

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ANTON YERESHKIN
(CRD No. 5452893),

Respondent.

Disciplinary Proceeding
No. 2007011504801

Hearing Officer – LBB

DEFAULT DECISION

December 5, 2008

Respondent is suspended for one year and fined \$5,000 for willful failure to make required disclosures on his Form U4, in violation of Conduct Rule 2110 and IM-1000-1.

Appearances

Samuel Barkin, Senior Regional Counsel, FINRA, Jericho, New York, for the
Department of Enforcement.

No appearance by or for Respondent.

DECISION

The Department of Enforcement ("Enforcement") filed the Complaint in this proceeding on July 29, 2008, charging Respondent Anton Yereshkin ("Respondent") with willfully failing to disclose on his Uniform Application for Securities Industry Registration ("Form U4") that he had been charged with Tampering with Physical Evidence, a felony in New York, and convicted of a misdemeanor charge involving the wrongful taking of property. By failing to disclose these criminal matters on his Form U4, Respondent violated NASD Conduct Rule 2110 and IM-1000-1.

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 October 17, 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 and Enforcement's motion will be granted.¹

I. Respondent's Default

On July 28, 2008, Enforcement served the Complaint and Notice of Complaint on Respondent by first-class regular and certified mail, return receipt requested, at his most current residential address as listed in the Central Registration Depository ("CRD"). Neither mailing was returned to Enforcement. The Domestic Return Receipt card was also not returned to Enforcement.

Enforcement served the Complaint and Second Notice of Complaint on Respondent by first-class regular and certified mail, return receipt requested, at his CRD address on August 26, 2008. The Second Notice sent by certified mail was returned marked "Unclaimed." The Second Notice sent by regular first-class mail was not returned.

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

II. Jurisdiction

Respondent was associated with FINRA member firm Ameriprise Financial Services, Inc., from November 15, 2007, until December 10, 2007. Respondent submitted a Form U4 to

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

Ameriprise dated November 15, 2007, but was never registered by Ameriprise or any other member firm. By signing and submitting a Form U4, Respondent became an associated person pursuant to Article I, Section (rr)(1) of FINRA's By-Laws, and thereby subjected himself to FINRA's jurisdiction.

Although Respondent has not been associated with any FINRA member since December 2007, he remains subject to FINRA jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years after the termination of his last association with a member firm, and it charges him with misconduct while he was associated with a member firm and failure to respond to requests for information during the two-year period.

III. Origin of the Investigation

Ameriprise filed a Uniform Termination Notice for Securities Industry Registration (Form U5) on December 10, 2007. Upon receipt of the Form U5, FINRA initiated an investigation into the allegations disclosed by the filing.

IV. Respondent Violated Conduct Rule 2110 and IM-1000-1 by Failing to Disclose Material Facts on Form U4

Article V, Section 2 of FINRA's By-Laws requires that persons who apply for registration with FINRA must provide "such ... reasonable information with respect to the applicant as [FINRA] may require." Applicants must complete a Form U4 disclosing, among other things, whether they have ever been charged with any felony, or convicted of a misdemeanor involving wrongful taking of property. FINRA uses the Form U4 "to monitor and determine the fitness of securities professionals." *Dep't of Enforcement v. Kaweske*, No. C07040042, 2007 NASD Discip. LEXIS 5, at *34 (N.A.C. Feb. 12, 2007), citing *Rosario R. Ruggiero*, 52 S.E.C. 725, 728 (1996). A Form U4 that is inaccurate or incomplete so as to be

misleading may be deemed conduct inconsistent with just and equitable principles of trade. *See* IM-1000-1; *Thomas R. Alton*, 52 S.E.C. 380, 382 (1995).

