

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DOUGLAS JERRY MORRIS,
(CRD No. 2860318),

Respondent.

Disciplinary Proceeding
No. 2006006947401

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

August 31, 2007

Respondent failed to update his Form U-4 to reflect a felony indictment, in violation of Conduct Rule 2110 and IM-1001; and failed to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2110. Respondent is barred from associating with any member firm in any capacity for failing to respond to the requests for information. In light of the bar, the Hearing Officer declined to impose a 30 business-day suspension in all capacities for Respondent's failure to update his Form U-4.

Appearances

Gene E. Carasick, Regional Counsel, Atlanta, GA (Rory C. Flynn, Chief Litigation Counsel, Washington, D.C., Of Counsel) for the Department of Enforcement.

No appearance by or for Douglas Jerry Morris.

DECISION

I. Introduction

On May 11, 2007, the Department of Enforcement ("Enforcement") for the Financial Industry Regulatory Authority (FINRA)¹ filed the attached two-count Complaint against Douglas Jerry Morris ("Morris" or the "Respondent"). The Complaint alleges that the Respondent (1) willfully failed to amend his Uniform Application for Securities Industry Registration or

¹ Effective July 30, 2007, the corporate successor to NASD is FINRA.

Transfer (Form U-4) to disclose that he had been indicted by the State of Tennessee for aggravated stalking, a felony, in violation of Conduct Rule 2110, IM-1000-1, and Section 2(c) of the FINRA By-Laws; and (2) failed to respond to the staff's requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2110.²

Morris did not answer or otherwise respond to the Complaint. Consequently, on August 1, 2007, Enforcement filed a Motion for Entry of Default Decision ("Motion"). The Affidavit of Gene E. Carasick and three attached exhibits support Enforcement's Motion.³ Morris did not respond to the Motion. Thus, pursuant to Procedural Rules 9215 and 9269, the Hearing Officer grants Enforcement's Motion.

II. Respondent's Default

Enforcement served Morris with copies of the Complaint, Notice of Complaint, and Second Notice of Complaint in accordance with Procedural Rules 9134(a)(2) and 9134(b)(1).

On May 11, 2007, Enforcement served the Complaint and Notice of Complaint on the Respondent by certified and first-class mail sent to his current residential address shown in the Central Registration Depository (the "CRD address").⁴ Although it appears from the certified return receipt that Morris received the Complaint,⁵ he nevertheless did not file a response within the time required by the Code of Procedure. Hence, on June 12, 2007, Enforcement served the Complaint and Second Notice of Complaint on the Respondent by certified and first-class mail sent to the Respondent at his CRD address.⁶ To date, Morris has not filed a response.⁷

² The FINRA Rules, which include NASD Procedural and Conduct Rules, are available on FINRA's Internet site at <http://www.finra.org/RulesRegulation/FINRARules/index.htm>.

³ The affidavit is referenced as "Carasick Aff." followed by the applicable paragraph number.

⁴ Carasick Aff. ¶ 5.

⁵ Ex. 2. The receipt is signed by "Jerry Morris" on May 21, 2007.

⁶ *Id.* ¶ 6.

⁷ *Id.* ¶ 7.

The Hearing Officer finds that Enforcement properly served Morris and that he thereby received valid constructive notice of this proceeding. Accordingly, the Hearing Officer finds Morris in default and deems the allegations in the attached Complaint admitted.⁸

III. Findings of Fact and Conclusions of Law

A. Jurisdiction

Morris first became registered as a General Securities Representative in April 1997. Most recently, Morris was registered through K.W. Chambers & Co. from October 6, 2000, until November 13, 2006.⁹ Although Morris is no longer registered or associated with a FINRA member firm, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of the FINRA By-Laws, because (1) the Complaint was filed within two years following the termination of his registration with FINRA and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA member firm and with failing to respond to FINRA's requests for information made during the two-year period following his registration termination.

B. Failing to Update Form U-4

The First Cause of Action alleges that, on August 17, 2006, the State of Tennessee indicted Morris for aggravated stalking, a Class E Felony. Nevertheless, Morris did not amend his Form U-4 to disclose this material fact, as he was required to do by Section 2(c) of the FINRA By-Laws and NASD Membership and Registration Rule IM-1000-1.

