

FINANCIAL INDUSTRY REGULATORY AUTHORITY¹
OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

RONNIE BEN-ARON
(CRD No. 2980331),

Respondent.

Disciplinary Proceeding
No. 2006005730201

DEFAULT DECISION

Hearing Officer – SW

Date: November 26, 2007

Respondent was barred for violating NASD Procedural Rule 8210 and NASD Conduct Rule 2110 by failing to appear for an on-the-record interview and failing to respond to requests for information issued by the FINRA staff. No separate sanction was imposed for Respondent's violation of NASD Conduct Rule 2110 and IM-1000-1, when he willfully failed to disclose on his Form U-4 that a civil judgment had been filed against him.²

Appearances

David F. Newman, Esq., Regional Counsel, Philadelphia, PA, for the Department of Enforcement.

No appearance by or for Respondent Ronnie Ben-Aron.

DECISION

I. Introduction

On May 31, 2007, the FINRA Department of Enforcement ("Enforcement") filed the attached two-count Complaint against Respondent Ronnie Ben-Aron ("Respondent"),

¹ As of July 30, 2007, NASD consolidated with the member firm regulation functions of NYSE and began operating under a new corporate name, the Financial Industry Regulatory Authority (FINRA). References in this decision to FINRA include, where appropriate, NASD.

² Although no separate sanction is imposed for Respondent's violation of NASD Conduct Rule 2110 and IM-1000-1, based on the Hearing Officer's finding that Respondent willfully failed to disclose the civil judgment, Respondent is deemed a statutorily disqualified person pursuant to Article III, Section 4(f) of the NASD By-Laws.

alleging that Respondent: (i) failed to amend his Uniform Application for Securities Industry Registration or Transfer ("Form U-4") to disclose that he had a civil judgment filed against him, in violation of NASD Conduct Rule 2110 and IM-1000-1; and (ii) failed to respond to requests for information issued pursuant to Rule 8210 and failed to appear for an on-the-record interview, in violation of NASD Conduct Rule 2110 and NASD Procedural Rule 8210.

On October 19, 2007, Enforcement filed a Motion for Entry of Default Decision ("Motion"), supported by the Declaration of David F. Newman, Esq., Regional Counsel in FINRA's Philadelphia, PA office, and five exhibits.³ For the reasons set forth below, the Hearing Officer grants Enforcement's Motion.

II. Respondent's Default

On May 29, 2007, Enforcement served the Complaint and Notice of Complaint on Respondent, via certified mail, at his address of record in FINRA's Central Registration Depository ("CRD address").⁴ (CX-1, p. 1; CX-2, p. 11; DECL at ¶ 6). The U.S. Postal Service returned an unsigned receipt for the certified mailing, but the envelope was not returned.⁵ (DECL at ¶ 6). FINRA served the Complaint on Respondent via certified mail two more times, on July 3, 2007 and July 12, 2007, at his CRD address. (DECL at ¶¶ 7-8; CX-3, p. 2; CX-4, p. 11). Both times, the U.S. Postal Service returned unsigned receipts for the certified mailings, but the envelopes were not returned, and the U.S. Postal

³ Hereinafter, the statements in the Motion for Entry of Default Decision will be designated as "Motion, p.;" the statements in the Newman Declaration will be designated as "DECL at ¶;" and Enforcement's exhibits will be designated as "CX-" with the appropriate page or paragraph number.

⁴ Respondent's CRD address is [REDACTED]. (CX-1, p. 1).

⁵ The U.S. Postal Service could not definitively explain why the envelope was not returned, and surmised that the receipt may have fallen off the envelope and that the mailing was treated as regular first-class mail. (DECL at ¶ 6, footnote 1).

Service had no explanation for failing to return the envelopes. (DECL at ¶ 6, footnote 1; DECL at ¶¶ 7-8).

On August 22, 2007, Enforcement again served the Notice of Complaint and Complaint on Respondent, via first-class and certified mail, at his CRD address. (DECL at ¶ 9; CX-5, p. 11). However, this time, the U.S. Postal Service returned the certified envelope marked "Unclaimed." (CX-5, pp. 12-13; DECL at ¶ 9). To date, Respondent has not filed an answer to the Complaint. (DECL at ¶ 10).