On or about November 15, 2007, Respondent completed and signed a Form U4 and submitted it to Ameriprise. Respondent marked the form "No" in response to Question 14A(1)(b), which asks if the applicant has ever been charged with a felony. Respondent also marked the form "No" in response to Question 14B(1)(a), which asks, "Have you ever been convicted of or pled guilty or nolo contendere ('no contest') in a domestic, foreign or military court to a misdemeanor involving ... wrongful taking of property." The responses were inaccurate because in January 2007, Respondent had been charged with Tampering with Physical Evidence, a felony under New York law, and had pled guilty to petit larceny on April 19, 2007. By providing inaccurate information, Respondent violated Conduct Rule 2110 and IM-1001-1.

~~Respondent acted willfully by failing to disclose material information on a Form U4. It is~~ sufficient to establish willfulness if the respondent "knew or reasonably should have known under the particular facts and circumstances that his conduct was improper."² A finding of willfulness does not require intent to violate the law or a specific rule, but simply intent to commit the act that constitutes the violation.³ The Complaint alleges that Respondent's failure to disclose the felony charge and the misdemeanor conviction was willful, and the facts support the allegation. Form U4 clearly required the information, and his failure to disclose that he had been

² *Christopher LaPorte*, Exch. Act Rel. No. 39171, 1997 SEC LEXIS 2058, at *8 n.2 (Sept. 30, 1997).

³ *Dep't of Enforcement v. Knight*, No. C10020060, 2004 NASD Discip. LEXIS 5, at *10 (N.A.C. Apr. 27, 2004); *Dep't of Enforcement v. Sarris*, No. C9A020017, 2003 NASD Discip. LEXIS 12, at *11 (O.H.O. Mar. 17, 2003); *LaPorte* at *8; *Arthur Lipper Corp. v. SEC*, 547 F.2d 171, 180 (2d Cir. 1976), *cert. denied*, 434 U.S. 1009 (1978).

charged with a felony and convicted of a misdemeanor only a few months earlier establishes that he willfully failed to disclose the information.⁴

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent violated Conduct Rule 2110 and IM-1000-1 by willfully failing to disclose material facts on his Form U4.

V. Sanctions

For filing a false, misleading, or inaccurate Form U4, the FINRA Sanction Guidelines recommend a fine of \$2,500 to \$50,000 and a suspension of five to 30 business days, or in egregious cases, a longer suspension or a bar. *FINRA Sanction Guidelines* at 73. One Principal Consideration is the nature and significance of the information at issue, which is an aggravating factor here. Information concerning a felony charge and a theft conviction would be very important to the regulator, the firm, and potential clients.

Enforcement recommends a sanction of a suspension of at least one year and a fine of \$5,000. Given the nature of the information that was omitted and the willfulness of Respondent's violation of Conduct Rule 2110 and IM-1000-1, Enforcement's recommendation is reasonable. Respondent is fined \$5,000 and suspended from association with any member firm for one year.

VI. Conclusion

Respondent is suspended from association with any FINRA member in any capacity for one year and fined \$5,000 for his willful failure to make required disclosures on his Form U4, in violation of Conduct Rule 2110 and IM-1000-1.

⁴ Article III, Section 4 of FINRA's By-Laws provides that "[a] person is subject to a 'disqualification' ... if such person is subject to any 'statutory disqualification' as such term is defined in Section 3(a)(39) of the [Securities Exchange] Act [of 1934]." Under Section 3(a)(39)(F) of the Securities Exchange Act of 1934, an applicant is subject to statutory disqualification if the applicant has willfully made a false statement on an application to become associated with a member firm, such as a Form U4.

If this Decision becomes the final disciplinary action of FINRA, the suspension shall begin at the opening of business on January 5, 2009, and conclude at the close of business on January 4, 2010. The fine shall be due and payable if and when Respondent applies to associate with a member firm following the end of his suspension.

SO ORDERED.


Lawrence B. Bernard
Hearing Officer

Copies to: Anton Yereshkin (*via overnight courier and first-class mail*)
Samuel Barkin, Esq. (*via email and first-class mail*)
Mark P. Dauer, Esq. (*via email*)
David R. Sonnenberg, Esq. (*via email*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

ANTON YERESHKIN (CRD No. 5452893)

Respondent.

