

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

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REGISTRATION & DISCLOSURE

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

TONY JAMES PARKER
(CRD No. 5262801),

Respondent.

Disciplinary Proceeding
No. 2007007959601

DEFAULT DECISION

Hearing Officer – SW

DATE: May 15, 2008

Respondent was barred for violating NASD Conduct Rule 2110 and Procedural Rule 8210 by 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 he had been charged with a felony.

Appearances

Pamela L. Shu, Esq., Senior Regional Counsel, Chicago, IL, for the Department of Enforcement.

No appearance by or for Respondent Tony James Parker.

DECISION

I. Introduction

On December 26, 2007, the Department of Enforcement ("Enforcement") filed the attached two-count Complaint against Respondent Tony James Parker ("Respondent"), alleging that he: (i) willfully failed to disclose on his Uniform Application for Securities Industry Registration or Transfer ("Form U-4") that he had been charged with a felony, in violation of NASD Conduct Rule 2110 and IM-1000-1; and (ii) failed to respond to two

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requests for information issued pursuant to Rule 8210, in violation of NASD Conduct Rule 2110 and Procedural Rule 8210.

On March 24, 2008, Enforcement filed a Motion for Entry of Default Decision ("Motion"), supported by the Declaration of Pamela L. Shu, Esq., Senior Regional Counsel in FINRA's Chicago, IL office, and 18 exhibits.¹ For the reasons set forth below, the Hearing Officer grants Enforcement's Motion.

II. Respondent's Default

On December 24, 2007, Enforcement served the Complaint and Notice of Complaint on Respondent, via first-class and certified mail, at his address of record in FINRA's Central Registration Depository ("CRD address"). (CX-1, p. 1; CX-2, p. 11; DECL at ¶ 6). On January 31, 2008, Enforcement served the Second Notice of Complaint and Complaint on Respondent, via first-class and certified mail, at his CRD address. (CX-5, p. 13; DECL at ¶ 7).

The Hearing Officer finds that Enforcement complied with Procedural Rule 9134(b)(1) by sending the mailings to Respondent's CRD address.² 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.³

¹ Hereinafter, the statements in the Motion for Entry of Default Decision will be designated as "Motion, p.;" the statements in the Shu Declaration will be designated as "DECL at ¶;" and Enforcement's exhibits will be designated as "CX-" with the appropriate page or paragraph number.

² 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).

³ The following Findings of Fact and Conclusions of Law incorporate the allegations in the attached Complaint, pursuant to Rules 9215(f) and 9269, and *Notice to Members* 99-77.

III. Findings of Fact and Conclusions of Law

A. Jurisdiction

On September 26, 2006, Respondent became employed by Ascension Financial Solutions, Inc. ("Ascension" or the "Firm"), and on December 6, 2006, he submitted a Form U-4 to FINRA to become registered with Ascension as a direct participation program representative.⁴ (CX-1, p. 2; CX-8, pp. 1-3; Complaint at ¶ 4). On January 25, 2007, Ascension terminated Respondent's association without registration when the Firm discharged Respondent because he "did not disclose prior criminal record." (CX-1, p. 2). Respondent is not currently associated with any FINRA member firm. (*Id.*)

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 Ascension was terminated, and (2) the Complaint charges him with misconduct while he was associated with a FINRA member, and failures to provide information requested pursuant to Rule 8210 during the period of retained jurisdiction.

B. Respondent Failed to Disclose on His Form U-4 that He had Been Charged With a Felony

Count one of the Complaint alleges that, in 1997, Respondent was charged with a felony involving "Unlawful Imprisonment—First Degree," in Bowling Green, Kentucky. (Complaint at ¶ 3; CX-7, p. 1). On December 6, 2006, Respondent signed and submitted a Form U-4, on which he responded "no" to Question 14(A)(1)(b) that asked whether Respondent had ever been charged with a felony. (Complaint at ¶¶ 4-5; DECL at ¶¶ 12-

⁴ Pursuant to Article I, Section (dd) of the NASD By-Laws, a person who applies for registration is an "associated person of a member."

