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

REGISTRATION & DISCLOSURE

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ROBERT AHMAD SAMEI  
(CRD No. 4952673),

Respondent.

Disciplinary Proceeding  
No. 2007010925001

**DEFAULT DECISION**

Hearing Officer – MC

May 4, 2009

**Respondent is barred from associating with any FINRA member firm in any capacity for failing to respond to requests for information made by FINRA staff, in violation of Conduct Rule 2110 and Procedural Rule 8210. In light of the bar, no separate sanction is imposed on Respondent for violating Conduct Rule 2110 and IM-1000-1 by willfully failing to disclose his criminal history on his Form U4.**

*Appearances:*

George C. McGuigan, Jr., Senior Regional Counsel, Dallas, TX, for the  
Department of Enforcement.

No appearance by or for Robert Ahmad Samei, Respondent.

**DECISION**

**I. Introduction**

On December 11, 2008, the Department of Enforcement (“Enforcement”) filed the attached Complaint in this disciplinary proceeding. The First Cause of the Complaint alleges that Respondent Robert Ahmad Samei (“Respondent”) willfully failed to disclose a felony charge on his Form U4, in violation of Conduct Rule 2110, IM-1000-1, and Article V, Section 2 of FINRA’s By-Laws. The Second Cause of the Complaint alleges

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that Respondent failed to respond to two successive requests made by FINRA staff, pursuant to Procedural Rule 8210, for information related to the felony charge, in violation of Conduct Rule 2110 and Procedural Rule 8210.

Enforcement served Respondent twice with the Complaint and Notice of Complaint at his most current residential address recorded in FINRA's Central Registration Depository (the "CRD address") as well as at an additional address obtained by FINRA staff from LexisNexis ("Lexis address"). Because Respondent failed to file an Answer, Enforcement filed a Motion for Entry of Default Decision ("Default Motion") on March 9, 2009, supported by the Declaration of George C. McGuigan, Jr., Senior Regional Counsel for FINRA's Dallas, TX, regional office, and three exhibits.

Respondent has not filed a response to the Default Motion. Accordingly, for the reasons set forth below, the Default Motion is granted.

## **II. Findings of Fact and Conclusions of Law**

### **A. Jurisdiction**

Respondent entered the securities industry on June 14, 2005, when he became registered as a Direct Participation Program Representative with FINRA member firm Euro American Capital Corporation. On October 1, 2007, Respondent became registered as a Direct Participation Program Representative with FINRA member firm Security Research Company of New York ("Security Research"). Security Research discharged Respondent from its employ on October 12, 2007. Respondent has not been registered with any FINRA member firm since that time.<sup>1</sup>

Because the Complaint in this matter alleges misconduct occurring while Respondent was registered with a FINRA member firm and with failing to respond to

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<sup>1</sup> Enforcement exhibit CX-1.

FINRA's requests for information made during the two-year period following his registration termination, and because Enforcement filed the Complaint on December 11, 2008, less than two years after Respondent was last registered, FINRA retains jurisdiction to bring this disciplinary proceeding, pursuant to Article V, § 4 of FINRA's By-Laws.<sup>2</sup>

**B. Respondent's Default**

On December 10, 2008, Enforcement served the Complaint and Notice of Complaint on Respondent at his CRD address and the Lexis address by first-class and certified mail. The certified mailing to the CRD address was returned to Enforcement, marked "Return to Sender" and "Unclaimed;" the first-class mailing was not returned. Both mailings to the Lexis address were returned, marked "Not Deliverable as Addressed, Unable to Forward."

Receiving no Answer to the Complaint, on January 13, 2009, Enforcement served the Complaint and a Second Notice of Complaint on Respondent by first-class and certified mailings at both addresses. Once again, the certified mailing sent to Respondent's CRD address was returned marked "Return to Sender" and "Unclaimed," and the first-class mailing was not returned. As before, both mailings served on Respondent at the Lexis address were returned marked "Not Deliverable as Addressed, Unable to Forward."

Enforcement complied with the requirements of Procedural Rule 9134 by mailing the Complaint and Notices of Complaint to Respondent's CRD address and the Lexis address. Enforcement has, therefore, provided Respondent with constructive notice of this proceeding. By failing to file an Answer to the Complaint, Respondent has

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<sup>2</sup> Article V, § 4(a), FINRA By-Laws, *available at* [www.finra.org/rules](http://www.finra.org/rules) (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

defaulted.<sup>3</sup> Accordingly, pursuant to Rules 9215(f) and 9269(a) (2), the allegations in the Complaint are deemed admitted.<sup>4</sup>

### **C. Violations**

#### **1. Failure to Disclose a Felony Charge**

The First Cause of the Complaint alleges that on April 5, 2007, Respondent was indicted by a Dallas County, TX, Grand Jury for the felony offense of evading arrest. Approximately six months later, Respondent applied for registration with FINRA through member firm Security Research. As part of the application process, he provided information to complete a Form U4, which was filed with FINRA.

