

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

DEPARTMENT OF ENFORCEMENT,

Complainant

v.

CHAD E. ACKZEN
(CRD No. 5264694),

Respondent.

Disciplinary Proceeding
No. 2007007725201

Hearing Officer – DMF

DEFAULT DECISION

November 9, 2007

Respondent is barred from association with any member firm in any capacity for failing to respond to FINRA staff requests for information, in violation of NASD Rules 8210 and 2110. In light of the bar, no additional sanctions are imposed on Respondent for providing false information on his Form U-4, in violation of NASD Rule 2110 and IM-1000-1.

Appearances

Heather Hawker, Esq., Regional Counsel, Denver, CO for Complainant.

No appearance by or for Chad E. Ackzen.

DECISION

I. Procedural History

On June 25, 2007, the Department of Enforcement filed a two-cause Complaint in this proceeding, attached to this Decision as Exhibit A. The Complaint alleges that Respondent Chad E. Ackzen provided false information on his Uniform Application for Securities Industry Registration or Transfer (Form U-4), in violation of NASD Rule 2110 and IM-1000-1, and failed

to respond to requests for information from FINRA staff, in violation of NASD Rules 8210 and 2110.¹ Respondent did not file an Answer to the Complaint.

On August 23, 2007, Enforcement filed a motion for entry of a default decision, supported by the declaration of counsel for Enforcement and six exhibits. Respondent did not file a response to the motion.²

II. Respondent's Default

On or about June 22, 2007, Enforcement served the Complaint and Notice of Complaint on Respondent by certified and regular first class mail sent to Respondent's last known residential address, as reflected in the Central Registration Depository (CRD address). Respondent did not file an Answer or otherwise respond. On or about July 23, 2007, Enforcement served the Complaint and Second Notice of Complaint on Respondent in the same manner, and again Respondent failed to file an Answer or otherwise respond.

Enforcement complied with Procedural Rule 9134(b)(1) by mailing the Complaint and Notices of Complaint to Respondent's CRD address, providing constructive notice of this proceeding. By failing to respond to the Complaint, Respondent defaulted. Pursuant to Rule 9215(f) and 9269(a)(2), the allegations in the Complaint are deemed admitted.

III. Jurisdiction

Respondent was associated with FINRA member Farmers Financial Solutions, LLC (FFS) from November 2006 until January 2007. Since then, Respondent has not been registered or associated with any FINRA member.

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 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.

Respondent is subject to FINRA jurisdiction pursuant to Art. V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years of the termination of Respondent's association with FFS, and it alleges misconduct that occurred while he was employed by FFS, and failure to comply with requests for information made during the two-year period following the termination.

IV. Violations

A. Failure to Disclose Felony Criminal Charges on Form U-4

The first cause of the Complaint alleges that on November 15, 2006, Respondent completed and signed a Form U-4 in order to become registered with FINRA through FFS. FFS submitted the Form U-4 to FINRA on December 10, 2006. When completing the Form U-4, Respondent responded "no" to question 14(A)(1)(b), which asked whether he had ever been charged with a felony. That response was false.

On or about October 1, 1999, Respondent was charged with two felonies under Arizona law, illegal possession of drugs and drug paraphernalia. In February 2000, the drug possession charge was reduced to a misdemeanor, to which Respondent pled guilty, and the paraphernalia possession charge was dismissed. Respondent was placed on probation, and was ordered to perform 24 hours of community service and pay a \$770 fine. These facts are sufficient to establish for purposes of this default decision that Respondent violated Rule 2110 and IM-1000-1 by providing false information on his Form U-4.

B. Failure to Provide Information

The second cause of the Complaint alleges that on or about January 24, 2007, FINRA staff sent Respondent a written request pursuant to Rule 8210 seeking information relevant to an investigation into the reasons for his failure to disclose the criminal charges on his Form U-4.

The staff sought this information in order to determine whether Respondent's failure to disclose the information was "willful" within the meaning of Article III, Section 4(f) of FINRA's By-Laws. The request was sent by certified and regular first class mail to Respondent's CRD address, and pursuant to Rule 8210(d) he is deemed to have received it. Respondent did not respond in any manner to the request.

