

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JEFFREY A. FORREST
(CRD No. 1003745),

Respondent.

Disciplinary Proceeding
No. 200701109480¹

Hearing Officer – RSH

DEFAULT DECISION

November 6, 2009

Respondent violated Procedural Rule 8210 and Conduct Rule 2010 by failing to respond to requests for information. For this violation, Respondent was barred from associating with any member firm in any capacity.

Appearances

Robert Moreiro, Principal Counsel; Scott Andersen, Director; and Suzanne Elovic, Chief Counsel, New York, NY, for the Department of Enforcement.

No appearance by or for the Respondent.

DECISION

I. Introduction

The FINRA Department of Enforcement filed a Complaint in this proceeding on June 8, 2009. In its Complaint, Enforcement charged Forrest with failing to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2010.¹ Although the Complaint incorrectly referred to former Rule 2110, the Hearing Officer finds that Forrest received adequate notice of the nature of the charge against him. The

¹ The FINRA Rules, which include NASD Procedural and Conduct Rules, are available at www.finra.org/Rules. On December 15, 2008, the first phase of new consolidated FINRA Rules went into effect. See, Regulatory Notice 08-57. In that process, Conduct Rule 2110 was renumbered as 2010.

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Complaint properly charged that he violated Procedural Rule 8210, and the reference to former NASD Rule 2110 gave him adequate notice that a violation of Rule 8210 was also a violation of his obligation to observe high standards of commercial honor and just and equitable principles of trade. NASD Conduct Rule 2110 and FINRA Rule 2010 are identical in substance. Each provides that a member shall observe high standards of commercial honor and just and equitable principles of trade in the conduct of its business.

Forrest did not answer or otherwise respond to the Complaint. Consequently, on September 18, 2009, Enforcement filed a Motion for Entry of Default Decision, supported by the Declaration of Robert Moreira and five exhibits. Forrest did not reply to the motion.²

II. Jurisdiction

From December 1989, until January 2007, Forrest was registered as a General Securities Representative and General Securities Principal of Associated Securities Corp. ("ASC"), a FINRA member firm.³ On January 3, 2007, ASC filed a Uniform Termination Notice for Securities Industry Registration ("Form U5"), which reported that Forrest had voluntarily terminated his employment with ASC on October 13, 2006.⁴ Forrest has not been associated with a FINRA member firm since October 13, 2006.⁵ On April 26, 2008, ASC filed an amended Form U5, which reported that Forrest had been sued in an arbitration brought by multiple customers in March 2008. The customers alleged that Forrest had recommended unsuitable investments and made

² The factual determinations in this decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as additional materials filed by Enforcement.

³ Complainant's Exhibit (CX)-1.

⁴ CX-2.

⁵ CX-1.

misrepresentations to them in connection with the investments.⁶ FINRA staff requested information from Forrest on December 22, 2008, and January 23, 2009.⁷

Although Forrest is not currently associated with a FINRA member, FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4(a) of FINRA's By-Laws, because (1) FINRA requested information from Forrest when it still retained jurisdiction over him, i.e., within two years following ASC's filing of an amended Form U5 disclosing that Forrest may have engaged in conduct actionable under securities laws and FINRA rules; and (2) the Complaint was filed within two years after Forrest's failure to respond to FINRA's requests for information.⁸

III. Respondent's Default

On June 8, 2009, Enforcement sent the Complaint and Notice of Complaint to Forrest by first-class and certified mail (return receipt requested) at his residential address as recorded in the Central Registration Depository ("CRD Address"). Forrest did not respond to the Complaint by July 8, 2009, the deadline specified in the Notice of Complaint.⁹

On July 13, 2009, Enforcement sent the Complaint and Second Notice of Complaint to Forrest by first-class and certified mail (return receipt requested) at his CRD Address. The Second Notice of Complaint instructed Forrest to file an answer to the Complaint by July 31, 2009; however, he failed to do so.¹⁰

⁶ CX-3.

⁷ Declaration of Robert Moreira ("Moreiro Decl."), ¶¶ 10-14.

⁸ See Article V, Sec. 4(a), FINRA By-Laws, available at www.finra.org/Rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

⁹ CX-4; Moreiro Decl., ¶¶ 18-19.

