

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ISRAEL ECHI
(CRD No. 5416372),

Respondent.

Disciplinary Proceeding
No. 2007010774001

DEFAULT DECISION

Hearing Officer – SW

Date: November 19, 2008

Respondent is suspended from associating with any FINRA member for one year in all capacities and fined \$5,000 for violating Conduct Rule 2110 and IM-1000-1 by willfully failing to disclose his criminal history on his Form U4, and Respondent is concurrently suspended for two months in all capacities and fined an additional \$2,500 for violating Conduct Rule 2110 and Procedural Rule 8210 by failing to respond timely to requests for information issued by the FINRA staff pursuant to Rule 8210.

Appearances

Jeffrey T. Kern, Esq., Senior Regional Counsel, New York, NY, for the
Department of Enforcement.

No appearance by or for Respondent Israel Echi.

DECISION

I. Introduction

On June 20, 2008, the FINRA Department of Enforcement (“Enforcement”) filed the attached two-count Complaint against Respondent Israel Echi (“Respondent”) alleging that he: (i) willfully failed to disclose his criminal history on his Uniform Applications for Securities Industry Registration or Transfer (“Form U4”), in violation of Conduct Rule 2110 and IM-1000-1; and (ii) failed to respond timely to requests for

information issued by the FINRA staff pursuant to Procedural Rule 8210, in violation of Conduct Rule 2110 and Rule 8210.

On September 24, 2008, Enforcement filed a Motion for Entry of Default Decision ("Motion"), supported by the Declaration of Jeffrey T. Kern, Esq., Senior Regional Counsel in FINRA's New York, NY office, and 13 exhibits. For the reasons set forth below, the Hearing Officer grants Enforcement's Motion.

II. Respondent's Default

On June 19, 2008, 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") and at his current residential address ("Bronx address").¹ On July 30, 2008, Enforcement served the Second Notice of Complaint and Complaint on Respondent, via first-class and certified mail, at his CRD address and the Bronx address. Although Respondent's name and signature appeared on the certified return receipts, reflecting delivery of the June 19 and July 30, 2008 Bronx address mailings, Respondent failed to file an Answer to the allegations of the Complaint.

The Hearing Officer finds that Enforcement complied with Procedural Rule 9134(b)(1) by sending the mailings to Respondent's CRD address and the Bronx address. The Hearing Officer also finds that Respondent received notice of this

¹ Enforcement learned of the Bronx address in January 2008 from an online database search.

proceeding and further finds that Respondent defaulted by failing to answer the Complaint.²

III. Findings of Fact and Conclusions of Law

A. Jurisdiction

On September 5, 2007, Respondent became a "person associated with a member" as that term is defined in Article I, paragraph (rr) of the FINRA By-Laws when he applied to become registered as an investment company and variable contracts products representative by completing a Form U4 and submitting it to Chase Investment Services Corp. ("Chase" or the "Firm") for filing with FINRA. On September 26, 2007, Chase filed a Form U5 reflecting that it had terminated Respondent's association with the Firm on September 20, 2007. Respondent is not currently associated with any FINRA member firm.

Respondent remains subject to FINRA 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 after his association with Chase was terminated, and (2) the Complaint charges him with misconduct while he was associated with a FINRA member, and with failing to provide a timely response to information requested pursuant to Rule 8210 during the period of retained jurisdiction.

B. Respondent Failed to Disclose His Criminal History on His Form U4

Count one of the Complaint alleges that, on March 8, 1997, Respondent was charged with petit larceny, a Class A misdemeanor in New York. On May 14, 1997,

² The factual determinations in this Decision are based on the Motion for Entry of Default Decision, the Declaration in Support of the Motion, the exhibits attached thereto, and the allegations in the Complaint, deemed admitted pursuant to Rules 9215(f) and 9269, and *Notice to Members* 99-77 (Sept. 1999).