The Hearing Officer finds the foregoing allegations sufficient to establish that the Respondent violated Conduct Rule 2110, IM-1000-1, and Section 2(c) of the FINRA By-Laws, as alleged in the First Cause of Action, by failing to disclose his felony indictment. Article V, Section 2(c) of the FINRA By-Laws requires that Forms U-4 be "current at all times," and that amendments to Forms U-4 be filed "not later than 30 days after learning of the facts or

⁸ The following findings of fact incorporate the allegations in the attached Complaint.

⁹ Ex. 1.

circumstances giving rise to the amendment.” The Form U-4 “serves as a vital screening device for hiring firms and [FINRA] against individuals with ‘suspect history.’”¹⁰ Failing to file prompt amendments to a Form U-4 is a violation of Rule 2110.¹¹ The record shows that Morris did not fulfill his responsibility to keep his Form U-4 current.

C. Failure to Respond to Requests for Information

The Second Cause of Action alleges that the staff sent Morris two requests in accordance with Procedural Rule 8210 that he provide a written statement concerning his failure to disclose the Tennessee felony indictment on his Form U-4. FINRA staff mailed each request to the Respondent at his CRD address, the first on December 18, 2006, and the second on January 9, 2007. Morris did not respond to either request.¹²

The Hearing Officer finds the foregoing allegations sufficient to establish that the Respondent violated Procedural Rule 8210 and Conduct Rule 2110, as alleged in the Second Cause of Action, by failing to provide information requested in connection with a FINRA investigation.¹³

IV. Sanctions

A. Failure to Amend Form U-4

The FINRA Sanction Guidelines for untimely filing of amendments to Forms U-4 provide for a fine of \$2,500 to \$50,000 and a suspension in any or all capacities for 5 to 30 business days.¹⁴ Egregious violations may be sanctioned by a suspension of up to two years or a

¹⁰ *Department of Enforcement v. Taylor*, No. C8A050027, 2007 NASD Discip. LEXIS 11, at *33 (N.A.C. Feb. 27, 2007) (quoting *District Bus. Conduct Comm. v. Jones*, No. CO2970023, 1998 NASD Discip. LEXIS 60, at *9 (N.A.C. Aug. 7, 1998)).

¹¹ *See Department of Enforcement v. Toth*, No. E9A2004001901, 2007 NASD Discip. 25 (N.A.C. July 27, 2007). *See also* NASD’s Membership, Registration and Qualification Requirements, IM-1000-1 (providing that an incomplete or inaccurate filing of information with FINRA by a registered representative “may be deemed to be conduct inconsistent with just and equitable principles of trade”).

¹² Compl. ¶¶ 5, 6; Carasick Aff. ¶ 9.

¹³ *See, e.g., Department 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).

¹⁴ FINRA Sanction Guidelines 73-74 (2007) available at <http://www.finra.org/web/groups/enforcement/documents/enforcement/p011038.pdf>.

bar, and are defined as those involving repeated failures to file; failure to disclose a statutory disqualification event or customer complaint; or failure to disclose information that results in delaying a regulatory investigation of terminations for cause.¹⁵ The Guidelines list the following principal considerations for this violation: the nature and significance of the information at issue; whether the failure to report resulted in a statutorily disqualified person remaining associated with a firm; and whether the misconduct resulted in harm to a registered person, another member firm or any other person or entity.

The Hearing Officer finds the Respondent's failure to update his Form U-4 to reflect his felony indictment to be serious. The felony charge is information that is highly significant to potential investors and employers. However, the Hearing Officer does not find the Respondent's failure to be egregious. The felony charge alone did not result in the Respondent being statutorily disqualified and did not concern customer complaints. Nor is there any evidence to determine that Morris' alleged criminal conduct resulted in any harm to a registered person, another member firm, or any other person or entity. Therefore, the Hearing Officer determined that the appropriate sanction is a 30 business-day suspension in all capacities. However, in light of the bar imposed on the second charge, the Hearing Officer declines to impose the suspension.¹⁶

B. Failure to Respond to Requests for Information

The Sanction Guidelines for failing to respond in any manner to requests for information issued pursuant to Rule 8210 recommend the imposition of a bar in the absence of mitigating circumstances.¹⁷ Here, the record discloses no mitigating factors that would warrant a lesser sanction. Accordingly, the Hearing Officer will bar the Respondent from associating with any member firm in any capacity for this violation.