¹⁰ CX-5; Moreiro Decl., ¶¶ 20-21.

Under FINRA Rule 9134(b)(1), the mailing of the Complaint to a respondent's CRD address constitutes valid service. Enforcement states that it has no knowledge of any better address.¹¹ Accordingly, Forrest received constructive notice of the Complaint.

Forrest also had actual notice of the Complaint. On August 6, 2009, Enforcement filed a motion requesting that Forrest be ordered to file an answer comporting with FINRA procedural rules. Attached to the motion was a copy of an email, dated July 20, 2009, from Forrest to Moreira, in which Forrest stated that he had received Enforcement's July 13, 2009 Complaint. Forrest stated that he did not believe FINRA had jurisdiction over him. On August 14, 2009, the Hearing Officer granted Enforcement's motion and issued an order requiring Forrest to file, by August 28, 2009, an answer to the Complaint that complied with FINRA Rule 9215.

To date, Forrest has not filed an answer with the Office of Hearing Officers or otherwise responded to the Complaint. By failing to answer the Complaint, Forrest defaulted.¹² Accordingly, pursuant to Procedural Rules 9215(f) and 9269(a)(2), the Hearing Officer deems the allegations in the attached Complaint admitted and grants Enforcement's motion for entry of a default decision.

IV. Violation

The Complaint's sole Cause of Action alleges that Forrest violated Procedural Rule 8210 and Conduct Rule 2010 by failing to respond to two written requests, made pursuant to Procedural Rule 8210, for information concerning whether he had engaged in

¹¹ Moreira Decl., ¶ 22.

¹² *Department of Enforcement v. Reynolds Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. Dec. 9, 2003) (NASD Procedural Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (quoting *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

private securities transactions or outside business activities while he was employed with ASC.¹³

On December 22, 2008, FINRA Staff sent the first request for information by first-class and certified mail to Forrest at his CRD Address. The return receipt for the certified mailing was returned to FINRA indicating that the letter was delivered and appeared to have been signed by Forrest. The first-class mailing was not returned. Forrest did not respond to the December 22 request.¹⁴

On January 23, 2009, FINRA Staff sent a second request for information to Forrest at his CRD Address by first-class and certified mail. The return receipt for the certified mailing was returned to FINRA and indicated that the letter had been delivered and that Forrest had signed for it. The first-class mailing was not returned. Forrest did not respond to the January 23 request.¹⁵

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Forrest failed to respond in any manner to two requests for information, thereby violating Procedural Rule 8210. A violation of Rule 8210 is also a violation of Rule 2010.¹⁶

V. Sanction

A violation of Rule 8210 is serious because Rule 8210 is a key element in FINRA's oversight function and allows FINRA to carry out its regulatory functions

¹³ Complaint, ¶ 4.

¹⁴ Complaint, ¶¶ 4-7; *Moreiro Decl.*, ¶¶ 10-13.

¹⁵ Complaint, ¶¶ 8-11; *Moreiro Decl.*, ¶¶ 14-17.

¹⁶ *Wanda P. Sears*, Exchange Act Rel. No. 58075, 2008 SEC LEXIS 1521, n. 28 (July 1, 2008); *Anthony H. Barkate*, 57 S.E.C. 488, 489, n. 1 (2004); *Department of Enforcement v. Hooper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

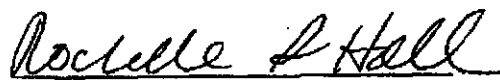
without subpoena power.¹⁷ When an individual fails to provide information, FINRA's ability to perform its regulatory functions is subverted.¹⁸ For these reasons, FINRA Sanction Guidelines recommend a bar when a respondent fails to respond in any manner to a request for information issued pursuant to Rule 8210.¹⁹ Forrest failed to respond in any manner to two requests for information. There is no evidence of any mitigating facts that would justify a sanction of less than a bar.

Accordingly, the Hearing Officer finds that Forrest should be barred from associating with any FINRA member in any capacity for violating Rules 8210 and 2010.

VI. Order

Jeffrey A. Forrest is barred from associating with any member firm in any capacity for failing to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2010. The bar will become effective immediately if this Default Decision becomes FINRA's final disciplinary action in this proceeding.

