

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

LAWRENCE Y. LEE
(CRD No. 2612348),

Respondent.

Disciplinary Proceeding
No. 2008012458101

Hearing Officer—LBB

DEFAULT DECISION

Dated: December 9, 2013

Respondent is barred and statutorily disqualified for willfully failing to disclose his criminal history on 47 Forms U4, in violation of Article V, Section 2 of the NASD and FINRA By-Laws, NASD Rule 2110 and IM-1000-1, and FINRA Rules 1122 and 2010. He is separately barred for failing to appear and testify at an on-the-record interview, in violation of FINRA Rules 8210 and 2010.

Appearances

Dale A. Glanzman, Esq., for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

The Department of Enforcement (“Enforcement”) filed the two-cause Complaint in this disciplinary proceeding on June 17, 2013. The First Cause of Action charges Respondent Lawrence Y. Lee with willful failure to disclose seven felony charges and a felony conviction on 47 Forms U4,¹ in violation of Article V, Section 2 of the NASD and FINRA By-Laws, NASD

¹ Uniform Application for Securities Industry Registration or Transfer.

Rule 2110 and IM-1000-1, and FINRA Rules 1122 and 2010.² The Second Cause of Action charges Respondent with failure to appear and testify at an on-the-record interview (“OTR”), in violation of FINRA Rules 8210 and 2010. Despite being properly served with the Complaint, Notice of Complaint, Second Notice of Complaint, and Fourth Notice of Complaint, Respondent has not filed an Answer or otherwise responded to the Complaint.³

On October 22, 2013, Enforcement filed a Motion for Entry of Default Decision and Supporting Memorandum. Respondent did not file a response to Enforcement’s motion. Enforcement’s motion is granted, and the Hearing Officer finds that Respondent has defaulted. Accordingly, pursuant to FINRA Rules 9215(f) and 9269, the allegations of the Complaint are deemed admitted.⁴

I. Respondent

Between January 1996 and February 2008, Respondent was registered with eight different FINRA member firms. Between August 2008 and November 2010, Respondent was registered with FINRA member firm Rockwell Global Capital LLC. Respondent has not been registered with a FINRA member firm since 2010. On September 28, 2012, Rockwell filed an

² As of July 30, 2007, NASD consolidated with the member regulation and enforcement functions of NYSE Regulation and began operating under a new corporate name, the Financial Industry Regulatory Authority (FINRA). References in this decision to FINRA include, where appropriate, NASD. Following consolidation, FINRA began developing a new FINRA Consolidated Rulebook. The first phase of the new consolidated rules became effective on December 15, 2008, including certain conduct rules and procedural rules. *See* Regulatory Notice 08-57 (Oct. 2008). This decision refers to and relies on the rules that were in effect at the time of Respondent’s alleged misconduct. The applicable rules are available at www.finra.org/rules.

³ As noted below, there was a typographical error in the address on the envelopes for the Third Notice of Complaint. It is unnecessary decide whether service of the Third Notice was proper.

⁴ The factual determinations in this decision are based on the allegations of the attached Complaint and the materials Enforcement filed with its default motion, which included the Declaration Supporting a Motion for Entry of Default Decision, signed by Enforcement counsel Dale A. Glanzman, and supporting documentation that was attached to counsel’s Declaration. Counsel’s Declaration is cited herein as “Decl. ¶ __.” The supporting documentation is cited as “CX-__.”

amendment to Respondent's Form U5,⁵ reporting that Respondent had been asked to resign from the firm because of customer complaints. CX-3; Decl. ¶5.

Respondent remains subject to FINRA's 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 filing of an amendment to his Form U5 that disclosed that he may have engaged in conduct actionable under applicable statutes, rules, or regulations, and it charges him with misconduct while he was associated with member firms and with failing to respond to a Rule 8210 request for information that was served within two years after the termination of his registration with a member firm.

II. Respondent's Default

On June 17, 2013, Enforcement served the Notice of Complaint and Complaint on Respondent by first-class and certified mail at his residential address as listed in the Central Registration Depository ("CRD"). The Postal Service returned both mailings as undeliverable. Decl. ¶ 6; CX-4, CX-5. Enforcement served a Second Notice of Complaint and Complaint on Respondent at his CRD address by first-class and certified mail on July 16, 2013, and they were again not deliverable and returned by the Postal Service. The returned envelopes included a forwarding address that had been stamped on the original envelope. Decl. ¶ 7; CX-7, CX-8, CX-9.

