Pursuant to the Consent Order, Respondent was assessed a

\$750 administrative penalty and placed on probation for one year. Respondent failed to pay the penalty, and on June 1, 2005, FDFS entered an Order of Suspension suspending her Florida insurance license for 60 days for violating the Consent Order. Pursuant to Article V, Section 2(c) of NASD's By-Laws, Respondent was required to file an amendment to her Form U-4 disclosing these actions by FDFS within 30 days.

Nevertheless, Respondent failed to amend her Form U-4 to disclose the FDFS actions.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to update her Form U-4 to disclose material information, in violation of Rule 2110.

The third cause of the Complaint alleges that by letter dated January 23, 2006, NASD staff requested, pursuant to Rule 8210, that Respondent appear at NASD's Atlanta office on February 15, 2006, and give on-the-record (OTR) sworn testimony regarding the issues referenced in the first two causes of the Complaint. On January 25, 2006, the staff received by facsimile a request from Respondent that her OTR be taken in the Boston area. Although the staff left voicemail messages for Respondent on January 27 and February 2, 2006, requesting that she contact the staff regarding her request, Respondent did not return the calls.

On February 14, 2006, the day before the scheduled OTR, Respondent left a message for the staff requesting that her testimony be rescheduled because she had pneumonia. In reply, the staff left a message for Respondent asking her to contact the staff within one week to rescheduled her OTR for a time within the following three weeks. Not having heard from Respondent, on February 21, 2006, the staff left another message for Respondent. The staff finally spoke to Respondent on February 22, at which

time Respondent told the staff that she had no desire to reenter the securities industry and had sold her securities business. She refused to set a date for her OTR.

By letter dated February 23, 2006, sent to Respondent at her CRD address, the staff again requested, pursuant to Rule 8210, that she appear for an OTR on March 3, 2006 at NASD's Atlanta office. Respondent did not appear for the OTR on March 3.

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

V. Sanctions

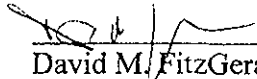
In egregious cases, the Sanction Guidelines recommend consideration of a bar for filing a false Form U-4 or for failing to amend a Form U-4. NASD Sanction Guidelines at 74 (2006). In this case, Respondent failed to disclose on her initial Form U-4 that she had been charged and had pled guilty to felony theft, and she failed to amend her Form U-4 to disclose that she had been disciplined by Florida for failing to disclose the guilty plea. Both of these violations were highly egregious and warrant a bar. 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; on the contrary, Respondent expressly refused to appear and provide testimony.

VI. Conclusion

Respondent Maureen C. Sullivan is barred from associating with any NASD member in any capacity for willfully failing to disclose a felony grand theft charge and guilty plea on her Form U-4, in violation of Rule 2110; willfully failing to amend her Form U-4 to disclose state regulatory actions, in violation of Rule 2110; and failing to

appear and provide testimony, in violation of Rules 8210 and 2110. The bar will be effective immediately if this decision becomes NASD's final disciplinary action.²

SO ORDERED.

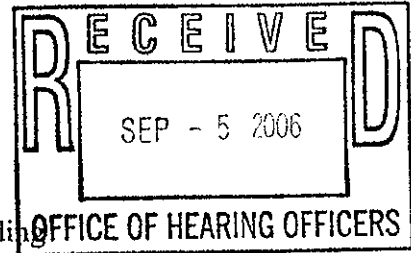


David M. FitzGerald
Hearing Officer

Copies to: Maureen C. Sullivan (*via overnight courier and first class mail*)
 Gene E. Carasick, 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*)

² Because Respondent's failure to disclose material information regarding her criminal record in her Form U-4 was willful, she is subject to a "disqualification" pursuant to Article III, Section 4(f) of NASD's By-Laws.

**NASD
OFFICE OF HEARING OFFICERS**



Department of Enforcement,

Complainant,

v.

Maureen C. Sullivan,
CRD No. 2192738

Respondent.

Disciplinary Proceeding
No. 2005002129901

Hearing Officer:

COMPLAINT

Upon information and belief, Complainant alleges as follows:

1. Respondent Sullivan became employed by NASD members IDS Life Insurance Company ("IDS") and American Express Financial Advisors ("AEFA") (now known as Ameriprise Financial Services Inc.) in November 1991. She became registered, as a general securities representative, in May 1992 with both AEFA and IDS. Her employment was terminated by AEFA and IDS on July 21, 2005, and her registrations were terminated by NASD on July 27, 2005. NASD retains jurisdiction over Sullivan pursuant to Article V, Section 4 of NASD Bylaws.

FIRST CAUSE OF COMPLAINT

Failure to Disclose Felony Record

NASD Conduct Rule 2110; NASD Membership and Registration Rule IM-1000-1; Article V, Section 2 of the NASD Bylaws.

2. Beginning in November 1991, when Respondent Sullivan submitted her initial Uniform Application for Securities Industry Applications (Forms U-4) to become registered with AEFA and IDS, Respondent Sullivan willfully failed to disclose on her Forms U-4 that she

had been charged with felony grand theft third degree in Orange County, Florida, in January 1989, and had pled guilty to that charge in February 1989, both of which are material facts.

3. Respondent Sullivan's failure to disclose on her Forms U-4 the felony charge and guilty plea referenced above constitutes separate and distinct violations of NASD Conduct Rule 2110, NASD Membership and Registration Rule IM-1000-1, and Article V, Section 2 of the NASD Bylaws by Respondent Sullivan.