On February 9, 2007, the staff sent Respondent a second written Rule 8210 request for the same information via regular and certified first class mail to his CRD address. Respondent again failed to respond to the request, but he subsequently spoke to the staff by telephone, and acknowledged receipt of the Rule 8210 requests.

These facts are sufficient to establish for purposes of this default decision that Respondent violated NASD Rules 8210 and 2110 by failing to respond to requests for information.

V. Sanctions

Under FINRA's Sanction Guidelines, a bar is standard for failure to respond to requests for information unless there are mitigating facts.³ There is no evidence of any mitigating circumstances in this case. Accordingly, Respondent will be barred in all capacities.

FINRA's Sanction Guidelines recommend a fine of \$2,500 to \$50,000 and consideration of a suspension of five to 30 business days for filing a false, misleading or inaccurate Form U-4. In egregious cases, the Guidelines recommend consideration of a longer suspension or a bar.⁴ Enforcement recommends a \$7,500 fine and a 30 business day suspension. The Hearing Officer

³ FINRA Sanction Guidelines at 35 (2007).

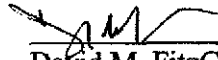
⁴ Id. at 73-74.

agrees that such sanctions would be appropriately remedial for this violation, but in light of the bar, the fine and suspension will not be imposed.

VI. Conclusion

Respondent Chad E. Ackzen is barred from association with any FINRA member in any capacity for failure to respond to requests for information, in violation of NASD Rules 8210 and 2110. In light of the bar, no additional sanctions are imposed for providing false information on his Form U-4, in violation of NASD Rule 2110 and IM-1000-1. The bar will become effective immediately if this decision becomes the final disciplinary action of FINRA.

SO ORDERED.

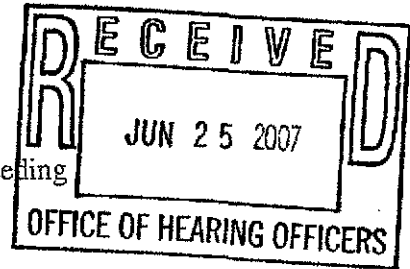


David M. FitzGerald
Hearing Officer

Dated: November 9, 2007

Copies to: Chad E. Ackzen (*via overnight and first-class mail*)
Heather Hawker Esq. (*via electronic and first-class mail*)
Lewis Taylor Egan, Esq. (*via electronic and first-class mail*)
Mark P. Dauer, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via first-class mail*)

NASD OFFICE OF HEARING OFFICERS



DEPARTMENT OF ENFORCEMENT,	)	Disciplinary Proceeding
	)	No. 20070077252
Complainant,	)	
	)	Hearing Officer
v.	)	
	)	COMPLAINT
CHAD E. ACKZEN	)	
CRD No. 5264694	)	
	)	
Respondent.	)	
_____	)	

The Department of Enforcement alleges:

1. The Department of Enforcement alleges: Respondent Chad E. Ackzen (Ackzen) was associated with NASD member, Farmers Financial Solutions, LLC (FFS or the Firm), from on or about November 15, 2006 through January 10, 2007, when FSS elected not to pursue Ackzen's registration. Since that time, Ackzen has not associated with another member firm.
2. Ackzen is subject to NASD jurisdiction pursuant to Article V, § 4 of NASD's By-Laws.

SUMMARY

3. The Department of Enforcement's Complaint asserts two causes of action against Ackzen. The first cause of action pertains to Ackzen's failure to disclose two felony charges when completing a *Uniform Application for Securities Industry or Transfer (Form U-4)* in November 2006. The second cause of action addresses Ackzen's failure to respond to two properly issued written Rule 8210 requests.

FIRST CAUSE OF ACTION
(Misrepresenting Material Facts Regarding Criminal Record on Form U-4 -
NASD Conduct Rule 2110 and Registration Rule IM 1000-1)

4. Complaint paragraph numbers 1-3, above, are re-alleged and incorporated herein by reference.

5. On November 15, 2006, Ackzen executed an initial Form U-4 in order to become registered with FFS. Ackzen then submitted the signed Form U-4 to FFS who then filed Ackzen's Form U-4 on December 10, 2006.