SO ORDERED.



Rochelle S. Hall
Hearing Officer

Copies to:

Jeffrey A. Forrest (*via first-class mail & overnight courier*)
Robert Moreiro, Esq. (*via first-class mail & electronic mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

¹⁷ Howard Brett Berger, Exchange Act Rel. No. 58950, 2008 SEC LEXIS 3141 (Nov. 14, 2008); Joseph G. Chiulli, Exchange Act Rel. No. 42359, 2000 SEC LEXIS 112, at *16 (Jan. 28, 2000).

¹⁸ Joseph P. Hannan, Exchange Act Rel. No. 40438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998).

¹⁹ FINRA Sanction Guidelines 35 (2007), www.finra.org/sanctionguidelines.

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

Disciplinary Proceeding
No. 20070110948

JEFFREY A. FORREST
(CRD No. 1003745),

Respondent.

COMPLAINT

The Department of Enforcement alleges:

JURISDICTION

1. Respondent first became registered with a FINRA member in 1986. From on or about December 1989 through on or about October 2006, Respondent was a General Securities Representative and General Securities Principal with Associated Securities Corp. ("ASC" or the "Firm"), a FINRA member. On January 3, 2007, ASC filed a Uniform Termination Notice for Securities Industry Registration ("Form U5"), which reported that Forrest voluntarily terminated his employment with the Firm on October 13, 2006. On April 26, 2008, the Firm filed an amended Form U5, which reported an arbitration complaint regarding multiple claimants, which alleged that Forrest made misrepresentations pertaining to an investment in Apex Equity Options Fund, a hedge fund that Forrest

recommended to these claimants. Respondent is no longer associated with a FINRA member.

2. FINRA retains jurisdiction over Respondent pursuant to Article V, Section 4 of FINRA's By-Laws.

CAUSE OF ACTION

(Failure to Provide Information - FINRA Rules 8210 and 2110)

3. Enforcement realleges and incorporates by reference paragraphs 1-2 above.
4. On December 22, 2008, FINRA sent a request letter pursuant to FINRA Rule 8210 to Respondent requesting that he provide information and documents regarding whether he engaged or participated in private securities transactions and/or outside business activities during his employment with ASC and to provide a copy of any notice(s) that he may have provided the Firm to obtain approval for such activities. The request letter was sent to Respondent's last known residential address, as reflected in the Central Registration Depository ("Respondent's CRD Address"), by certified mail return receipt requested and first class mail. The request letter required a response no later than January 5, 2009.
5. The return receipt was returned to FINRA indicating that the letter sent by certified mail was delivered to and appears to be signed by Respondent on January 7, 2009.
6. The request letter sent by first class mail was not returned to FINRA.
7. No response to FINRA's request letter sent pursuant to FINRA Rule 8210 was received from Respondent.

8. On January 23, 2009, FINRA sent a second request letter pursuant to FINRA Rule 8210 to Forrest renewing its request dated December 22, 2008 seeking that he provide information and documents regarding whether he engaged or participated in private securities transactions and/or outside business activities during his employment with ASC and to provide a copy of any notice(s) that he may have provided the Firm to obtain approval for such activities. The letter was sent to Respondent's CRD Address, by certified mail return receipt requested and first class mail. The letter required a response no later than February 6, 2009 and informed Respondent that his failure to respond by February 6, 2009 could constitute grounds for disciplinary grounds.
9. The return receipt was returned to FINRA indicating that the letter sent by certified mail was delivered to and appears to be signed by Respondent on February 5, 2009.
10. The request letter sent by first class mail was not returned to FINRA.
11. No responses to any of FINRA's request letters were received from Respondent.
12. By virtue of the foregoing, Forrest has violated, and is continuing to violate, FINRA Rules 8210 and 2110.

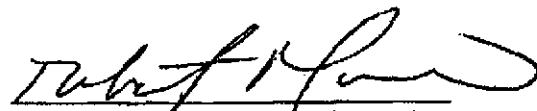
RELIEF REQUESTED

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

FINRA DEPARTMENT OF ENFORCEMENT

Date: 6/8/09



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