Respondent resolved the charge by pleading guilty to attempted criminal possession of stolen property in the fifth degree, a Class B misdemeanor, and he was sentenced to one year probation.³ On September 5, 2007, Respondent signed and submitted a Form U4, on which he responded “no” to Questions 14B(1)(a) and (1)(b), which asked whether Respondent had ever pled guilty to, or been charged with, a misdemeanor involving wrongful taking of property. In his written response to FINRA’s request for information, Respondent acknowledged that, when he completed the Form U4, he remembered his criminal charge and conviction. By unconditionally responding “no” to Questions 14B(1)(a) and (1)(b), Respondent willfully failed to disclose material facts on his Form U4.⁴

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 Conduct Rule 2110 to which every person associated with any FINRA member is held.⁵

The allegations in the first cause of the Complaint and the evidence submitted by Enforcement are sufficient to establish that Respondent violated Conduct Rule 2110 and IM-1000-1 by willfully providing a false response on his Form U4.⁶

³ The charge involved the theft of luncheon meat from a supermarket.

⁴ *Christopher LaPorte*, Exch. 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).

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

⁶ 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 . . .”

As a result of the finding of willfulness, Respondent is statutorily disqualified.⁷

C. Respondent Failed to Respond Timely to FINRA Requests for Information

In October 2007, after receipt of the Form U5 filed by Chase on September 26, 2007, the FINRA staff commenced an investigation of Respondent's non-disclosure of his criminal history.

Count two of the Complaint alleges that Respondent failed to respond timely to requests for information regarding Respondent's non-disclosure. The FINRA staff sent requests for information pursuant to Procedural Rule 8210 to Respondent at his CRD address on October 10, 2007, and November 1, 2007, via first-class and certified mail, and requested that information be provided by October 24, 2007, and November 12, 2007, respectively. Respondent did not respond by the later November 12, 2007 deadline.

In January 2008, upon identifying another address for Respondent, Enforcement sent a letter asking Respondent to contact the Enforcement staff. Respondent telephoned the FINRA staff and confirmed that he had never received the prior Rule 8210 letters because he had moved from his CRD address and never updated CRD to reflect his current residential address. On February 29, 2008, Respondent provided the FINRA staff with a written response to the Rule 8210 requests, addressing his failure to report his criminal history on his Form U4.

⁷ Section 15(b)(4)(A) of the Securities Exchange Act of 1934 states that a person who files an application for association with a member of a self-regulatory organization and who "willfully" fails to disclose "any material fact which is required to be stated" in that application is statutorily disqualified from participating in the securities industry.

While Respondent did not actually receive the two letters sent to his CRD address, the Hearing Officer finds that Respondent had an obligation to keep his CRD address current, even though he had left the industry, and that he is deemed to have received the requests for information sent to his CRD address pursuant to Rule 8210(d). Accordingly, even though Respondent promptly responded to the January 2008 request for information sent to his Bronx address, which he had not provided to CRD, his February 2008 response was an untimely response to the prior letters sent to his CRD address.⁸ Failure to timely comply with Rule 8210 requests for information is a serious violation because it subverts FINRA's ability to perform its regulatory responsibilities.⁹

Based on the allegations deemed admitted, the Hearing Officer finds that Respondent violated Conduct Rule 2110 and Procedural Rule 8210 as alleged in the second cause of the Complaint.

IV. Sanctions

A. Respondent Willfully Failed to Update His Form U4 to Disclose Material Information

For filing a false, misleading, or inaccurate Form U4, the *FINRA Sanction Guidelines* recommend a fine ranging from \$2,500 to \$50,000, as well as the consideration of a 5 to 30 business-day suspension in all capacities.¹⁰ In egregious cases,

⁸ *Perpetual Securities, Inc.*, Exch. Act Rel. No. 56613, 2007 SEC LEXIS 2353, at *34 (Oct. 4, 2007) (finding that respondent was required to keep her CRD address current, and that she must bear the consequences of her failure to do so, the Commission affirmed that respondent had violated Conduct Rule 2110 and Rule 8210).

⁹ See, e.g., *Richard J. Rouse*, Exch. Act Rel. No. 32,685, 1993 SEC LEXIS 1831, at *7 (1993); *Joseph G. Chiulli*, Exch. 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).

