

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

GLENN JAMES MEYER
(CRD No. 2674576),

Respondent.

Disciplinary Proceeding
No. 2007009571601

Hearing Officer – LBB

DEFAULT DECISION

November 10, 2008

Respondent is barred from associating with any member firm in any capacity for failing to respond to requests for information in violation of NASD Conduct Rule 2110 and NASD Procedural Rule 8210. In light of the bar, no additional sanctions are imposed for the Respondent's private securities transaction in violation of NASD Conduct Rules 3040 and 2110.

Appearances

Vaishali S. Shetty, Senior Regional Counsel, FINRA, Jericho, NY, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

The Department of Enforcement ("Enforcement") filed the Complaint in this proceeding on June 24, 2008, asserting two causes of action against Respondent Glenn James Meyer ("Respondent"): participating in a private securities transaction in violation of NASD Conduct Rules 3040 and 2110 and failing to respond to Rule 8210 requests for information in violation of NASD Procedural Rule 8210 and Conduct Rule 2110. Despite being properly served with the

Complaint, Notice of Complaint, and Second Notice of Complaint, Respondent has not filed an answer to the Complaint.

On September 15, 2008, Enforcement filed a Motion for Entry of Default and Imposition of Sanctions, to which Respondent did not respond. Accordingly, pursuant to NASD Procedural Rules 9215(f) and 9269, the allegations in the Complaint will be deemed admitted.

Enforcement's motion is granted.¹

I. Respondent's Default

On June 23, 2008, Enforcement served the Complaint and Notice of Complaint on Respondent by certified mail, return receipt requested, and regular first-class mail at his current residential address as reflected in the *Central Registration Depository* ("CRD"). Neither package was returned by the Postal Service.

Enforcement served a Second Notice of Complaint and the Complaint on Respondent by certified mail, return receipt requested, and regular first-class mail at Respondent's CRD address on July 22, 2008. Neither package was returned by the Postal Service. The return receipt card was returned to FINRA's District Office, signed by "Melissa Meyer."

Enforcement served the Complaint and the Notices of Complaint in accordance with Procedural Rule 9134, giving Respondent constructive notice of this proceeding. Respondent has failed to respond to the Complaint. By failing to respond, he defaulted.

II. Jurisdiction

Respondent was registered with FINRA member firms from 1995 until February 19, 2008. Although Respondent has not been registered with any FINRA member firm since then, he remains subject to FINRA jurisdiction for purposes of this proceeding, pursuant to Article V,

¹ The factual determinations in this decision are based on the allegations of the attached Complaint and the materials filed by Enforcement with its motion.

Section 4 of FINRA's By-Laws, because the Complaint was filed within two years after the termination of his registration with a member firm, and it charges him with misconduct while he was registered with a member firm and with failing to respond to Rule 8210 requests issued within two years following the termination of his registration with member firms.

III. Origin of the Investigation

The Department of Enforcement initiated this investigation as a result of the receipt of an amended Uniform Termination Notice for Securities Industry Registration ("Form U5") disclosing a Statement of Claim filed by customer M.A. against Respondent. The amended Form U5 stated that the Statement of Claim alleged violations of NASD Rule 2310 and NYSE Rule 405 along with churning, breach of fiduciary duty, professional negligence and common law fraud. In addition, the Form U5 stated that M.A. alleged that he had incurred substantial losses due to Respondent's fraudulent churning of his brokerage account and inducing M.A. to buy worthless stock in an inactive shell company.

IV. Violations

A. Participation in a Private Securities Transaction in Violation of NASD Conduct Rules 3040 and 2110

From January 5, 2004, through July 24, 2006, Respondent was employed by Westcap Securities, Inc. as a General Securities Principal and General Securities Representative. In September 2005, Respondent introduced M.A. to J.D., the Chief Executive Officer of Haven Holding, Inc., a company allegedly engaged in the business of developing and marketing a videoconferencing product. M.A. received the Offering Memorandum and Subscription Agreement for Haven Holding at a lunch that Respondent arranged for M.A. and J.D.. At Respondent's recommendation, M.A. invested \$100,000 in a private placement for Haven Holding, with the anticipation of earning a profit. Haven Holding turned out to be a poor

investment, and the client lost everything he invested in the company. Respondent received a “finder’s fee” of \$5,000 in connection with M.A.’s purchase. Respondent did not notify his firm of his participation in this transaction, nor did he receive his firm’s approval to participate.

NASD Conduct Rule 3040(a) provides that “[n]o person associated with a member shall participate in any manner in a private securities transaction except in accordance with the requirements of this Rule.” Rule 3040(b) requires the associated person to notify the firm prior to participating in a private securities transaction. Rule 3040(c) requires the member firm to approve or disapprove the transaction if the associated person may receive compensation, and prohibits participation if the firm disapproves. Rule 3040 protects investors from unsupervised sales and protects the member firm from liability and loss resulting from those sales. Violation of this rule deprives investors of a member firm’s oversight and due diligence, protections they have a right to expect. *Philippe N. Keyes*, Exchange Act Rel. No. 54723, 2006 SEC LEXIS 2631, at *14 – *15 (Nov. 8, 2006).