One question on the Form U4 asked if Respondent had ever been charged with a felony. He answered “no” to the question. The Complaint alleges this answer was materially false and that Respondent willfully failed to disclose his felony indictment. Enforcement represents that Respondent’s supervisor provided a written statement that on October 1, 2007, when Respondent’s supervisor asked Respondent to review the Form U4 for accuracy, Respondent did so, made no changes, and signed it. In so doing, he attested that all of the information on the Form U4 was correct and complete. The supervisor’s written statement further asserts that three days later, on October 4, 2007, Respondent was absent from work. On the following day, Respondent disclosed to his

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<sup>3</sup> *Dep’t of Enforcement v. Reynolds Verdiner*. No. CAF020004, 2003 NASD Discip. LEXIS 42 at \*5 (N.A.C. Dec. 9, 2003).

<sup>4</sup> On December 15, 2008, the first phase of new consolidated FINRA Rules went into effect. *See*, Regulatory Notice 08-57. Pursuant to the consolidation, NASD Rules 9210-9290 were superseded by FINRA Rules 9210-9290. With respect to this decision, unless otherwise noted, the relevant FINRA Rules are identical to the corresponding NASD Rules. The FINRA Rules are at [www.finra.org/Rules](http://www.finra.org/Rules).

supervisor that the reason he had missed work was that he had been in court in connection with his prior arrest.<sup>5</sup>

These allegations establish that Respondent willfully failed to disclose a felony charge on his Form U4, in violation of Conduct Rule 2110 and IM-1000-1, as well as Article V, § 2 of FINRA's By-Laws.

**2. Failure to Respond to Requests for Information Made Pursuant to Rule 8210**

The Second Cause of the Complaint alleges that Respondent violated Conduct Rule 2110 and Procedural Rule 8210 when he failed to respond to two successive requests for information made by FINRA staff under the authority of Rule 8210. The requests required Respondent to provide a written statement describing the felony charge for which he was indicted, his plea to that charge, his reasons for not disclosing the charge on his Form U4, and whether he had sought guidance from anyone concerning the need to report the charge.

The first request for this information was sent to Respondent on November 5, 2007, by first-class and certified mail at his CRD address and the Lexis address. The first-class mailing of the letter to Respondent's CRD address was not returned. The certified mailing to the CRD address was returned to FINRA staff marked "Unclaimed." The first-class mailing of the letter to the Lexis address was not returned. The receipt card for the certified mailing of the letter to the Lexis address was signed and returned to FINRA's Dallas District office.<sup>6</sup>

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<sup>5</sup> Declaration of George C. McGuigan ¶ 10 (hereinafter "Decl.>").

<sup>6</sup> Decl. ¶ 11. The Declaration does not identify the signature.

Because Respondent did not reply to the November 5 request for information, FINRA staff sent a second request letter on November 21, 2007, to Respondent at both addresses, again asking, pursuant to Procedural Rule 8210, for information concerning the felony charge.

The first-class mailings of the November 21 letter to Respondent's CRD address and the Lexis address were not returned. The return receipt cards for both of the certified mailings of this letter were, however, signed and returned to FINRA's Dallas District office.<sup>7</sup> As before, Respondent failed to respond to the request for information.<sup>8</sup>

Based on these allegations, the Hearing Officer finds that Respondent failed to respond to FINRA staff requests for information pursuant to Rule 8210 and thereby violated Conduct Rule 2110 and Procedural Rule 8210.

#### **D. Sanctions**

##### **1. Willful Failure to Disclose Felony Charge**

For filing a false, misleading, or inaccurate Form U4, the FINRA Sanction Guidelines recommend a fine from \$2,500 to \$50,000, and a suspension from five to 30 business days, or, in egregious cases, a lengthier suspension or a bar. A Principal Consideration is the nature and significance of the information falsely reported.<sup>9</sup>

The nature and significance of the information – a felony indictment – are aggravating factors in this case. The existence of a felony indictment against an associated person is information important to firms, to customers, and to FINRA.

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<sup>7</sup> *Id.* Again, the Declaration does not identify the signature.

<sup>8</sup> *Id.*

<sup>9</sup> *FINRA Sanction Guidelines*, at 73 (2007).