The Hearing Officer finds that Enforcement complied with NASD Procedural Rule 9134(b)(1) by sending the mailings to Respondent's CRD address.⁶ Accordingly, the Hearing Officer finds that Respondent received effective constructive notice of this proceeding and further finds that Respondent defaulted by failing to answer the Complaint.⁷

III. Findings of Fact and Conclusions of Law

A. Jurisdiction

On November 12, 2003, Respondent became registered as an investment company and variable contracts products representative with Lincoln Investment Planning, Inc. ("Lincoln Investment"). (Complaint at ¶ 1; CX-1, p. 3). On June 30, 2006, Respondent's registration was terminated by Lincoln Investment. (*Id.*). Respondent is not currently associated with any FINRA member firm. (*Id.*).

⁶ See Department of Enforcement v. Verdiner, No. CAF020004, 2003 NASD Discip. LEXIS 42, at * 5 n.1 (NAC Dec. 9, 2003) (finding that respondent received constructive notice when the complaint was mailed to respondent's CRD address).

⁷ The following Findings of Fact and Conclusions of Law incorporate the allegations in the attached Complaint, pursuant to NASD Rules 9215(f) and 9269, and NASD Notice to Members 99-77.

Nevertheless, Respondent remains subject to FINRA jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of the NASD By-Laws, because (1) the Complaint was filed within two years after his association with Lincoln Investment was terminated, and (2) the Complaint charges him with misconduct while he was associated with a FINRA member, and with failures to appear for an on-the-record interview and to provide information requested pursuant to Rule 8210 during the period of retained jurisdiction.

B. Respondent Failed to Amend his Form U-4

Count one of the Complaint alleges that, on May 25, 2005, a civil judgment in the amount of \$5,146.24 was filed against Respondent in the Civil Court of New York, Richmond County, New York, which remained outstanding as of June 21, 2006. (Complaint at ¶ 4; DECL at ¶¶ 11-12). The Complaint also alleges that Respondent failed to amend his Form U-4 to disclose the civil judgment from on or about May 25, 2005 to at least on or about June 21, 2006. (Complaint at ¶ 5; DECL at ¶ 11). Specifically, Respondent willfully failed to amend the Form U-4 to reflect a “yes” answer to Question 14M, which asks “Do you have any unsatisfied judgments or liens against you.” (Complaint at ¶ 5; DECL at ¶ 12b).

Enforcement provided the additional information that Lincoln Investment wrote to the FINRA staff that it was not aware of Respondent’s outstanding judgment and that Respondent orally admitted to a FINRA staff member the existence of the judgment and stated that he had no intention of ever disclosing the judgment because it was not fair. (DECL at ¶¶ 12b, 14c).

Article V, Section 2(a)(2) of the NASD By-Laws provides that any application for registration with FINRA shall be properly signed by the applicant

and shall contain such other reasonable information with respect to the applicant as FINRA may require. Article V, Section 2(c) of the NASD By-Laws provides that every application for registration filed with FINRA shall be kept current at all times by supplementary amendments, via electronic process or such other process as FINRA may prescribe to the original application. Such amendment to the application shall be filed with FINRA not later than 30 days after learning of the facts or circumstances giving rise to the amendment. Accordingly, the Form U-4 explicitly provides that applicants are under a continuing obligation to amend and update information required by the Form U-4 as changes occur.

IM-1000-1 provides that “[t]he filing with [FINRA] of information with respect to membership or registration as a Registered Representative which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or the failure to correct such filing after notice thereof, may be deemed to be conduct inconsistent with just and equitable principles of trade. . .”

The allegations in the first cause of the Complaint and the evidence submitted by Enforcement are sufficient to establish that Respondent failed to file an amendment to his Form U-4 to disclose an unsatisfied civil judgment, in violation of NASD Conduct Rule 2110 and IM-1000-1.

Further, based on Respondent’s conversation with the FINRA staff member, the Hearing Officer finds that Respondent intentionally failed to amend his Form U-4 to disclose the civil judgment. Accordingly, the Hearing Officer finds that Respondent’s

failure to disclose the civil judgment on his Form U-4 was willful within the meaning of Article III, Section 4(f) of the NASD By-Laws.⁸

C. Respondent Failed to Respond to Requests for Information or to Appear for an On-the-Record Interview

The second cause of the Complaint alleges that Respondent failed to respond to three letters from the FINRA staff requesting information regarding the allegations in cause one of the Complaint and failed to appear for an on-the-record interview. (Complaint at ¶¶ 8-12).