Enforcement served a Third Notice of Complaint and Complaint on Respondent at his CRD address, but with an error in the street address, and at the forwarding address that had been identified on the July 16 envelope that had been returned to FINRA. The Postal Service returned the mailings to FINRA as undeliverable. Decl. ¶ 8; CX-10, CX-11, CX-12, CX-13, CX-14. On

⁵ Uniform Termination Notice for Securities Industry Registration.

September 18, 2013, Enforcement served a Fourth Notice of Complaint and Complaint on Respondent by first-class and certified mail at his CRD address and the alternative address. All the mailings except the first-class mailing to the CRD address were returned by the Postal Service. Decl. ¶ 9; CX-15, CX-16, CX-17, CX-18. Respondent has not filed an answer or otherwise responded to the Complaint. Decl. ¶ 10.

Despite being properly served with the Complaint, Notice of Complaint, Second Notice of Complaint, and Fourth Notice of Complaint, Respondent has not answered or otherwise responded to the Complaint. By failing to file a response, he defaulted.

III. First Cause of Action: Willful Failure to Disclose Material Information and to Update Forms U4

The Second Cause of Action charges Respondent with willfully failing to disclose material information on his Form U4, and failing to update his Form U4.

A. Respondent Violated Article V, Section 2 of the NASD and FINRA By-Laws, NASD Rule 2110 and IM-1000-1, and FINRA Rules 1122 and 2010, by Filing False Forms 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." The same language appeared in NASD's By-Laws. Applicants must complete a Form U4 disclosing, among other things, information concerning unsatisfied judgments and bankruptcy filings. Article V, Section 2(c) of FINRA's By-Laws requires that associated persons keep their Forms U4 "current at all times by supplementary amendments," which must be filed "not later than 30 days after learning of the facts or circumstances giving rise to the amendment." FINRA, other self-regulatory organizations, state regulators, and member firms use the Form U4 to screen applicants and evaluate their fitness to

be in the securities industry.⁶ The Form U4 information is also useful for members of the public, who can access much of the Form U4 information on BrokerCheck.⁷

NASD IM-1000-1 and FINRA Rule 1122 prohibit the filing, in connection with membership or registration as a registered representative, of information incomplete or inaccurate so as to be misleading. Submitting an inaccurate Form U4 violates not only IM-1000-1 and FINRA Rule 1122, but also the standard of just and equitable principles of trade to which every person associated with a FINRA member is held under NASD Rule 2110 and its successor, FINRA Rule 2010.⁸

On August 30, 1987, Respondent was arrested by the Rolling Meadows, Illinois Police Department and charged with one felony count of Aggravated Criminal Sexual Assault and two felony counts of Home Invasion. On September 23, 1987, the Cook County State's Attorney filed a superseding indictment charging Respondent with two counts of Aggravated Criminal Sexual Assault, two counts of Criminal Sexual Assault, one count of Aggravated Criminal Sexual Abuse, and two counts of Residential Burglary. Complaint ¶ 4. On May 23, 1988, Respondent entered a guilty plea to, and was convicted of, one count of Aggravated Criminal Sexual Abuse, a Class 2 felony. Complaint ¶ 5.⁹

On September 7, 1995, Respondent completed and signed a Form U4 to become registered with a FINRA member firm. He was associated with nine different FINRA member

⁶ See, *Joseph S. Amundsen*, Exchange Act Rel. No. 69406, 2013 SEC LEXIS 1148, at *23 (Apr. 18, 2013), *appeal docketed*, No. 13-71472 (D.C. Cir. Apr. 25, 2013); *Richard A. Neaton*, Exchange Act Rel. No. 65598, 2011 SEC LEXIS 3719, at *16 (Oct. 20, 2011); *Jason A. Craig*, Exchange Act Rel. No. 59137, 2008 SEC LEXIS 2844, at *8 (Dec. 22, 2008); *Dep't of Enforcement v. Kaweske*, No. C07040042, 2007 NASD Discip. LEXIS 5, at *33 (N.A.C. Feb. 12, 2007) (citing *Rosario R. Ruggiero*, 52 S.E.C. 725, 728 (1996)).