13). By responding “no” to the question, Respondent willfully failed to disclose the material fact that he had been charged with a felony. (Complaint at ¶ 5; DECL at ¶ 13).

The Securities and Exchange Commission has held that misrepresentations on an application for registration violate the standards of just and equitable principles of trade of NASD Conduct Rule 2110 to which every person associated with any FINRA member is held.⁵

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 willfully provided a false response on his Form U-4, in violation of NASD Conduct Rule 2110 and IM-1000-1.⁶

C. Respondent Failed to Respond to Requests for Information

The second cause of the Complaint alleges that Respondent failed to respond to two requests for information from the FINRA staff. (Complaint at ¶¶ 8-11). Specifically, on March 26, 2007 and April 17, 2007, the FINRA staff sent requests for information regarding Respondent’s criminal history to Respondent at his CRD address, pursuant to

⁵ *Robert E. Kauffman*, Exchange Act Rel. No. 33,219 (Nov. 18, 1993), *aff’d*, *Robert E. Kauffman v. SEC*, 40 F.3d 1240 (3rd Cir. 1994).

⁶ *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).

NASD Procedural Rule 8210, via first-class and certified mail. (Complaint at ¶¶ 9-10; CX-12; CX-14).

The U.S. Postal Service returned a receipt signed by “Tony J. Parker,” reflecting delivery on March 30, 2007 of the March 26, 2007 certified mailing. (Complaint at ¶ 9; CX-13). However, Respondent failed to provide any information in response to the two requests for information. (Complaint at ¶ 11).

Based on the receipt signed by Respondent, the Hearing Officer finds that Respondent received actual notice of FINRA’s requests for information. In any event, the Hearing Officer finds that Respondent is deemed to have received the requests for information sent to his CRD address pursuant to Rule 8210(d).

Failure to comply with Rule 8210 requests for information is a serious violation because it subverts FINRA’s ability to perform its regulatory responsibilities.⁷

The allegations in the second cause of Complaint and the evidence submitted by Enforcement are sufficient to establish that Respondent violated NASD Conduct Rule 2110 and Procedural Rule 8210 by failing to respond to the FINRA staff’s requests for information.⁸

⁷ 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 FINRA to conduct its investigations effectively, and emphasizing that FINRA members and associated persons must fully cooperate with requests for information).

⁸ 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

For failing to respond to two requests for information issued by the FINRA staff pursuant to Procedural Rule 8210, Enforcement recommended that Respondent be barred. 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 8210.⁹ 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 two requests for information.

B. The Hearing Officer Imposes No Separate Sanction for Respondent's Willful Failure to Disclose His Criminal History on 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 disclose on his Form U-4 that he had been charged with a felony.¹⁰

V. Order

Respondent Tony James Parker is barred from associating with any FINRA member firm in any capacity for violating NASD Conduct Rule 2110 and NASD Procedural Rule 8210 for failing to respond to two requests for information issued by the

⁹ *FINRA Sanction Guidelines*, p. 35 (2007), available at <http://www.finra.org/web/groups/enforcement/documents/enforcement/p011038.pdf>.

¹⁰ Although no separate sanction is imposed for Respondent's failure to disclose his criminal history on the Form U-4, based on the Hearing Officer's finding that Respondent willfully failed to disclose his criminal history, Respondent is deemed a statutorily disqualified person pursuant to Article III, Section 4(f) of the NASD By-Laws.

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
May 15, 2008

Copies to:

Tony James Parker (via FedEx and first-class mail)
Pamela L. Shu, 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.

Tony James Parker,
(CRD No. 5262801)

Respondent.

DISCIPLINARY PROCEEDING
No. 20070079596-01

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

In September 2006, Tony James Parker applied with Ascension Financial Solutions, Inc. (Ascension) for employment as a registered representative, at which time he prepared and submitted a Uniform Application for Securities Industry Registration or Transfer Form U4 (Form U4), which failed to disclose the material fact that he had been charged with a felony, in violation of NASD Conduct Rule 2110 and IM 1000-1. On two separate occasions, FINRA requested information from Parker, pursuant to NASD Rule 8210, about his failure to disclose on Form U4 that he had been charged with a felony. Parker failed to respond to these requests, in violation of NASD Rules 2110 and 8210.

