

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JORGE GOMEZ, JR.
(CRD No. 5080731),

Respondent.

Disciplinary Proceeding
No. 2007010995401

DEFAULT DECISION

Hearing Officer – SW

Dated: December 11, 2008

Respondent is barred from associating with any FINRA member firm in any capacity for violating Conduct Rule 2110 and Procedural Rule 8210 by failing to respond to FINRA's requests for information issued pursuant to Rule 8210. No separate sanction was imposed on Respondent for violating Conduct Rules 3030 and 2110 when he engaged in an outside business activity without providing prompt written notice of the activity to his employer.

Appearances

William Brice La Hue, Esq., Senior Regional Counsel, Atlanta, GA, for the Department of Enforcement.

No appearance by or for Respondent Jorge Gomez, Jr.

DECISION

I. Procedural History

On August 18, 2008, FINRA's Department of Enforcement ("Enforcement") filed the attached two-count Complaint against Respondent Jorge Gomez, Jr. ("Respondent"). Count one of the Complaint alleges that, while registered with Chase Investment Services Corporation ("Chase" or the "Firm"), Respondent became employed as a consultant for customer RR and was paid \$4,500 by RR for his consultant services without providing his employer with prompt written notice of the activity, in violation of Conduct Rules 3030 and 2110. Count two of the

Complaint alleges that Respondent failed to respond to requests for information issued by FINRA staff pursuant to Procedural Rule 8210, in violation of Conduct Rule 2110 and Rule 8210.

On November 4, 2008, Enforcement filed a Motion for Entry of Default Decision ("Motion"), supported by the Declaration of William Brice La Hue, Esq., Senior Regional Counsel in FINRA's Atlanta, GA office, and by four exhibits. For the reasons set forth below, Enforcement's Motion is granted.

II. Respondent's Default

On August 18, 2008, Enforcement served Respondent with a copy of the Complaint and Notice of Complaint, via first-class and certified mail, at his current residential address as reflected in the Central Registration Depository ("CRD address"). On September 16, 2008, Enforcement served Respondent with a copy of the Complaint and Second Notice of Complaint, via first-class and certified mail, at his CRD address. Respondent failed to file an Answer or otherwise respond to the Complaint.

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

¹ 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).

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).

III. Findings of Fact and Conclusions of Law

A. Jurisdiction

Respondent entered the securities industry in 2005 when he was employed by Chase and its affiliate bank, JPMorgan Chase Bank ("JPMorgan"). On February 7, 2006, Respondent became registered as an investment company and variable contracts products representative with Chase. On October 17, 2007, Chase filed a Form U5 reporting that it had discharged Respondent because he had been terminated by the Firm's affiliate, JPMorgan, for his failure to disclose outside business activity. 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 registration with Chase was terminated, and (2) the Complaint charges him with misconduct while he was registered, and failure to respond to Rule 8210 requests for information issued during the period of retained jurisdiction.

B. Respondent Engaged in an Outside Business Activity

The first cause of the Complaint alleges that Respondent violated Conduct Rules 3030 and 2110 when Respondent (i) became employed in January 2007 by RR, a customer of Chase and JPMorgan, as a consultant assisting in the establishment of RR's restaurant, and (ii) was paid \$4,500 by RR during the period from January 2007 through August 2007, without giving Chase prompt written notice of his outside employment or his receipt of compensation from RR. Respondent's consulting services were outside the scope of his employment with Chase, and Chase prohibited its representatives from receiving compensation from anyone other than the Firm unless the representative obtained Chase's permission, which Respondent failed to obtain.

Enforcement provided the additional information that, in a written statement, Respondent admitted that he: (i) was involved in the undisclosed outside business activity; (ii) received compensation for the activity; and (iii) failed to clear such activity with Chase or JPMorgan.

Conduct Rule 3030 provides that “[n]o person associated with a member shall be employed by, or accept compensation from, any other person as a result of any business activity ... outside the scope of his relationship with his employer firm, unless he has provided prompt written notice to the member ... in the form required by the member.”