⁷ *Joseph S. Amundsen*, 2013 SEC LEXIS 1148, at *23-24; *Robert D. Tucker*, Exchange Act Rel. No. 68210, 2012 SEC LEXIS 3496, at *26 (Nov. 9, 2012).

⁸ See *Joseph S. Amundsen*, 2013 SEC LEXIS 1148, at *26-27; *Scott Mathis*, Exchange Act Rel. No. 61120, 2009 SEC LEXIS 4376, at *16 (Dec. 7, 2009), *aff'd sub nom.*, *Mathis v. SEC*, 671 F3d 210 (2d Cir. 2012).

⁹ Respondent was sentenced to probation, and ordered to perform community service and continue with counseling. Complaint ¶ 6.

firms for short periods from 1995 until September 2010. Between January 1997 and September 2010, Respondent completed and signed another 46 Forms U4. Complaint ¶ 8; CX-3.

Respondent willfully failed to accurately complete the 47 Forms U4. On each of the forms, Respondent reported that he had never been charged with, or convicted of, a felony. During the fifteen years that Respondent was associated with FINRA member firms, Respondent willfully failed to update his Form U4 to disclose that he had been charged with seven felonies and convicted of a felony. Complaint ¶ 9.

The information on Respondent's criminal history is material. Information not disclosed on a Form U4 is material if the omitted information would have "significantly altered the total mix of information made available," or "would have assumed actual significance in the deliberations of the representative's employers, regulators, and investors."¹⁰ Employers, regulators, and investors all would find that a history of charges and a conviction for serious violent crimes would be material. The criminal history would raise questions about Respondent's character and trustworthiness. For the employers and FINRA in the early years of Respondent's employment by member firms, the information would have been especially important because Respondent was statutorily disqualified during that period. In addition, all of the information on the Form U4 is presumed material.¹¹

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent violated Article V, Section 2 of the NASD and FINRA By-Laws, NASD Rule 2110 and IM-1000-1, and FINRA Rules 1122 and 2010 by filing 47 false Forms U4.

¹⁰ *Joseph S. Amundsen*, 2013 SEC LEXIS 1148, at *40.

¹¹ *Id.*

B. Respondent Is Statutorily Disqualified

A person is subject to a statutory disqualification under Article III, Section 4 of FINRA's By-Laws and Exchange Act Section 3(a)(39)(F) if he:

has willfully made or caused to be made in any application . . . to become associated with a member of . . . a self-regulatory organization, [or] report to be filed with a self-regulatory organization . . . any statement which was at the time, and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any such application, report, or proceeding any material fact which is required to be stated therein.¹²

A violation is willful if "the person charged with the duty knows what he is doing."¹³ "A willfulness finding is predicated on [a person's] intent to commit the act that constitutes the violation--completing the Form U4 inaccurately."¹⁴ To find that Respondent's actions were willful, Enforcement needs to establish only that Respondent voluntarily provided false answers on his Forms U4.¹⁵

Respondent's conduct was clearly willful, as charged in the Complaint. He filed 47 false Forms U4, and must have known of his felony charges and conviction. Respondent is statutorily disqualified.

IV. Second Cause of Action: Respondent Violated FINRA Rules 8210 and 2010 by Failing to Appear and Testify at an On-the-Record Interview After Receiving Rule 8210 Requests

The Second Cause of Action charges Respondent with failing to appear and testify at an OTR after being served with Rule 8210 requests to appear and testify. On February 2, 2012, FINRA sent a request to Respondent pursuant to FINRA Rule 8210, directing him to appear at

¹² 15 U.S.C. § 78c(a)(39)(F).

¹³ *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000).

¹⁴ *Dep't of Enforcement v. Zdzieblowski*, No. C8A030062, 2005 NASD Discip. LEXIS 3, at *14 (N.A.C. May 3, 2005).

