

NASD OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

HUNTER SCOTT SINGER
(CRD No. 2236147),

Respondent.

Disciplinary Proceeding
No. 20050023167-01

DEFAULT DECISION

Hearing Officer – SNB

October 24, 2006

Respondent is barred from associating with any NASD member in any capacity for failing to provide requested information, in violation of Rules 8210 and 2110.

Appearances

Lara C. Thyagarajan, Esq., New York, NY, (Rory C. Flynn, Esq., of Counsel, Washington, DC), for the Department of Enforcement.

No appearance by Respondent.

DECISION

I. Background

On May 31, 2006, the Department of Enforcement (“Enforcement”) filed a one-cause Complaint in this proceeding, attached to this Decision as Exhibit A. The Complaint alleges that Hunter Scott Singer (“Respondent”) violated Rules 8210 and 2110 by failing to respond to NASD Staff requests for information.

Respondent did not file an Answer to the Complaint. Accordingly, on August 24, 2006, Enforcement filed a motion for entry of default decision, supported by the Declaration of Lara C. Thyagarajan and 19 exhibits. Respondent did not file a response to the motion.

For the reasons set forth below, Enforcement's motion is granted.¹

II. Respondent's Default

On May 30, 2006, Enforcement served the Complaint and Notice of Complaint on Respondent by first-class and certified mail, to Respondent's current residential address as reflected in the Central Registration Depository (the CRD address), as well as three other addresses obtained by Enforcement. Respondent did not file an Answer. In the same manner, on July 28, 2006, Enforcement served the Complaint and Second Notice of Complaint. Respondent again did not file an Answer.

Enforcement complied with Rule 9134(b)(1) by mailing the Complaint and Notices of Complaint to Respondent's CRD address, thereby giving Respondent constructive notice of this proceeding. By failing to file an Answer, Respondent defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), the allegations in the Complaint are deemed admitted.

III. Jurisdiction

Respondent was first registered with NASD in May 1992. From September 2000 to April 2006, he was registered as a General Securities Representative with NASD member firm May Davis Group ("MDG"). Respondent is not currently associated with a member firm.

Although Respondent is not currently associated with a member firm, NASD has jurisdiction to bring this proceeding, pursuant to Art. V, § 4 of NASD's By-Laws, because the Complaint charges Respondent with failing to comply with requests for information while he was registered, and the Complaint was filed within the two-year period following termination of his last registration.

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

IV. Violation - Failure to Respond

The Complaint alleges that, on October 6, 2005, NASD Staff mailed Respondent a request for information pursuant to Rule 8210, concerning, among other things, any outside business activities or private securities transactions during his tenure at MDG. The letter also requested Respondent's 2003 and 2004 tax returns. The request was mailed to Respondent's CRD Address, as well as his work address at MDG (the "Work Address").

On October 20, 2005, the deadline for a response, Enforcement received a letter from Respondent, stating that he needed about ten days before he could respond, because he was dealing with personal matters in Florida, preparing for a possible hurricane.

On November 3, 2005, in the same manner, NASD Staff sent Respondent a second request for the same information requested in the October 6, 2005 letter. NASD Staff also sent the request to a third address in New York (the "New York" Address). In the same manner, the Staff sent a third request for information on December 1, 2005.

The record contains a November 14, 2005, letter from Respondent to Enforcement, responding to Enforcement's above referenced requests. While it is unclear as to whether Enforcement received this letter on or about November 14, 2005, it is undisputed that the letter was attached to a December 12, 2005, letter that Enforcement did receive on December 13, 2005. Enforcement contends that while the letter did respond to its requests for information, Respondent still violated Rule 8210 because the response did not include the requested tax returns. However, the letter stated that Respondent's accountant had not yet completed returns for 2002 and 2003.² Given this, the Hearing Officer is unwilling to conclude, on the record before her, that Respondent

² The NASD Staff requested 2003 and 2004 tax returns. Given that the 2002 and 2003 returns had not been finalized, the Hearing Officer was unwilling to assume that the 2004 return was available but not produced.

failed to respond to Enforcement's first three requests for Respondent's tax returns in violation of Rule 8210.