The transaction was a private securities transaction in violation of Rule 3040. In similar cases, participation in transactions involving start-up companies through investments in private placements without submitting proper written notice has been held to violate Rule 3040. *See, e.g., Dep’t of Enforcement v. Van Dyk*, No. C3B020013, 2004 NASD Discip. LEXIS 12 (N.A.C. Aug. 9, 2004); *Dep’t of Enforcement v. Calandro*, No. C05050015, 2007 FINRA Discip. LEXIS 17 (N.A.C. Dec. 14, 2007), SEC appeal docketed, No. 3-12926 (Jan. 8, 2008).

Conduct Rule 3040 defines a “private securities transaction” as “any securities transaction outside the regular course or scope of an associated person’s employment with a member, including, though not limited to, new offerings of securities [that] are not registered with the Commission.” The investment in Haven Holding was outside the scope of

Respondent's regular employment. Under Conduct Rule 3040, "selling compensation" is defined as "any compensation paid directly or indirectly from whatever source in connection with or as a result of the purchase or sale of a security, including, though not limited to, commissions; finder's fees; securities ...; rights of participation in profits ... as a general partner or otherwise; or expense reimbursements."

Enforcement has shown that the investment in Haven Holding was an "investment contract," and thus a security, under the standards established in *SEC v. W.J. Howey Co.*, 328 U.S. 293 (1946).² In *Howey*, the Supreme Court held that an investment contract is "a contract, transaction or scheme whereby a person invests his money in a common enterprise and is led to expect profits solely from the efforts of the promoter or a third party, it being immaterial whether the shares in the enterprise are evidenced by formal certificates or by nominal interests in the physical assets employed in the enterprise." *Id.* at 298-99. Under the *Howey* standard, the investment in Haven Holding, a corporation, was a security.

Respondent participated in a private securities transaction, but he did not notify his firm of the transaction in writing as required by Rule 3040(b). In addition, he received selling compensation but did not receive written firm approval as required by Rule 3040(c). These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent participated in a private securities transaction in violation of NASD Conduct Rule 3040. A violation of Conduct Rule 3040 also constitutes a violation of Conduct Rule 2110. *Stephen J. Gluckman*, 54 S.E.C. 175, 185 (1999); *see also Charles C. Fawcett, IV*, Exchange Act Rel. No. 56770, 2007 SEC LEXIS 2598, at *11 – *12 (Nov. 8, 2007) (stating that

² Enforcement describes the investment as a "private placement." The precise nature of the investment is unclear, but Enforcement has shown that the investment qualifies as a security under the test set forth in *Howey*.

violations of FINRA rules are inconsistent with just and equitable principles of trade and constitute a violation of Rule 2110.).

B. Failure to Respond to Requests for Information in Violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110

Procedural Rule 8210 authorizes FINRA to require any person subject to its jurisdiction to provide information related to any matter under its investigation. Enforcement twice requested that Respondent appear and testify, pursuant to Rule 8210, about his role in the Haven Holding investment. In a telephone call, Respondent acknowledged receiving the requests, but he did not appear for his on-the-record interview.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to respond to requests for information in violation of Procedural Rule 8210. A violation of Rule 8210 is also a violation of Rule 2110. *Dep't of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

V. Sanctions

For failing to respond to requests for information, the Guidelines recommend a bar. *FINRA Sanction Guidelines* at 35. One of the Principal Considerations is the nature of the information requested. The information in the requests to Respondent was important to determine whether Respondent violated Rule 3040 by participating in a private securities transaction. There is no evidence of any mitigating facts that would support a lesser sanction, but the nature of the information requested is an aggravating factor. The information requested was important to a determination of whether Respondent engaged in a serious violation by introducing his customer to the CEO of Haven Holding and recommending that his customer invest in Haven Holding.

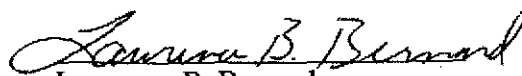
A bar is appropriate for Respondent's failure to respond to requests for information in violation of Rules 8210 and 2110. In light of the bar, no additional sanction is imposed for engaging in a private securities transaction in violation of Rule 3040.

VI. Conclusion

Respondent is barred from associating with any member firm in any capacity for failing to respond to requests for information in violation of NASD Procedural Rule 8210 and Conduct Rule 2110. In light of the bar, no additional sanctions are imposed for Respondent's failure to submit proper notice to his firm of a private securities transaction in violation of NASD Conduct Rules 3040 and 2110.

The bar will be effective immediately if this decision becomes FINRA's final disciplinary action.

SO ORDERED.


Lawrence B. Bernard
Hearing Officer

Copies to: Glenn James Meyer (*via overnight courier and first-class mail*)
Vaishali S. Shetty, Esq. (*via facsimile and first-class mail*)
David R. Sonnenberg, Esq. (*via first-class mail*)
Mark P. Dauer, Esq. (*via first-class mail*)

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DEPARTMENT OF ENFORCEMENT,

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v.

**GLENN JAMES MEYER
(CRD No. 2674576),**

RESPONDENT.