RESPONDENT

Between approximately September 19, 2006 and January 25, 2007, Parker was a person associated with Ascension, a member of FINRA, ("Member"). On December 6, 2006,

Respondent Parker submitted a Form U4 in which he consented to the authority of FINRA (f/k/a NASD) and agreed to comply with all FINRA provisions, by-laws, rules and regulations.

Respondent Parker is not currently registered or associated with any FINRA member. This Complaint is being filed within two years of Respondent Parker's termination by the Member, therefore Respondent Parker is subject to the jurisdiction of FINRA, pursuant to Article V, Section 4 of FINRA's By-Laws.

**FIRST CAUSE OF ACTION
NASD Conduct Rule 2110 and IM 1000-1
Failure to Disclose Prior Criminal History on Form U4**

1. NASD Conduct Rule 2110 requires a member, in the conduct of his business, to observe high standards of commercial honor and just and equitable principles of trade.
2. NASD IM 1000-1 provides, in pertinent part, that filing information with FINRA with respect to membership or registration as a Registered Representative, which is incomplete or inaccurate so as to be misleading, may be deemed to be conduct inconsistent with just and equitable principles of trade and, when discovered, may be sufficient cause for appropriate disciplinary action.
3. On or about February 5, 1997, Respondent Parker was charged with a felony involving "Unlawful Imprisonment – First Degree," in Bowling Green, Kentucky.
4. On or about December 6, 2006, Respondent signed and submitted a Form U4 as part of his application to become associated with the Member. The Form U4 signed by Respondent provided, among other things, that Respondent agreed to submit to the authority of FINRA and to comply with all provisions of the FINRA's By-Laws and Rules.
5. Question 14(A)(1)(b) of the Form U4 requested information as to whether

Respondent had ever been charged with any felony. Respondent responded "no" to the question, and therefore willfully failed to disclose the material fact that he had been charged with the felony offense of "Unlawful Imprisonment – First Degree".

6. The acts, practices and conduct described above constitute separate and distinct violations of NASD Conduct Rule 2110 and IM 1000-1 by Respondent.

**SECOND CAUSE FOR COMPLAINT
NASD Conduct Rule 2110 and NASD Procedural Rule 8210
Failure to Respond to Requests for Information**

7. The Department realleges and incorporates by reference paragraphs 1 through 6 above.

8. NASD Conduct Rule 8210 provides, in pertinent part, that a person associated with a member or person subject to FINRA's jurisdiction is required to provide information orally or in writing, and to testify at a location specified by FINRA staff.

9. On or about March 26, 2007, FINRA staff sent to Respondent a request that he provide certain documents and information, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. That request for information was sent by First Class mail and by Certified mail, return receipt requested, to Respondent's last known address, which was also Respondent's address of record as contained in the records of the Central Registration Depository ("CRD address"). The first class mailing was not returned. The receipt for certified mailing was returned to FINRA staff with the signature of Tony J. Parker.

10. On or about April 17, 2007, FINRA staff sent to Respondent a request that he provide certain documents and information, pursuant to and in accordance with the provisions of NASD Procedural Rule 8210. That request for information was sent by first class mail and by certified mail, return receipt requested, to Respondent's last known address, which was also Respondent's address of record as contained in the records of the Central Registration Depository ("CRD address"). The first class mailing was not returned. The receipt for the certified mailing was returned to FINRA staff, with the signature of Carolyn Parker.
11. Respondent has failed to respond to the requests for documents and information described in Paragraphs 9 and 10 above to date, and the date for responding to the request has passed.
12. The acts, practices and conduct described above constitute a violation of NASD Conduct Rule 2110 and Procedural Rule 8210 by Respondent.

PRAYER FOR RELIEF

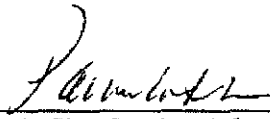
WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under NASD Rule 8310(a), including monetary sanctions, be imposed;
- B. 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;

- C. 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
- D. An order imposing any other fitting sanction.

FINRA DEPARTMENT OF ENFORCEMENT

Date: December 24, 2007


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