SECOND CAUSE OF COMPLAINT

Failure to Disclose State Regulatory Consent Order/Suspension Order NASD Conduct Rule 2110; NASD Membership and Registration Rule IM-1000-1; Article V, Section 2 of the NASD Bylaws.

4. Respondent Sullivan willfully failed to amend her Forms U-4 with AEFA and IDS to disclose, in response to Disclosure Question 14D(1)(a), (b), or (d), that on March 16, 2005, the Florida Department of Financial Services (FDFS) entered a Consent Order against her, pursuant to a "Settlement Stipulation for Consent Order" dated February 18, 2005. The "Settlement Stipulation for Consent Order" alleges that Respondent Sullivan made a material misstatement on a February 12, 2003, application for insurance licensure by failing to disclose her guilty plea to the charge described in the First Cause of Complaint. Pursuant to the Consent Order, Sullivan was assessed an administrative penalty of \$750 and placed on probation for one year.
5. Respondent Sullivan failed to pay the administrative penalty and on June 1, 2005, FDFS entered an Order of Suspension against Sullivan, suspending her insurance license in Florida for 60 days for violating the Consent Order. Thereafter, Sullivan's insurance license could be reinstated only upon written request by Sullivan and conditioned upon Sullivan's compliance

with the terms of the Consent Order and the suspension. Sullivan never applied to have her license reinstated.

6. Respondent Sullivan willfully failed to amend her Forms U-4 with AEFA and IDS to disclose that her Florida insurance license had been suspended, as required by Disclosure Question 14D(1)(e).
7. Respondent Sullivan's failure to amend her Forms U-4 to disclose the Florida Consent Order and the suspension of her Florida insurance license, both of which are material facts, constitutes separate and distinct violations of NASD Conduct Rule 2110, NASD Membership and Registration Rule IM-1000-1, and Article V, Section 2 of the NASD Bylaws by Respondent Sullivan.

THIRD CAUSE OF COMPLAINT
Failure to Appear to Give Testimony
NASD Conduct Rule 2110 and Procedural Rule 8210

8. By letter dated January 10, 2006, sent via first class and certified mail to Respondent Sullivan's CRD residential address [REDACTED] the NASD staff requested Sullivan to contact it to set a date and time to take her testimony regarding the issues referenced in the first two causes of complaint, as well as other allegations that had been made against Sullivan. In the letter, Sullivan was advised that if she did not respond, the staff would set the testimony without her input.
9. Having received no response from Respondent Sullivan, by letter dated January 23, 2006, sent via first class and certified mail to Sullivan's CRD residential address, the staff requested Sullivan, pursuant to NASD Rule 8210, to appear to give sworn testimony at the NASD Atlanta office on February 15, 2006, at 2 PM. The certified mailing was returned by the Postal Service, marked "unclaimed"; the first class mailing was not returned.

10. On January 25, 2006, the staff received a fax from Respondent Sullivan in which she requested that her testimony be taken in the Boston area. The staff left voicemail messages for Sullivan on January 27, 2006, and February 2, 2006, requesting that she contact the staff regarding her request. Sullivan did not return the staff's calls.
11. Accordingly, by letter dated February 3, 2006, the staff, pursuant to Rule 8210, reconfirmed the date and time for Respondent Sullivan's February 15 testimony in Atlanta. The certified mailing letter was returned by the Postal Service, marked "unclaimed"; the first class mailing was not returned. On February 9, 2006, the staff also left a voicemail message for Sullivan reminding her of the February 15 testimony.
12. On February 14, 2006, the day before her scheduled testimony, Sullivan left a message for the staff requesting that her testimony be rescheduled because she had pneumonia. In reply, the staff left a message for Sullivan the same day asking her to contact the staff within one week to reschedule her testimony for a time within the following three weeks.
13. Not having heard from Respondent Sullivan, on February 21, 2006, the staff once again left a voicemail message for Sullivan to contact it to set another date and time for her testimony. The staff spoke with Sullivan on February 22, 2006. Sullivan told the staff that she had no desire to re-enter the securities industry and had sold her securities business. She stated she had received all of the NASD's correspondence, but did not pick up the certified letters because it was inconvenient. Sullivan refused to set a date for her testimony to be taken.
14. By letter dated February 23, 2006, sent to Respondent Sullivan's CRD residential address via certified and first class mail, the staff requested Sullivan, pursuant to Rule 8210, to appear for testimony on March 3, 2006, at 11 AM at the NASD Atlanta office. The certified letter

was returned by the Postal Service, marked "unclaimed"; the first class letter was not returned.

15. Respondent Sullivan did not appear for the March 3, 2006, testimony.
16. Respondent Sullivan's failure to appear to give testimony on March 3, 2006, constitutes separate and distinct violations of NASD Conduct Rule 2110 and Procedural Rule 8210 by Respondent Sullivan.

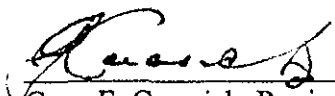
PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent Sullivan committed the violations charged and alleged herein; that the failure to disclose her criminal and regulatory history on her Form U-4 was willful; and that the omitted facts were material.
- 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.

September 1, 2006

NASD Department of Enforcement


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