The purpose of Rule 3030 is to provide member firms with prompt notice of outside business activities so that the member’s objections, if any, to such activities can be raised at a meaningful time and the member can exercise appropriate supervision as necessary under applicable law.³ Rule 3030 requires disclosure of all outside business activity, not just securities-related activity.⁴

Based on the allegations deemed admitted in the first cause of the Complaint, the Hearing Officer finds that Respondent violated Conduct Rule 3030 by providing consulting services to customer RR, and receiving compensation from RR, without providing prompt written notice of his outside activity to his employer. It is well settled that any conduct that violates any Conduct Rule is viewed as a violation of Conduct Rule 2110.⁵

C. Respondent Failed to Respond to Rule 8210 Requests for Information

FINRA staff commenced an investigation of Respondent upon its receipt of a Form U5 filed by Chase on behalf of Respondent, which revealed possible misconduct by Respondent.

The second cause of the Complaint alleges that Respondent failed to respond to written requests

³ *Proposed Rule Change by NASD Relating to Outside Business Activities of Associated Persons*, Exch. Act Rel. No. 26,063, 1988 SEC LEXIS 1841 (Sept. 6, 1988), adopted at Exch. Act Rel. No. 26,178, 1988 SEC LEXIS 2032 (Oct. 13, 1988).

⁴ *Dist. Bus. Conduct Comm. v. Cruz*, No. C8A930048, 1997 NASD Discip. LEXIS 62, at *96 (Oct. 31, 1997).

⁵ *Dep’t of Enforcement v. Shvarts*, No. CAF980029, 2000 NASD Discip. LEXIS 6, at *12-13 (NAC June 2, 2000).

for information issued to Respondent to obtain information concerning Respondent's failure to disclose his outside business activity.

Specifically, on October 30 and November 26, 2007, FINRA staff sent requests for information, via first-class and certified mail, to Respondent at his CRD address in accordance with Procedural Rule 8210. Respondent did not respond to either request for information.

The Hearing Officer finds that Respondent is deemed to have received the two 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.⁶

Based on the allegations deemed admitted in the second cause of the Complaint, the Hearing Officer finds that Respondent violated Conduct Rule 2110 and Procedural Rule 8210 by failing to respond to FINRA's Rule 8210 requests for information.

IV. Sanctions

A. Respondent Failed to Respond to Rule 8210 Requests for Information

For failing to respond to the requests for information issued by FINRA staff pursuant to Rule 8210, as alleged in count two of the Complaint, the *FINRA Sanction Guidelines* recommend the imposition of a bar unless mitigating circumstances exist warranting a lesser sanction.⁷ Here, the record discloses no mitigating factors. Accordingly, a bar is the appropriate sanction for the violation as set forth in the second cause of the Complaint.

⁶ 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).

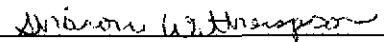
⁷ *FINRA Sanction Guidelines*, p. 35 (2007), available at <http://www.finra.org/web/groups/industry/@ip/@enf/@sg/documents/industry/p011038.pdf>.

B. No Separate Sanction Imposed for Respondent's Engaging in an Outside Business Activity

Because the Hearing Officer barred Respondent for his Rule 8210 violation, the Hearing Officer will not impose a separate sanction for Respondent's violation of Conduct Rules 3030 and 2110 when he engaged in an outside business activity, by providing consulting services to customer RR for a fee, without providing prompt notice of the activity to his employer.

V. Order

Respondent Jorge Gomez, Jr. is barred from associating with any FINRA member firm in all capacities for failing to respond to requests for information issued by FINRA staff, in violation of Conduct Rule 2110 and Procedural Rule 8210. The bar will become effective immediately if this Default Decision becomes FINRA's final disciplinary action in this proceeding.


Sharon Witherspoon
Hearing Officer

Dated: Washington, DC
December 11, 2008

Copies to:

Jorge Gomez, Jr. (via FedEx and first-class mail)
William Brice La Hue, 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 ("FINRA")
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JORGE GOMEZ, JR.
(CRD No. 5080731)

Respondent.