Specifically, the Complaint alleges that, on August 15, 2006, the FINRA staff sent a first request for information to Respondent at his CRD address, pursuant to NASD Procedural Rule 8210, via first-class and certified mail. (Complaint at ¶ 8; DECL at ¶ 14a). On September 6, 2006, the FINRA staff sent a second request for information to Respondent at his CRD address, pursuant to NASD Procedural Rule 8210, via first-class and certified mail. (Complaint at ¶ 9; DECL at ¶ 14b).

On September 18, 2006, Respondent contacted a FINRA staff member and acknowledged receipt of the Rule 8210 requests for information and the existence of the outstanding judgment against him. (Complaint at ¶ 10; DECL at ¶ 14c). The FINRA staff member instructed Respondent to submit a written response. (Complaint at ¶ 10). On September 27, 2006, Respondent contacted the FINRA staff member again and stated that he did not recognize the outstanding judgment because it was not fair and he had no intention of ever disclosing it on his Form U-4. (Complaint at ¶ 10; DECL at ¶ 14c).

⁸ Christopher LaPorte, Exchange Act Rel. No. 39,171, 1997 SEC LEXIS 2058, at *8 (Sept. 30, 1997) (finding willfulness when respondent knew or should have known under the particular facts and circumstances that his conduct was improper).

On September 27, 2006, the FINRA staff sent a third request for information to Respondent at his CRD address, pursuant to NASD Procedural Rule 8210, via first-class and certified mail. (Complaint at ¶ 11; DECL at ¶ 14d). Respondent failed to respond in any manner to the third request for information. (Id.).

In addition, FINRA requested that Respondent appear for an on-the-record interview to be held on December 19, 2006, in a letter dated November 29, 2006, and sent via first-class and certified mail to Respondent's CRD address. (Complaint at ¶ 12; DECL at ¶ 14e). Respondent failed to appear for the on-the-record interview. (Id.).

The Hearing Officer finds that Respondent received the first and second requests for information based on his conversation with the FINRA staff member. (DECL at ¶ 14). In any event, Respondent is deemed to have received the three requests for information and the request to appear for the on-the-record interview that were sent to his CRD address pursuant to NASD Procedural Rule 8210(d). Failure to comply with Rule 8210 requests for information and the request for an on-the-record interview is a serious violation because it subverts FINRA's ability to perform its regulatory responsibilities.⁹

The allegations in the second cause of the Complaint and the evidence submitted by Enforcement are sufficient to establish that Respondent violated NASD Procedural Rule 8210 and thereby violated NASD Conduct Rule 2110 by failing to respond to the FINRA staff's requests for information and failing to appear for the requested on-the-record interview.¹⁰

⁹ See, e.g., Richard J. Rouse, Exchange Act Rel. No. 32,685, 1993 SEC LEXIS 1831, at *7 (1993); Joseph G. Chiulli, Exchange Act Rel. No. 42,359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000) (noting that Rule 8210 provides a means for NASD to conduct its investigations effectively, and emphasizing that FINRA members and associated persons must fully cooperate with requests for information).

¹⁰ See Dep't of Enforcement v. Baxter, No. C07990016, 2000 NASD Discip. LEXIS 3, at **21, 25 (NAC Apr. 19, 2000).

IV. Sanctions

A. Respondent Failed to Respond to Requests for Information and Failed to Appear for an On-the-Record Interview

Enforcement recommended that Respondent be barred for failing to respond to the three requests for information and the request for an on-the-record interview issued by the FINRA staff, pursuant to NASD Procedural Rule 8210, as alleged in count two of the Complaint. The FINRA Sanction Guidelines provide that a bar should be standard when an individual respondent does not respond in any manner to a request issued pursuant to Rule 8210.¹¹ The record does not indicate the existence of any mitigating factors that would warrant a lesser sanction.

Accordingly, the Hearing Officer accepts Enforcement's recommendation and bars Respondent for failing to respond to the three requests for information and failing to appear for the on-the-record interview.