Considering the nature and significance of the information Respondent failed to report, as well as the willful concealment of the information, Enforcement requests imposition of a \$5,000 fine and a suspension from associating with any FINRA member firm in any capacity for one year. Enforcement's recommendations are reasonable. However, because a bar is being imposed for Respondent's failure to respond to FINRA staff requests for information pursuant to Procedural Rule 8210, it is unnecessary to impose additional sanctions for Respondent's willful failure to disclose his felony charge on his Form U4, as alleged in the First Cause of the Complaint.

## **2. Failure to Respond to Rule 8210 Information Requests**

The Guidelines recommend a bar when a respondent fails to respond in any manner to a request for information issued pursuant to Procedural Rule 8210.<sup>10</sup> Where mitigation exists, the Guidelines recommend consideration of a suspension in any capacity for up to two years.

The record reflects that Respondent received two written requests issued pursuant to Procedural Rule 8210 and failed to respond to either request in any manner. The record is devoid of any mitigating circumstances that might justify the imposition of a sanction less than a bar.

As has often been observed, "Conduct Rule 2110 and Procedural Rule 8210 are crucial components of [FINRA's] examinations and investigations. Procedural Rule 8210 gives [FINRA] the right to require a member or person associated with a member to provide information, orally or in writing, in connection with an examination or investigation. The Rule further states that no member or person shall fail to provide such

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<sup>10</sup> *Id.* at 35.

information.”<sup>11</sup> Concerning sanctions for violating Rule 8210, “[t]he Guidelines treat a failure to respond ... as egregious.”<sup>12</sup>

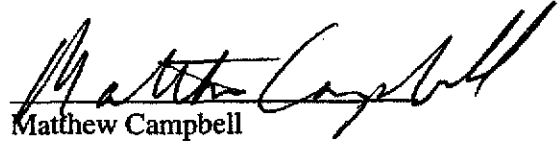
A bar, therefore, is the appropriate sanction for Respondent’s failures to respond in any manner to the two requests for information in this case.

**E. Order**

Respondent Robert Ahmad Samei is barred from association with any FINRA member firm in any capacity for failing to respond to requests for information made by FINRA staff, in violation of Conduct Rule 2110 and Procedural Rule 8210. In light of the bar, the Hearing Officer has not imposed an additional sanction for Respondent’s willful failure to disclose his criminal record on his Form U4.

The bar will become effective immediately if this Default Decision becomes FINRA’s final disciplinary action in this proceeding.

**SO ORDERED.**

  
Matthew Campbell  
Hearing Officer

Copies to:

Robert A. Samei (*via FedEx and first-class mail*)  
George C. McGuigan, Jr., Esq. (*via electronic and first-class mail*)  
Mark P. Dauer, Esq. (*via electronic mail*)  
David R. Sonnenberg, Esq. (*via electronic mail*)

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<sup>11</sup> *Dep’t of Enforcement v. Gregory R. Masceri*, No. C8A040079, 2006 NASD Discip. LEXIS 29, at \*35 - \*36 (Dec. 18, 2006) (citations omitted); *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).

<sup>12</sup> *Id.* at \*41.

**FINANCIAL INDUSTRY REGULATORY AUTHORITY (FINRA)  
OFFICE OF HEARING OFFICERS**

**DEPARTMENT OF ENFORCEMENT**

**COMPLAINANT**

**v.**

**Robert Ahmad Samei  
CRD No. 4952673**

**RESPONDENT**

**DISCIPLINARY PROCEEDING  
No. 2007010925001**

**COMPLAINT**

The Department of Enforcement alleges:

**SUMMARY**

1. Respondent Robert Ahmad Samei ("Samei") willfully failed to disclose a felony charge on a Form U4. Samei also failed to respond to requests for information.

**JURISDICTION**

2. Samei entered the securities industry on June 14, 2005 when he registered as a Direct Participation Program Representative with a FINRA member firm. From October 2005 to October 2007, he registered serially with two FINRA member firms. On October 1, 2007, he registered as a Direct Participation Program Representative with member firm Security Research Company of New York ("Security Research"). Security Research discharged Samei on October 12, 2007, and since that time he has not been associated with any FINRA member firm.

3. The violations alleged herein occurred while Samei was associated with Security Research. FINRA has jurisdiction to file this complaint against Samei pursuant to Article V, Section 4 of FINRA's By-Laws which provides for a two-year period of retained jurisdiction.