Disciplinary Proceeding
No. 2007010995401

COMPLAINT

The Department of Enforcement alleges:

RESPONDENT AND JURISDICTION

1. Jorge Gomez, Jr. ("Gomez") entered the securities industry in December 2005, when he was employed by Chase Investment Services Corporation ("Chase") and its affiliate bank JPMorgan Chase Bank ("JPMorgan"). Gomez was registered as an investment company and variable contracts products representative with FINRA in January 2006. Gomez was employed by Chase until September 2007. Gomez is not currently employed by a FINRA member, but remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of the FINRA By-Laws.

SUMMARY

2. Gomez failed to disclose to Chase that he was engaged in an outside business activity involving consulting services provided to a Chase/JPMorgan customer and that he had received compensation for such services, in violation of NASD Conduct Rule 3030. Additionally, Gomez failed to respond to requests for information made by FINRA pursuant to NASD Procedural Rule 8210.

FIRST CAUSE OF ACTION

NASD CONDUCT RULE 3030 AND 2110

(OUTSIDE BUSINESS ACTIVITY)

3. The Department realleges and incorporates by reference paragraphs 1 and 2 above.
4. In January 2007, while registered by FINRA member Chase, Gomez became employed as a consultant assisting in the establishment of a restaurant owned by R.R., a customer of Chase and JP Morgan.
5. During the period from January through August 2007, Gomez was paid approximately \$4,500 by R.R.
6. Chase prohibits its representatives from receiving compensation from anyone other than the firm unless the representative obtains permission.
7. Gomez' employment as a consultant by R.R. was outside the scope of his employment with Chase.
8. Gomez failed to give Chase prompt written notice of his outside employment and his receipt of compensation from R.R.
9. Such acts, practices and conduct constitute separate and distinct violations of NASD Conduct Rules 3030 and 2110 by Respondent Gomez.

SECOND CAUSE OF ACTION

NASD PROCEDURAL RULE 8210 AND NASD CONDUCT RULE 2110

(FAILURE TO RESPOND TO FINRA REQUESTS FOR INFORMATION)

10. The Department realleges and incorporates by reference paragraphs 1 through 9 above.
11. On or about October 17, 2007, the FINRA Atlanta District office initiated an investigation into the allegations on a Uniform Termination Notice for Securities Industry Registration ("Form U5") filed by Chase regarding Gomez. The Form U5 indicated that Gomez had been terminated by Chase's affiliate bank for a firm Code of Conduct violation, resulting from a failure to disclose an outside business activity.

12. By letter dated October 30, 2007, sent via first class and certified mail to Gomez at his CRD residential address in Los Fresnos, Texas, Gomez was requested, pursuant to NASD Procedural Rule 8210, to provide a written statement regarding the allegations disclosed on his Form U5. The October 30, 2007, letter set a deadline of November 13, 2007, for submission of the requested response.
13. The October 30, 2007 letter sent by first class mail was not returned. The October 30, 2007 letter sent by certified mail was returned indicating that it was unclaimed. Gomez did not respond by the November 13, 2007, deadline.
14. By letter dated November 26, 2007, sent via first class and certified mail to Gomez at his CRD residential address, Gomez was again requested, pursuant to NASD Procedural Rule 8210, to provide a written statement regarding the allegations disclosed on his Form U5. The November 26, 2007, letter set a deadline of December 10, 2007, for the response.
15. The November 26, 2007 letter sent by first class mail was not returned. The November 26, 2007 letter sent by certified mail was returned stating that it was unclaimed. Gomez did not respond by the December 10, 2007 deadline.
16. Such acts, practices and conduct constitute separate and distinct violations of NASD Procedural Rule 8210 and NASD Conduct Rule 2110 by Respondent Gomez.

RELIEF REQUESTED

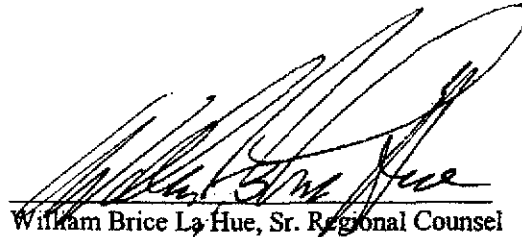
WHEREFORE, the Department respectfully requests that the Panel:

- A. Order that one or more of the sanctions provided under NASD Rule 8310(a), including monetary sanctions, be imposed.
- B. Order that the Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with NASD Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date:

August 18, 2009



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