¹⁰ *FINRA Sanction Guidelines*, p. 73 (2007), available at <http://www.finra.org/web/groups/enforcement/documents/enforcement/p011038.pdf>.

such as those involving habitual misconduct, the *Guidelines* suggest a longer suspension of up to two years, and possibly even a bar.¹¹ The *Guidelines* suggest three principal considerations in determining the appropriate sanction: (1) the nature and significance of information at issue; (2) whether the omission resulted in a statutorily disqualified person becoming associated with a firm; and (3) whether the misconduct harmed a registered person, a firm, or anyone else.¹²

A Form U4 is fundamental to the business and integrity of the securities industry. It is "used by all the self-regulatory organizations, including [FINRA], state regulators, and broker-dealers to monitor and determine the fitness of securities professionals,"¹³ and "serves as a vital screening device for hiring firms and [FINRA] against individuals with 'suspect history.'"¹⁴

In this case, Enforcement requested that the Hearing Officer fine Respondent \$5,000 and suspend him from associating with any FINRA member for one year in all capacities for willfully failing to disclose material information on his Form U4 concerning his misdemeanor charge and conviction.

Finding that (i) the information regarding Respondent's criminal history was significant information, (ii) Respondent's failure to disclose his criminal conviction was willful, and (iii) the case lacked two aggravating factors, *i.e.*, the failure to disclose did not result in a statutorily disqualified person becoming associated with the Firm and

¹¹ *Id.* at 74.

¹² *Id.* at 73.

¹³ *Rosario R. Ruggiero*, Exch. Act Rel. No. 37,070, 1996 SEC LEXIS 990, at *8-9 (Apr. 5, 1996).

¹⁴ *Dist. Bus. Conduct Comm. v. Prewitt*, Complaint No. [REDACTED], 1998 NASD Discip. LEXIS 37, at *8 (NAC Aug. 17, 1998). *See also*, *Thomas R. Alton*, Exch. Act Rel. No. 36,058, 1995 SEC LEXIS 1975, at *4 (Aug. 4, 1995).

there was no evidence of harm caused by the failure to disclose, the Hearing Officer accepts Enforcement's recommendation.¹⁵

Accordingly, the Hearing Officer suspends Respondent for one year in all capacities and fines him \$5,000, payable upon re-entry to the securities industry, for violating Conduct Rule 2110, and IM-1000-1 by willfully failing to disclose his criminal history.¹⁶

B. Respondent Failed to Timely Respond to Rule 8210 Requests for Information

The applicable *Guideline* recommends that, where an individual does not respond in a timely manner to a request for information issued under Procedural Rule 8210, a suspension of up to two years and a fine ranging between \$2,500 and \$25,000 should be imposed.¹⁷

Under the *Guidelines*, the following factors are relevant in determining the appropriate remedial sanctions: (1) the nature of the information requested; (2) the number of requests made; (3) the time respondent took to respond; and (4) the degree of regulatory pressure required to obtain a response.¹⁸

Enforcement requested that the Hearing Officer suspend Respondent for one year from associating with a FINRA member in all capacities and fine him \$5,000 payable

¹⁵ *Dept. of Enforcement v. Zdzieblowski*, Complaint No C8A030062, 2005 NASD Discip LEXIS 3, at *18 (NAC May 3, 2005) (finding the misdemeanor charge itself would not have resulted in respondent's statutory disqualification, and there being no evidence in the record that respondent's nondisclosure resulted in any customer harm, the NAC fined respondent \$5,000 and suspended him for one year for failing to disclose on his Form U4 his misdemeanor charge involving the taking of property).

¹⁶ Under Article III, Section 3(b) of FINRA's By-Laws, a "statutorily disqualified" person cannot become or remain associated with an FINRA member unless the disqualified person's member firm applies for relief from the statutory disqualification under Article III, Section 3(d) of the By-Laws.

¹⁷ *Guidelines* at 35.

¹⁸ *Id.*

upon re-entry into the securities industry, citing a National Adjudicatory Council ("NAC") decision, *Van Dyk*.¹⁹

In *Van Dyk*, the NAC stated that it would have imposed a two-year suspension on Van Dyk for his failure to timely respond to a request for information because it took more than one year, five requests, all of which he received, and the filing of a complaint to induce Van Dyk to respond to FINRA's requests for information.

The Hearing Officer notes that, unlike *Van Dyk*, (i) Respondent responded in less than seven months; (ii) there were only three requests, rather than five, and Respondent actually only received the third request; and (iii) Respondent provided information to the FINRA staff promptly after receiving the third request, well before the filing of the Complaint in this matter. Accordingly, Respondent's failure to respond timely was unintentional. In addition, as Enforcement noted in its Motion, Respondent was never actually registered at FINRA and spent only a few weeks as a probationary employee on the banking side of Chase.