B. The Hearing Officer Imposes No Separate Sanction for Respondent's Willful Failure to Amend his Form U-4

Because the Hearing Officer barred Respondent for his Rule 8210 violation, the Hearing Officer will impose no separate sanction for Respondent's violation of NASD Conduct Rule 2110 and IM-1000-1, by willfully failing to amend his Form U-4 to disclose that a civil judgment had been filed against him.¹²

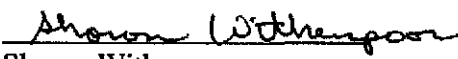
V. Order

Respondent Ronnie Ben-Aron is barred from associating with any FINRA member firm in any capacity for violating NASD Conduct Rule 2110 and NASD

¹¹ FINRA Sanction Guidelines, p. 35 (2007).

¹² For willfully failing to amend his Form U-4 to disclose the civil judgment in violation of NASD Conduct Rule 2110 and IM-1000-1, Enforcement recommended that Respondent be sanctioned with a three-month suspension in all capacities and a \$5,000 fine. (Motion, p. 5).

Procedural Rule 8210 for failing to respond to three requests for information and for failing to appear for an on-the-record interview requested by the FINRA staff pursuant to Rule 8210. The bar will become effective immediately upon this Default Decision becoming the final disciplinary action of FINRA.


Sharon Witherspoon
Hearing Officer

Dated: Washington, DC
November 26, 2007

Copies to:

Ronnie Ben-Aron (via FedEx and first class mail)
David F. Newman, Esq. (via electronic and first-class mail)
Mark P. Dauer, Esq. (via electronic and first-class mail)
David R. Sonnenberg, Esq. (via electronic and first-class mail)

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

RONNIE BEN-ARON
(CRD No. 2980331),

Respondent.

Disciplinary Proceeding
No. 2006005730201

COMPLAINT

The Department of Enforcement alleges:

1. On or about May 4, 1998, Ronnie Ben-Aron entered the securities industry as a Limited Representative – Investment Company and Variable Contracts Products (Series 6). Ben-Aron was registered with Lincoln Investment Planning, Inc. (LIP) from November 2003 to June 2006. On or about June 30, 2006, LIP filed a Form U5 disclosing that Ben-Aron had been terminated from the firm on June 21, 2006. He has not been associated with a member firm since that date.
2. Ben-Aron remains subject to FINRA's jurisdiction pursuant to Article V, Section 4, of NASD's By-Laws, in that: the conduct that is the subject of the First Cause of Action occurred while he was associated with LIP; and, this complaint was filed within, and the violations of NASD Procedural Rule 8210 alleged in the Second Cause of Action occurred within, two years of Ben-Aron's last association with a member firm.

FIRST CAUSE OF ACTION
Willful Failure to Amend Form U4 to Disclose a Material Fact
(NASD Conduct Rule 2110 and IM-1000-1)

3. The Department realleges and incorporates by reference paragraphs 1 and 2 above.
4. On or about May 25, 2005, a civil judgment in the amount of \$5,146.24 was filed against Ben-Aron in the Civil Court of the City of New York, Richmond County, New York.

The civil judgment was outstanding as of June 21, 2006.
5. From on or about May 25, 2005 to at least on or about June 21, 2006, Ben-Aron willfully failed to amend his Form U4 to disclose a material fact. Specifically, Ben-Aron failed to disclose the outstanding judgment on his Form U4. Instead, he failed to amend the Form U4 to reflect a "yes" answer to Question 14M, which asks "Do you have any unsatisfied judgments or liens against you."
6. As a result of this conduct, Ben-Aron violated NASD Conduct Rule 2110 and IM-1000-1.

SECOND CAUSE OF ACTION
Failure to Respond to Requests for Information
(NASD Procedural Rule 8210 and Conduct Rule 2110)

7. The Department realleges and incorporates by reference paragraphs 1 through 6 above.
8. On or about August 15, 2006, pursuant to NASD Procedural Rule 8210, FINRA staff in the Philadelphia District Office sent a letter to Ben-Aron requesting that he provide information relating to his failure to disclose the unsatisfied judgment on his Form U4.