¹⁵ *See Mathis v. SEC*, 671 F.3d 210, 216 (2d. Cir. 2012).

an OTR on February 17, 2012. FINRA sent the request by first-class and certified mail to Respondent's CRD address. The first-class mailing was not returned to FINRA staff, but the certified mailing was returned, marked "Return to Sender; Unclaimed; Unable to Forward." Complaint ¶ 12. Respondent failed to appear at the OTR on February 17, 2012. Complaint ¶ 14.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to appear and testify at an OTR despite being properly served with a Rule 8210 request, in violation of FINRA Rules 8210 and 2010.¹⁶

V. Sanctions

Respondent is barred separately for each violation. For filing a false, misleading, or inaccurate Form U4, the FINRA Sanction Guidelines recommend a suspension in any or all capacities of five to thirty business days and a fine of \$2,500 to \$50,000.¹⁷ The Guidelines recommend a longer suspension in any or all capacities or a bar in egregious cases, "such as those involving repeated failures to file, untimely filings or false, inaccurate, or misleading filings; those involving the failure to disclose or timely to disclose a ... customer complaint." The Principal Considerations for Form U4 violations are the nature and significance of the information, and whether the information resulted in a statutorily disqualified person remaining associated with a firm.¹⁸ Both Principal Considerations support a bar. Respondent was charged with seven serious felony violations, and convicted of one, which would be important information for investors, his member firms, and regulators. He was statutorily disqualified until May 22, 1998, or more than two years after his first false Form U4. An additional aggravating

¹⁶ A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010. *Dep't of Enforcement v. Gallagher*, No. 2008011701203, 2012 FINRA Discp. LEXIS 61, at *11 n.9 (N.A.C. Dec. 12, 2012).

¹⁷ FINRA Sanction Guidelines at 69-70 (2011) ("Guidelines").

¹⁸ *Id.*

factor is that he failed to report his criminal history 47 times, over a fifteen year period.¹⁹

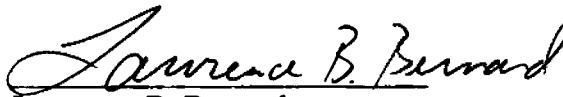
Respondent is barred from associating with any FINRA member firm in any capacity.

For a complete failure to respond to a request for information pursuant to FINRA Rule 8210, a bar is standard.²⁰ Here, Respondent failed to appear and testify at an OTR. There are no mitigating factors. Respondent is barred for violating FINRA Rules 8210 and 2010.

VI. Conclusion

Respondent Lawrence Y. Lee is barred from associating with any FINRA member firm in any capacity for submitting 47 false Forms U4, in violation of Section 2 of the NASD and FINRA By-Laws, NASD Rule 2110 and IM-1000-1, and FINRA Rules 1122 and 2010. Because the violations were willful, Respondent is statutorily disqualified. Respondent is also barred for failing to appear and testify at an on-the-record interview, in violation of FINRA Rules 8210 and 2010.

The bars will be effective immediately if this decision becomes FINRA's final disciplinary action in this proceeding.


Lawrence B. Bernard
Hearing Officer

Copies to: Lawrence Y. Lee (*via overnight courier and first-class mail*)
Dale A. Glanzman, Esq. (*via electronic and first-class mail*)
Mark A. Koerner, Esq. (*via electronic mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
Jeffrey D. Pariser, Esq. (*via electronic mail*)

¹⁹ See Principal Considerations Nos. 8 and 9, Guidelines at 6.

²⁰ *Id.* at 33.

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

LAWRENCE Y. LEE
Registered Representative
(CRD No. 2612348),

Respondent.

**Disciplinary Proceeding
No. 2008012458101**

Hearing Officer

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In August 1987, Respondent Lawrence Y. Lee ("Lee") was charged with seven felonies and, in May 1988, Lee pled guilty to, and was convicted of, Aggravated Criminal Sexual Abuse, a felony. Thereafter, between October 1995 and November 2010, Lee, on 47 separate occasions, signed a Uniform Application for Securities Industry Registration or Transfer (Form U4) in which he willfully failed to disclose that he had been charged with seven felonies and convicted of one felony. In fact, Lee has never disclosed his criminal record. Lee therefore violated Article V, Section 2 of NASD's and FINRA's By-Laws, NASD Rule 2110 and IM-1000-1, and FINRA Rules 1122 and 2010.

2. In February 2012, Lee failed to appear for on-the-record testimony ("OTR"), in violation of FINRA Rules 8210 and 2010.