Accordingly, the Hearing Officer finds that under the particular facts of this case, a two-month suspension in all capacities and a \$2,500 fine are sufficiently remedial for Respondent's violation of Conduct Rule 2110 and Procedural Rule 8210.²⁰

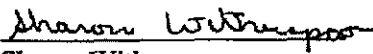
V. Order

Respondent Israel Echi is suspended for one year from associating with any FINRA member firm in any capacity and fined \$5,000 for violating Conduct Rule 2110

¹⁹ *Dep't of Enforcement v. Van Dyk*, Complaint No. C3B020013, 2004 NASD Discip. LEXIS 12 (NAC Aug. 9, 2004).

²⁰ *Robert Fitzpatrick*, Exch. Act Rel. No. 44,956, 2001 SEC LEXIS 2185 (2001) (for failing to respond timely, respondent was censured, fined \$2,500, and suspended for five business days).

and IM-1000-1 by willfully failing to disclose his criminal history on his Form U4. Respondent is also suspended for two months and fined an additional \$2,500 for violating Conduct Rule 2110 and Procedural Rule 8210 by failing to timely respond to requests for information issued by the FINRA staff pursuant to Rule 8210. If this Decision becomes the final disciplinary action of FINRA, the suspensions shall run concurrently, and shall begin at the opening of business on January 5, 2009, and end at the close of business on January 4, 2010. The fines shall be payable upon his re-entry into the securities industry.


Sharon Witherspoon
Hearing Officer

Dated: Washington, DC
November 19, 2008

Copies to:
Israel Echi (via FedEx and first-class mail)
Jeffrey T. Kern, 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.

ISRAEL ECHI (CRD NO. 5416372),
RESPONDENT.

DISCIPLINARY PROCEEDING
No. 2007010774001

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. This matter involves the willful failure of Respondent Israel Echi to disclose on a Uniform Application for Securities Industry Registration or Transfer Form (U4) the material facts that he had been charged with and convicted of a misdemeanor involving the wrongful taking of property.
2. It also involves Echi's failure to timely respond to FINRA (formerly known as NASD) staff requests for information made pursuant to NASD Procedural Rule 8210.
3. By engaging in the conduct summarized above and more particularly described below, Echi acted in contravention of Article V, Section 2 of FINRA By-Laws and violated NASD Interpretive Material (IM)-1000-1, NASD Procedural Rule 8210 and NASD Conduct Rule 2110.

JURISDICTION

4. Echi has never been registered with FINRA. However, on September 5, 2007, Echi became an "associated person of a member" as that term is defined in Article I, paragraph (rr) of the FINRA By-Laws, by applying for registration with FINRA through Chase Investment Services Corp. (BD No. 25574). Echi effected this application for registration by completing a U4 and submitting it to Chase.
5. On September 20, 2007, Chase terminated Echi's employment and Echi is no longer employed with a FINRA member firm.
6. Under Article V, Section 4 of FINRA's By-Laws, Echi is subject to the jurisdiction of FINRA until September 19, 2009.

BACKGROUND

7. Paragraphs 1 through 6 of this Complaint are realleged and incorporated herein by reference.
8. On March 8, 1997, Echi was arrested and charged with Petit Larceny under Section 155.25 of the New York Penal Law, a Class A Misdemeanor. This charge involved the theft of \$3.80 worth of turkey breast from a Grand Union supermarket in Tarrytown, New York.
9. On May 14, 1997, Echi resolved this charge by pleading guilty to Attempted Criminal Possession of Stolen Property in the Fifth Degree, a Class B Misdemeanor. He was sentenced to one year probation.