The letter was sent by certified and first class mail to the most current residential address for Ben-Aron in Central Registry Depository (CRD address). The letter warned Ben-Aron that a failure to comply with the request could subject him to formal disciplinary action. The receipt for the certified letter was signed and returned by the Postal Service

to the Philadelphia District Office. The name on the certified receipt is "Ronnie Ben-Aron" and the signature appears to be Ben-Aron's. The first class letter was not returned. The August 15 letter requested a response by August 31, 2006, but Ben-Aron failed to respond.

9. On or about September 6, 2006, pursuant to NASD Procedural Rule 8210, FINRA staff in the Philadelphia District Office sent a second letter to Ben-Aron requesting that he provide the same information sought in the August 15, 2006 letter. The letter was sent by certified and first class mail to Ben-Aron's CRD address. The letter warned Ben-Aron that a failure to comply with the request could subject him to formal disciplinary action. The receipt for the certified letter was signed and returned by the Postal Service to the Philadelphia District Office. The name and signature on the certified receipt is not Ben-Aron's. The first class letter was not returned. The September 6 letter requested a response by September 15, 2006, but Ben-Aron failed to respond.
10. On about September 18, 2006, Ben-Aron contacted an FINRA staff member in the Philadelphia District Office and during their conversation acknowledged receipt of the outstanding 8210 requests. Ben-Aron also acknowledged that there was an outstanding judgment of \$5,016 against him, yet indicated that he had no intention of paying it. In response, the FINRA staff member instructed Ben-Aron to submit a written response to the outstanding 8210 requests. On about September 27, 2006, Ben-Aron contacted the same FINRA staff member and during their conversation stated that he did not recognize the outstanding judgment because it was not fair and had no intention of ever disclosing it on a Form U4. Ben-Aron failed to provide a written response to the outstanding 8210 letters as had been requested.

11. On or about September 27, 2006, pursuant to NASD Procedural Rule 8210, FINRA staff in the Philadelphia District Office sent a third letter to Ben-Aron requesting that he provide the same information requested in the August 15, 2006 letter. The letter was sent by certified and first class mail to Ben-Aron's CRD address. The letter warned Ben-Aron that a failure to comply with the request could subject him to formal disciplinary action. The receipt for the certified letter was signed and returned by the Postal Service to the Philadelphia District Office. The name on the certified receipt is "Ben Aron" and the signature is "C. Ben-Aron." The first class letter was not returned. The September 27 letter requested a response by October 13, 2006, but Ben-Aron failed to respond.
12. On or about November 29, 2006, pursuant to NASD Procedural Rule 8210, FINRA staff in the Philadelphia District Office sent a fourth letter to Ben-Aron requesting his appearance for an on-the-record interview (OTR) in the Philadelphia District Office on December 19, 2006 at 1 p.m. The letter warned Ben-Aron that a failure to appear could subject him to disciplinary action and sanctions including a bar. The letter was sent by certified and first class mail to Ben-Aron's CRD address. The receipt for the certified letter was signed and returned by the Postal Service to the Philadelphia District Office. The name and the signature on the certified receipt is "C. Ben-Aron." The first class letter was not returned. Ben-Aron failed to appear for the OTR.
13. FINRA staff is not aware of a more current residential address or of a business address for Ben-Aron.
14. As a result of this conduct, Ben-Aron violated NASD Procedural Rule 8210 and Conduct Rule 2110.

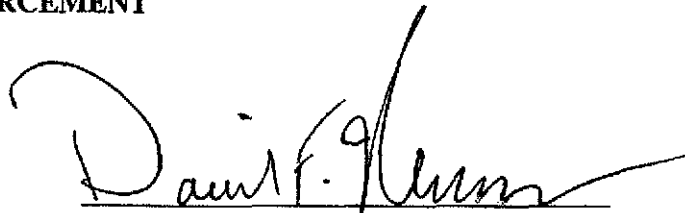
PRAYER

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Rule 8310(a), including monetary sanctions, be imposed;
- B. order that the Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330; and
- C. make specific findings that Respondent's conduct, as alleged in the First Cause of Action, was willful; the omitted information was material; and, the omission to state material facts was on a Form U4 application.

FINRA DEPARTMENT OF ENFORCEMENT

Date: August 22, 2007



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