RESPONDENT

3. Between January 1996 and February 2008, Lee was registered as a General Securities Representative with eight FINRA-registered firms. Between August 2008 and November 2011, Lee was registered in the same capacity with Rockwell Global Capital LLC ("Rockwell"), a FINRA-registered firm. Although Lee is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years of September 28, 2012, when Lee's Form U-5 was amended to report a new customer arbitration action filed against Lee; and (2) the Complaint charges Lee with misconduct committed while he was registered or associated with a FINRA member and with failing to appear for on-the-record testimony during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

BACKGROUND

4. On or about August 30, 1987, Lee was arrested by the Rolling Meadows, Illinois Police Department and charged with one felony count of Aggravated Criminal Sexual Assault and two felony counts of Home Invasion. On or about September 23, 1987, the Cook County State's Attorney later filed a superseding indictment against Lee charging Lee with two counts of Aggravated Criminal Sexual Assault, two counts of Criminal Sexual Assault, one count of Aggravated Criminal Sexual Abuse, and two counts of Residential Burglary.

5. On or about May 23, 1988, Lee entered a guilty plea to, and was convicted of, one count of Aggravated Criminal Sexual Abuse, a Class 2 felony.

6. Lee was sentenced to probation for a period of four years, ordered to perform 1,000 hours of community service, and ordered to "continue with psychological counseling as

directed by the therapist.”

FIRST CAUSE OF ACTION
Failure to Disclose Felony on Form U-4
Violations of Article V, Section 2 of NASD's and FINRA's By-Laws,
NASD Rule 2110 and IM-1000-1, and FINRA Rules 1122 and 2010

7. The Department realleges and incorporates by reference paragraphs 1-6 above.

8. On or about September 7, 1995, Lee completed and signed a Form U4 to become registered with a FINRA-registered firm, thereby subjecting himself to FINRA jurisdiction. Thereafter, between approximately January 1997 and September 2010, Lee completed and signed another 46 Forms U4.

9. Lee willfully failed to accurately complete the 47 Forms U4, because on each of the 47 Forms U4, Lee attested that he had never been charged with, or convicted of, a felony. In fact, during the approximately 15 years that Lee was a person associated with a FINRA-registered firm, Lee willfully failed to update his Form U4 to disclose that he had been charged with seven felonies and convicted of Aggravated Criminal Sexual Abuse, a Class 2 felony.

10. The acts, practices and conduct described above constitute separate and distinct violations of Article V, Section 2 of NASD's and FINRA's By-Laws, NASD Rule 2110 and IM-1000-1, and FINRA Rules 1122 and 2010.

SECOND CAUSE OF ACTION
Failure to Appear for an OTR
Violation of FINRA Rules 8210 and 2010

11. The Department realleges and incorporates by reference paragraphs 1-10 above.

12. On or about February 2, 2012, FINRA sent to Lee a request that he appear for an OTR on February 17, 2012, pursuant to and in accordance with FINRA Rule 8210. The request to attend the OTR was sent by first class and certified mail, return receipt requested, to Lee's

address of record as contained in the records of the Central Registration Depository ("CRD address"). The first class mailing was not returned to FINRA staff. The envelope containing the certified mailing was returned, marked "Return to Sender; Unclaimed; Unable to Forward."

13. Lee failed to appear to appear for the OTR on February 17, 2012.

14. To date, Lee has not appeared, nor has he agreed to appear, for an OTR, as requested by FINRA staff.

15. The acts, practices and conduct described above constitute a violation of FINRA Rules 8210 and 2010 by Lee.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

- A. make findings of fact and conclusions of law that Respondent(s) committed the violations charged and alleged herein;
- B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed;
- C. order that Respondent bear such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330; and
- D. 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: June 17, 2013

A handwritten signature in black ink, appearing to read "Dale A. Glanzman", is written over a horizontal line.

**Dale A. Glanzman/Senior Regional Counsel
Mark A. Koerner, Associate Vice-President and
Regional Chief Counsel**

**FINRA Department of Enforcement
55 W. Monroe Street, Suite 2700
Chicago, IL 60603-5052
(312) 899-4312; Fax No. (312) 899-4600**