¹⁵ *Id.* at 74.

¹⁶ See *Department of Enforcement v. Taylor*, 2007 NASD Discip. LEXIS 11, at *44-45 (declining to impose suspension for failure to update Form U-4 to reflect two felony charges because respondent was barred for another violation).

¹⁷ FINRA Sanction Guidelines at 35.

V. Order

Douglas Jerry Morris is barred from association with any member firm in any capacity for failing to update his Form U-4 to disclose that he had been indicted for a felony, in violation of Conduct Rule 2110 and IM-1000-1, and for failing to respond to requests for information issued by the staff under Procedural Rule 8210, in violation of Procedural Rule 8210 and Conduct Rule 2110. The bars shall become effective once this decision becomes the final disciplinary action of FINRA.


Andrew H. Perkins
Hearing Officer

Copies to:

Douglas Jerry Morris (by FedEx, overnight delivery, and first-class mail)
Gene E. Carasick, Esq. (by first-class and electronic mail)
Rory C. Flynn, Esq. (by first-class and electronic mail)
Mark P. Dauer, Esq. (by first-class and electronic mail)

**NASD
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

COMPLAINANT,

v.

**DOUGLAS JERRY MORRIS
(CRD No. 2860318),**

RESPONDENT.

**DISCIPLINARY PROCEEDING
No. 2006006947401**

COMPLAINT

The Department of Enforcement alleges:

1. Respondent Douglas Jerry Morris entered the securities industry in January 1997, and first became registered with an NASD member, as a general securities representative, on April 8, 1997. He became registered as a general securities representative with NASD member K.W. Chambers & Co. in October 2000. His registration with K.W. Chambers was terminated on November 13, 2006. His employment end date with K.W. Chambers also was November 13, 2006. NASD retains jurisdiction over Morris pursuant to Article V, Section 4 of NASD Bylaws.

FIRST CAUSE OF ACTION

Failure to Amend Form U-4

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

2. On August 17, 2006, Respondent Morris was indicted by the State of Tennessee for aggravated stalking, a class E felony in Tennessee.
3. Morris willfully failed to disclose the indictment to his employing NASD member firm and willfully failed to amend his Form U-4 to disclose the felony indictment, a material fact, in response to Question 14A(1)(b), as required by NASD Membership and Registration Rule IM-1000-1 and Article V, Section 2(c) of the NASD By-laws.
4. Morris' failure to amend his Form U-4 to disclose the August 17, 2006, Tennessee felony indictment constitutes a separate and distinct violation of NASD Conduct Rule 2110, NASD Membership and Registration Rule IM-1000-1, and Article V, Section 2(c) of the NASD By-laws by Morris.

SECOND CAUSE OF ACTION

Failure to Respond to Staff Requests for Information NASD Conduct Rule 2110; NASD Procedural Rule 8210

5. By letter dated December 18, 2006, sent via first class mail to Morris' CRD residential address, the staff requested Morris, pursuant to Rule 8210, to provide a written statement by January 2, 2007, concerning his failure to disclose the Tennessee felony indictment on his Form U-4. The mailing was not returned by the Postal Service, and Morris did not respond.
6. By letter dated January 9, 2007, sent via first class and certified mail to Morris' CRD residential address, the staff again requested Morris, pursuant to Rule 8210, to provide a written statement, this time by January 23, 2007, concerning his failure to disclose the felony

indictment on his Form U-4. The first class mailing was not returned by the Postal Service; the certified mailing was returned by the Postal Service, marked "refused".

7. To date, Morris has not responded to either of the staff's Rule 8210 request letters.
8. Morris' failures to respond to the staff Rule 8210 request letters constitute separate and distinct violations of NASD Conduct Rule 2110 and NASD Procedural Rule 8210 by Morris.

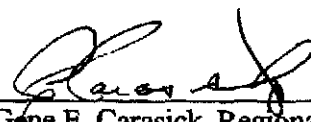
PRAYER

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.
- 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 U-4 application.

May 11, 2007

NASD Department of Enforcement


Gene E. Carasick, Regional Counsel
NASD Department of Enforcement
One Securities Centre, Suite 500
3490 Piedmont Road, N.E.
Atlanta, GA 30305
(404) 239-6125; (202) 721-6536 (fax)