FIRST CAUSE OF COMPLAINT

(Willful Failure to Disclose Material Facts on U4)

Contravention of Article V, Section 2 of FINRA's By-Laws
and violation of IM-1000-1 and NASD Conduct Rule 2110

10. Paragraphs 1 through 9 of this Complaint are realleged and incorporated herein by reference.
11. On September 4, 2007, Echi was hired by Chase as a Personal Banker. At Chase, Personal Bankers are required to become FINRA Series 6 and Series 63 registered.
12. In connection with his hiring, Echi, on September 5, 2007, completed and executed a U4.
13. Question 14B(1) asks: "Have you ever:

 (a) been convicted of or pled guilty to or nolo contendere ("no contest") in a domestic, foreign or military court to a misdemeanor involving: investments or an investment-related business or any fraud, false statements or omissions, wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?
 (b) been charged with a misdemeanor specified in 14B(1)(a)?"
14. Echi answered "no" to both questions on the U4 he completed and signed on September 5, 2007 despite the fact that he was fully aware that he had been both charged with and convicted of a misdemeanor involving "the wrongful taking of property."
15. Echi, therefore, willfully failed to disclose the facts that he had been charged with and convicted of a misdemeanor involving "the wrongful taking of property" on the U4 he completed and signed on September 5, 2007.

16. These facts are material to FINRA's ability to evaluate the fitness of individuals seeking entry to the securities industry and, similarly, to Chase's ability to screen prospective employees whom it contemplates will handle customer funds. In essence, the accurate disclosure of these facts would have affected Echi's ability to become registered with FINRA and remain employed at Chase.

By reason of the foregoing, Echi acted in contravention of Article V, Section 2 of FINRA's By-Laws and violated NASD IM-1000-1 and Conduct Rule 2110.

SECOND CAUSE OF COMPLAINT

(Failure to Timely Respond to Requests for Information)

Violation of NASD Procedural Rule 8210 and NASD Conduct Rule 2110

17. Paragraphs 1 through 16 of this Complaint are realleged and incorporated herein by reference.
18. On September 20, 2007, when Chase learned that Echi had failed to disclose his criminal history on his U4, it terminated his employment and filed a Uniform Termination Notice for Securities Industry Registration (U5). In October 2007, the staff of FINRA's Member Regulation Department commenced an investigation into Chase's U5 filing regarding Echi.
19. On October 10, 2007, the Staff sent a letter pursuant to NASD Procedural Rule 8210 to Echi requesting him to provide, by October 24, 2007, information regarding his failure to disclose his criminal history on his U4. Pursuant to Rule 8210, this letter was sent via both regular first class mail and certified mail, return receipt requested, to the residential address listed for Echi in CRD, [REDACTED]

20. The first class letter was not returned. The certified letter was returned to Staff, marked, "Unclaimed." Echi did not respond to the Staff's requests by the stated deadline.
21. As a result of Echi's failure to respond, the Staff sent Echi a second request, pursuant to Rule 8210, on November 1, 2007. This letter set forth a November 12, 2007 deadline for response. Again, pursuant to Rule 8210, this letter was sent via both regular first class mail and certified mail, return receipt requested, to Echi's CRD address.
22. Once again, the first class letter was not returned and the certified letter was returned to Staff, marked, "Unclaimed." Echi did not respond by the November 12, 2007 deadline.
23. Upon its receipt of this matter, Enforcement staff identified a new address for Echi as a result of an online database search and sent Echi a letter asking him to contact Enforcement staff.
24. Upon receiving this letter, Echi telephoned Enforcement staff and stated that he never received the Staff's Rule 8210 letters because he had moved from his CRD address shortly after his termination from Chase. Echi admitted that he never updated his CRD address.
25. On February 29, 2008, Echi forwarded a letter via email to Enforcement staff in which he set forth the reasons he failed to report his criminal history on his U4. Specifically, Echi stated, "When they asked me about being convicted of any crimes I thought they were talking about felonies so I put no. I also thought it was supposed to be in the last 7 years."
26. This February 29, 2008 response provided most of the information requested of Echi in the letters sent to him pursuant to Rule 8210 on October 10, 2007 and November 1, 2007. This response, however, was untimely in that it was received over three months past the last stated response deadline of November 12, 2007.

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

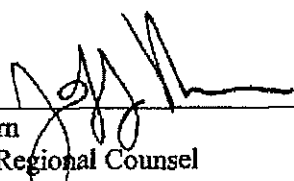
RELIEF REQUESTED

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 the Echi 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 Echi's conduct, as alleged in the First Cause of Complaint, was willful; the omitted information was material; and, the omission to state material facts was on a U4 application.

FINRA DEPARTMENT OF ENFORCEMENT

Date: June 19, 2008



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