#### **FIRST CAUSE OF ACTION**

(Samei Willfully Failed to Disclose a Felony Charge)  
(NASD Conduct Rule 2110, NASD Membership and  
Registration Rule IM-1000-1, and Article V, Section 2 of FINRA's By-Laws)

4. The Department realleges and incorporates by reference paragraphs 1-3 above.
5. In an Indictment dated April 5, 2007, issued by a Grand Jury in Dallas County, Texas, Samei was charged with the felony offense of evading arrest.
6. On or about October 1, 2007, Samei applied for registration with FINRA through member firm Security Research and in connection therewith, he signed a Form U4 attesting to the fact that he had reviewed all of the information on the Form U4, and that all of the answers on the Form U4 were true and complete.
7. Even though Samei had signed the Form U4 attesting to the fact that all of the answers on his Form U4 were true and complete, he falsely answered "no" to question 14(A)(1)(b) on the Form U4 which concerned whether he had ever been charged with a felony. As indicated above, in April 2007, Samei had been charged with the felony offense of evading arrest.
8. By failing to disclose facts on the Form U4 concerning his felony charge for evading arrest, Samei submitted, or caused to be submitted, a Form U4 to FINRA

that was materially false and inaccurate. Samei's failure to disclose on the Form U4 his felony charge for evading arrest was willful.

9. Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rule 2110, NASD Membership and Registration Rule IM-1000-1, and Article V, Section 2 of FINRA's By-Laws by Respondent Robert Ahmad Samei.

#### **SECOND CAUSE OF ACTION**

(Samei Failed to Respond to Requests for Information)  
(NASD Conduct Rule 2110 and NASD Procedural Rule 8210)

10. The Department realleges and incorporates by reference paragraphs 1-8 above.
11. By letter dated November 5, 2007, FINRA staff requested, pursuant to NASD Procedural Rule 8210, that Samei provide the staff with a written response concerning his felony charge for evading arrest, his plea to that charge, his reasons for not disclosing it on his Form U4, and whether he had sought guidance from anyone concerning the reportable nature of the felony charge. The due date for the required information was November 19, 2007.
12. FINRA staff mailed the November 5<sup>th</sup> letter to Samei by regular first class mail and by certified mail, return receipt requested, at his last known Central Registration Depository ("CRD") residential address. The staff also mailed the November 5<sup>th</sup> letter to Samei by regular first class mail and by certified mail, return receipt requested, at an address the staff obtained through Lexis which was:

13. The regular first class mailing of the November 5<sup>th</sup> letter to Samei at his last known CRD residential address has never been returned to FINRA's district office. The certified mailing of this letter was returned to FINRA's district office marked "Unclaimed."
14. The regular first class mailing of the November 5<sup>th</sup> letter to Samei at the address obtained through Lexis has never been returned to FINRA's district office. The return receipt card for the certified mailing of this letter was signed and returned to the district office.
15. Samei never responded to the November 5<sup>th</sup> letter.
16. By letter dated November 21, 2007, FINRA staff requested, pursuant to NASD Procedural Rule 8210, that Samei provide a written response to the previously requested information. As with the November 5<sup>th</sup> letter, the November 21<sup>st</sup> letter was mailed to Samei at his last known CRD residential address and the Lexis address referenced above. Both sets of letters were sent to Samei via regular first class mail and certified mail, return receipt requested, and requested that he provide the requested information by December 5, 2007.
17. The regular first class mailing of the November 21<sup>st</sup> letter to Samei at his last known CRD residential address has never been returned to FINRA's district office. The return receipt card for the certified mailing of this letter was signed and returned to FINRA's district office.
18. The regular first class mailing of the November 21<sup>st</sup> letter to Samei at the address obtained through Lexis has never been returned to FINRA's district office. The

return receipt card for the certified mailing of this letter was signed and returned to the district office.

19. Samei never responded to the November 21<sup>st</sup> letter.
20. To date, Samei has failed to respond to FINRA's requests for information referenced above.
21. Such acts, practices, and conduct constitute separate and distinct violations of NASD Conduct Rule 2110 and NASD Procedural Rule 8210 by Respondent Robert Ahmad Samei.

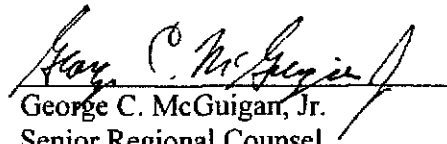
#### **RELIEF REQUESTED**

WHEREFORE, the Department respectfully requests that the Panel:

- A. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed.
- B. order that Respondent Robert Ahmad Samei bear such costs of the proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.
- C. make specific findings that Respondent Robert Ahmad Samei'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 Form U4 application.

**FINRA DEPARTMENT OF ENFORCEMENT**

Date: December 10, 2008



George C. McGuigan, Jr.

Senior Regional Counsel

Andrew Favret

Associate Vice President

and Regional Chief Counsel

FINRA - Department of Enforcement

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