**DISCIPLINARY PROCEEDING
No. 2007009571601**

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. From January 5, 2004 through July 24, 2006, while registered with member firm Westcap Securities, Inc. (BD No. 45250) ("Westcap"), as a General Securities Representative ("GSR"), Glenn James Meyer ("Meyer") effected a private securities transaction away from Westcap, in violation of NASD Conduct Rules 3040 and 2110.
2. Meyer failed to appear on two occasions, March 5, 2008 and March 19, 2008, for an on-the-record ("OTR") interview, in violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

RESPONDENT AND JURISDICTION

3. Meyer first became registered with FINRA as a GSR on or about November 2, 1995 through a prior member firm. Meyer also became registered as a General Securities Principal ("GSP") on or about March 1, 1997.
4. Meyer was registered as a GSR and GSP with Westcap from on or about January 5, 2004 through on or about July 24, 2006. From on or about August 9, 2006 through on or about February 19, 2008, Meyer was registered with member firm Vision Securities Inc. (BD No. 35001) ("Vision").
5. On February 19, 2008, Vision filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") on behalf of Meyer.
6. On April 2, 2008, Meyer's FINRA registration was suspended for his failure to comply with an arbitration award.
7. Meyer is not currently associated with a FINRA member firm. However, FINRA retains jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws.

FIRST CAUSE OF ACTION PARTICIPATION IN PRIVATE SECURITIES TRANSACTION NASD CONDUCT RULES 3040 AND 2110

8. The Department realleges and incorporates by reference paragraphs 1 through 7 above.
9. MA was a customer of member firm Westcap where his account was serviced by registered representative Meyer.

10. In September 2005, Meyer introduced MA to JD, the Chief Executive Officer of Haven Holding, Inc. ("Haven Holding"). Haven Holding was allegedly engaged in the business of developing and marketing a video conferencing product.
11. At the recommendation of Meyer, MA invested \$100,000 in Haven Holding. Meyer received a "finder's fee" of \$5,000 from Haven Holding in connection with MA's purchase in the offering. Meyer participated in this transaction outside the purview of Westcap.
12. Meyer failed to give written notice of his intention to participate in the sale of the private placement to, and failed to obtain written approval from, Westcap prior to engaging in such activities.

By reason of the foregoing, Meyer violated NASD Conduct Rules 3040 and 2110.

**SECOND CAUSE OF ACTION
FAILURE TO TESTIFY
NASD PROCEDURAL RULE 8210 AND NASD CONDUCT RULE 2110**

13. The Department realleges and incorporates by reference paragraphs 1 through 12 above.

The First Request

14. In connection with an examination into his dealings with MA, the staff of FINRA's District No. 10 office (the "Staff") requested that Meyer appear and testify at an OTR at the Long Island District Office on March 5, 2008, pursuant to NASD Procedural Rule 8210 ("First Request").
15. The Staff sent the First Request to Meyer on February 15, 2008 via certified mail, return receipt requested and via first-class mail to Meyer's residential and business

addresses, according to the Central Registration Depository ("CRD"): [REDACTED]

[REDACTED] ("Residential Address") and [REDACTED]

[REDACTED] ("Vision Address").

16. The return receipt card for the certified mailing to the Residential Address was returned to the Staff by the United States Postal Service ("USPS"), signed by "Melissa Meyer," who has been identified through other documentation as Meyer's wife. The return receipt card for the certified mailing to the Vision Address was returned, signed for by "Anna Mareca."
17. The letter further asked that Meyer contact the Staff by February 25, 2008 to either confirm his appearance or to reschedule if he was unable to appear on the scheduled date. Meyer failed to contact the Staff by February 25, 2008.
18. On March 5, 2008, Meyer failed to appear for the OTR.

The Second Request

19. The Staff sent a second request to Meyer on March 4, 2008 via certified mail, return receipt requested and via first-class mail to the Residential Address, requesting that Meyer appear and testify at an OTR at the Long Island District Office on March 19, 2008, pursuant to NASD Procedural Rule 8210 .
20. The letter further asked that Meyer contact the Staff by March 14, 2008 to either confirm his appearance or to reschedule if he was unable to appear on the scheduled date.
21. The return receipt card for the certified mailing to the Residential Address was returned to the Staff by the USPS, with an indecipherable signature, similar to the

signature on the return receipt card for the Residential Address on the First Request. Unlike the earlier card, the recipient did not print out a name on this return receipt card.

22. On March 5, 2008, Meyer called the Staff, stating that he would be unable to attend the OTR scheduled for March 5, 2008. The Staff informed Meyer that due to the fact that he had failed to respond to the First Request by February 25, 2008, the original OTR had been rescheduled for March 19, 2008. The Staff then informed Meyer that the Second Request had been mailed to him on March 4, 2008 and that, prior to March 14, 2008, he should call the Staff and advise them of his intention to appear. Meyer failed to contact the Staff by March 14, 2008.

23. On March 19, 2008, Meyer failed to appear for the OTR.

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

RELIEF REQUESTED

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 Meyer bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

June 23, 2008

FINRA DEPARTMENT OF ENFORCEMENT

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