6. By signing the Form U-4, Ackzen attested that he read and understood the Form U-4 instructions and questions, and, that to the best of his knowledge, his answers contained therein were true and complete.

7. Form U-4 question 14(A)(1)(b) reads as follows:

Have you ever been charged with any felony?

8. The information requested in Form U-4 question 14(A)(1)(b) is material.

9. Ackzen responded "no" to Form U-4 question 14(A)(1)(b). Ackzen's response to this question was false. In October 1999, Ackzen was charged with two drug related felonies. The underlying criminal complaint against Ackzen was filed in the Superior Court of the State of Arizona, Maricopa County, case number CR 99-13621.

10. The charged felonies were committed in October 1998 and pertained to the illegal possession of drugs and drug paraphernalia, both of which were class 6 felonies under Arizona law.

11. In February 2000, Ackzen entered into a plea agreement under which he pled guilty to a misdemeanor drug offense. The drug possession charge was reduced to a

misdeemeanor and the drug paraphernalia charge dismissed. Ackzen was placed on probation, ordered to pay a fine, and required to complete a designated number of hours of community service.

12. Ackzen's failure to disclose the two felony drug charges referenced above is a violation of both NASD Registration Rule IM 1000-1 and NASD Conduct Rule 2110.

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

13. Complaint paragraph numbers 1-12, above, are re-alleged and incorporated herein by reference.

January 24, 2007 Request Letter

14. On January 24, 2007, pursuant to Procedural Rule 8210, NASD staff sent a written request to Ackzen for information related to its investigation into the conduct set forth in Complaint paragraphs 5-11. For example, information requested included, but was not limited to, a written statement from Ackzen detailing his understanding of the facts and circumstances surrounding the criminal charges brought against him in October 1999, along with an explanation as to why he failed to disclose the charges to FSS. Such information was necessary in order to determine whether his nondisclosure was willful.

15. The January 2007 Rule 8210 request was sent by both certified and first class mail to Ackzen's CRD residential address — [REDACTED] (CRD Address). The requested information was to be provided to NASD by February 7, 2007.

16. Ackzen failed to sign the green card for the January certified mailing and it was subsequently returned to NASD on February 27, 2007 stamped "Return to Sender – Unclaimed – Unable to Forward." The first class letter has not been returned to NASD. NASD never received a response to the January 2007 Rule 8210 request.

February 9, 2007 Request Letter

17. On February 9, 2007, NASD sent Ackzen a second written Rule 8210 request by both certified and first-class mail to the CRD Address. The information sought was identical to that requested in the January 2007 letter. Ackzen was to respond to the February 9, 2007 letter by February 23, 2007. The certified letter was returned marked "Return to Sender – Unclaimed – Unable to Forward." The first class letter was not returned to NASD. Ackzen did not respond to the February 2007 Rule 8210 request.

18. Staff conducted an internet search to see if an alternative address for Ackzen existed. That search did not reveal any other residential address for him. In addition, staff and Ackzen communicated by telephone. During staff's conversations with Ackzen, some of which were initiated by staff and others by Ackzen, Ackzen acknowledged receipt of the Rule 8210 letters. While staff encouraged Ackzen to respond to the written Rule 8210 requests, to date, no response has been received by staff.

19. The two written Rule 8210 requests for information were sent within two years of Ackzen's most recent association with an NASD member and, therefore, he was required by Procedural Rule 8210 to provide the requested information.

20. Each failure to provide information constitutes a separate and distinct violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110 by Ackzen.

PRAYER FOR RELIEF

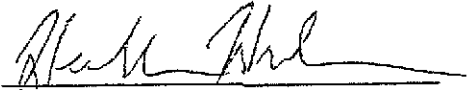
WHEREFORE, the Department of Enforcement respectfully requests that the

Panel:

- A. Order that one or more of the sanctions provided under NASD Rule 8310(a), including monetary sanctions be imposed; and
- B. Order that Ackzen bear such costs of proceedings as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8310.

Dated: June 22, 2007

NASD DEPARTMENT OF
ENFORCEMENT



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Regional Chief Counsel
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