DISCIPLINARY PROCEEDING
No. 2007011504801

COMPLAINT

The Department of Enforcement alleges:

1. This case involves a broker who willfully failed to disclose that he had previously been
charged with the commission of a felony and had been convicted of a reportable
misdemeanor charge.
2. On November 15, 2007, Respondent Anton Yereshkin became associated with a FINRA
member firm when he completed and signed an initial Uniform Application for Securities
Industry Registration or Transfer (Form U4). In that Form U4, Yereshkin willfully failed
to disclose that he had previously been charged with a felony and a reportable
misdemeanor. Yereshkin's failure to disclose the felony charge and misdemeanor
conviction were in contravention of Article V, Section 2(a) of FINRA's By-Laws and in
violation of NASD Membership and Registration Rule IM-1000-1 and Conduct Rule
2110.

Jurisdiction

3. On November 15, 2007, Respondent Yereshkin became associated with a FINRA member firm Ameriprise Financial Services, Inc. (CRD No. 6363).
4. Yereshkin remained continuously associated with Ameriprise until on or about December 10, 2007. On December 10, 2007, Ameriprise filed a Uniform Termination Notice for ~~Securities Industry Registration (Form U5) with FINRA, notifying FINRA that the firm~~ had terminated Yereshkin's association with Ameriprise on December 10, 2007.
5. FINRA retains jurisdiction over Yereshkin pursuant to Article V, Section 4 of its By-Laws.

FIRST CAUSE OF ACTION

(~~Willful and Material Misrepresentation on Form U4~~)

Contravention of Article V, Section 4 of FINRA's By-Laws and Violation of NASD Membership and Registration Rule IM-1000-1 and Conduct Rule 2110)

6. The Department realleges and incorporates by reference paragraphs 1-6 above.
7. In connection with Yereshkin's association with Ameriprise, he signed a Form U4 dated November 15, 2007. By signing the Form U4, Yereshkin was attesting to the completeness and accuracy of the Form U4.
8. On or about November 27, 2007, Ameriprise submitted Yereshkin's Form U4 to FINRA.
9. Form U4 Question 14A. (1)(b) asks: "Have you ever: been charged with any felony?"
10. Form U4 Question 14B. (1) asks: "Have you ever:

(a) been convicted of or pled guilty 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?

11. Yereshkin answered "No" to Questions 14A. (1)(b) and 14B. (1)(a) of Form U4.
12. Yereshkin's responses were false, in that on or about January 26, 2007, Yereshkin was charged with Tampering with Physical Evidence, a Class E Felony under New York Penal Law. In addition, on April 19, 2007, Yereshkin entered a Plea Memorandum, pleading guilty to a Class A Misdemeanor of Petit Larceny. By failing to disclose the felony charge and misdemeanor conviction, Yereshkin willfully failed to disclose a material fact on his Form U4.
13. Based on the foregoing, Yereshkin acted in contravention of Article V, Section 2(a) of FINRA's By-Laws and thus violated NASD Membership and Registration Rule IM-1000-1 and Conduct Rule 2110.

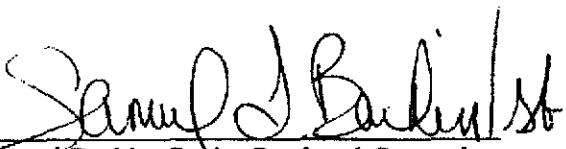
RELIEF REQUESTED

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 the Respondent 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 Respondent's conduct, as alleged in the First Cause of Action, 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: July 28, 2008



Samuel Barkin, Senior Regional Counsel
Jon Batterman, Deputy Regional Chief Counsel
David Jaffe, Regional Chief Counsel
FINRA Department of Enforcement
Two Jericho Plaza
Jericho, NY 11753
Phone: (516) 949-4217; Fax: (202) 721-6573
e-mail: samuel.barkin@finra.org