However, Respondent did fail to respond to NASD Staff's December 30, 2005, and January 23, 2006, letters requesting new information concerning Respondent's relationship, if any, with a particular entity. These requests were sent by first-class and certified mail to Respondent's CRD Address, Work Address, New York Address, and an additional address in Florida. The Staff served the requests in accordance with Rule 8210(d), and therefore Respondent is deemed to have received them. Respondent did not respond.

Rule 8210 authorizes NASD to require any person subject to its jurisdiction to provide information related to any matter under investigation. The Rule serves as a key element in NASD's oversight function and allows NASD to carry out its regulatory functions without subpoena power.³ Here, although Respondent received valid constructive notice of the Staff's requests,⁴ he failed to respond to them. Respondent thereby violated Rules 8210 and 2110.

V. Sanctions

A bar is standard for failure to provide requested information.⁵ Respondent's compliance with earlier requests, does not mitigate his failure to comply with later

³ See, e.g., Dep't of Enforcement v. Valentino, No. FPI010004, 2003 NASD Discip. LEXIS 15, at *12 (N.A.C. May 21, 2003), aff'd, 2004 SEC LEXIS 330 (Feb. 13, 2004) ("It is well established that because NASD lacks subpoena power over its members, a failure to provide information fully and promptly undermines NASD's ability to carry out its regulatory mandate.") (citation omitted); Joseph G. Chiulli, Exch. Act Rel. No. 42,359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000) (noting that Rule 8210 provides a means for the NASD effectively to conduct its investigations, and emphasizing that NASD members and associated persons must fully cooperate with requests for information).

⁴ See, David I. Cassuto, Exch. Act Rel. No. 48,087, 2003 SEC LEXIS 1496, at *9 (June 25, 2003).

⁵ NASD Sanction Guidelines ("Guidelines") at 35 (2006 ed.).

requests.⁶ There is no evidence of any mitigating circumstances that would justify a lesser sanction for these violations. Therefore, Respondent is barred from associating with any NASD member in any capacity.

VI. Conclusion

For failure to provide requested information, in violation of Rules 8210 and 2110, Respondent is barred from associating with any NASD member in any capacity. The bar shall become effective immediately if this Decision becomes the final disciplinary action of NASD.

SO ORDERED.


Sara Nelson Bloom
Hearing Officer

Copies to:

Hunter Scott Singer (*via certified and first-class mail*)
Lara C. Thyagarajan, Esq. (*via electronic and first-class mail*)
Rory C. Flynn, Esq. (*via first-class mail*)
Mark P. Dauer, Esq. (*via first-class mail*)

⁶ See, e.g., Dep't of Enforcement v. Sahaj, No. C9B020032, 2006 NASD Discip, LEXIS 2 (N.A.C. March 2, 2006), appeal docketed, Admin. Proceeding No. 3-11652R (SEC, March 26, 2006); Robert Fitzpatrick, Exch. Act Rel. No 44956, 2001 SEC LEXIS 2185, at *24-25 (Oct. 19, 2001).

EXHIBIT A

**NASD
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Respondent.

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No. 20050023167-01

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COMPLAINT

Upon information and belief, the Department of Enforcement ("Complainant") alleges that:

JURISDICTION

1. Respondent Hunter Scott Singer ("Respondent") first became registered with NASD as a General Securities Representative (GSR) on May 11, 1992.
2. Subsequently, Respondent was registered as a GSR with NASD through various member firms.
3. From September 19, 2000 to April 3, 2006, Respondent was registered with NASD as a GSR through former member firm May Davis Group (BD No. 35622) ("MDG").
4. On April 3, 2006, MDG filed a Uniform Request for Broker-Dealer Withdrawal ("Form BDW"). Respondent's registration with MDG was terminated on that same date as a result of MDG's filing of the Form BDW.
5. Currently, Respondent is not associated with any member firm. However, NASD retains jurisdiction over Respondent pursuant to Article V, Section 4 of its By-Laws.

FIRST CAUSE OF COMPLAINT
(Failure to Respond)
(Violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110)

6. Paragraphs 1 through 5 are re-alleged and incorporated herein by reference.

First Request

7. On October 6, 2005, the Staff of NASD District 10 (the "Staff") sent Respondent a letter (the "October 6th Letter") requesting that he provide information concerning, among other things, any outside business activities or private securities transactions he had been engaged in while associated with MDG. The Staff also requested copies of Respondent's personal income tax returns for 2003 and 2004.
8. This request was made pursuant to, and in accordance with, Rule 8210 and required a response by October 20, 2005. The letter was sent via regular mail to Respondent's current residential address as reflected in the records of the Central Registration Depository ("CRD"), [REDACTED] (the "CRD Address"), as well as to Respondent's work address at MDG as reflected in the records of CRD, 14 Wall Street, New York, New York 10005 (the "Work Address").
9. The letter to the CRD Address was returned as undeliverable.
10. On October 20, 2005, the Staff received a response letter from Respondent stating that he was in South Florida on personal matters and that he would respond to the Staff's requests when he returned to New York approximately ten days later. This letter appeared to have been sent from [REDACTED] (the "Palm Beach Address").

11. The Staff did not receive a substantive response from Respondent. Respondent did not respond to the Staff's questions or provide the requested tax returns.

Second Request

12. On November 3, 2005, the Staff again requested that Respondent provide the same information requested in the October 6th Letter. This request was made pursuant to, and in accordance with, Rule 8210 and required a response by November 14, 2005. This letter was sent via certified mail and regular mail to the CRD Address, Work Address, and an additional address that the Staff obtained for Respondent: [REDACTED] (the "82nd Street Address").

13. The letters sent to Respondent's CRD Address were returned as undeliverable. The certified letter sent to the 82nd Street Address was returned as unclaimed. The certified letter sent to the Work Address was signed for by an MDG employee.

Third Request

14. On December 1, 2005, the Staff made a third request to Respondent for the same information made in the first and second requests. This request was made pursuant to, and in accordance with, Rule 8210 and required a response by December 12, 2005. The third request was sent via certified mail and regular mail to the CRD Address, Work Address, and 82nd Street Address. All the letters, except the letter addressed to the Work Address, were returned as either unclaimed or undeliverable.

15. On December 13, 2005, the Staff received a letter from Respondent stating that he had already responded to earlier requests. This letter enclosed Respondent's October 20th letter as well as a letter addressed to the Staff from Respondent dated November 14, 2005. The November 14th letter responded, in part, to the Staff's inquiries but did not include copies of Respondent's tax returns.
16. The November 14th letter appeared to have been sent from the Palm Beach Address.

Fourth Request

17. On December 30, 2005, the Staff sent a request to Respondent stating that his November 14th response was incomplete as it had not included copies of his tax returns. Additionally, the Staff made new requests for information concerning Phoebe Holdings and Respondent's relationship, if any, to that entity.
18. This request was made pursuant to, and in accordance with, Rule 8210 and required a response by January 16, 2006. This letter was sent via certified and regular mail to the CRD Address, Work Address, 82nd Street Address, and the Palm Beach Address. With the exception of the letters addressed to the Work Address, all other letters were returned as undeliverable.
19. The Staff did not receive a response from Respondent.

Fifth Request

20. On January 23, 2006, the Staff again requested that Respondent provide information and documents in response to the December 30, 2005 letter.
21. This request was made pursuant to, and in accordance with, Rule 8210 and required a response by February 3, 2006. This letter was sent via certified mail

and regular mail to the CRD Address, 82nd Street Address, Work Address, and Palm Beach Address. The letter sent to the Work Address was signed for by an MDG employee. The letter to the Palm Beach Address was signed for by a person identified only as Lisette.

22. The Staff did not receive a response from Respondent.

By reason of the foregoing, Respondent violated NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

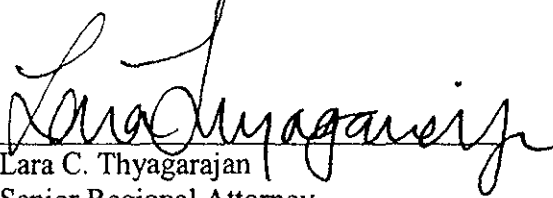
PRAYER FOR RELIEF

WHEREFORE, Complainant respectfully requests:

- A. Findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;
- B. An order imposing sanctions upon Respondent in accordance with NASD Procedural Rule 8310;
- C. An order imposing such costs of any proceedings as are deemed fair and appropriate under the circumstances in accordance with NASD Procedural Rule 8330; and
- D. An order imposing any other fitting sanction.

Dated: May 30, 2006

DEPARTMENT OF ENFORCEMENT



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