

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

BRADLEY KEITH VERCNOCKE
(CRD No. 2582090),

Respondent.

Disciplinary Proceeding
No. 2008013101901

Hearing Officer— SNB

DEFAULT DECISION

July 14, 2011

Respondent is barred from associating with any FINRA-registered firm in any capacity for failing to respond to requests for information and testimony, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010, and willfully failing to disclose a customer complaint and tax liens on a Form U4, in violation of NASD Conduct Rule 2110, IM-1000-1 and Article V, Section 2 of FINRA's By-Laws. In light of the bars, no additional sanctions are imposed for failing to disclose outside business activities, in violation of NASD Conduct Rules 3030 and 2110.

Appearances

Laura A. Cooper, Esq., for the Department of Enforcement.

No appearance by or on behalf of Bradley Keith Vercnocke.

DECISION

I. Introduction

The FINRA Department of Enforcement ("Enforcement") filed the attached Complaint with the Office of Hearing Officers on January 31, 2011. The Complaint charges Bradley Keith Vercnocke ("Respondent") with: (1) failing to disclose outside

business activities, in violation of NASD Conduct Rules 3030 and 2110;¹ (2) willfully failing to disclose a customer complaint and tax liens on a Form U4, in violation of NASD Conduct Rule 2110, NASD Membership and Registration Rule Interpretive Material ("IM") 1000-1, and Article V, Section 2 of FINRA's By-Laws; and (3) failing to respond to requests for information and testimony, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010.²

Respondent did not answer or otherwise respond to the Complaint. Accordingly, on April 21, 2011, Enforcement filed a Motion for Entry of Default Decision and Imposition of Sanctions ("Default Motion") with the Office of Hearing Officers, together with the declaration of Laura A. Cooper, Esq. ("Decl.") and six exhibits.³ On July 11, 2011, Enforcement supplemented its Default Motion with a CRD record reflecting Respondent's registration history ("CRD Supplement"). For the reasons set forth below, the Hearing Officer found Respondent in default and granted Enforcement's Default Motion.

II. Procedural History

On January 31, 2011, Enforcement served the Complaint and the First Notice of Complaint on Respondent by mailing them to his most recent address recorded in the Central Registration Depository ("CRD") by first-class and certified mail, return receipt

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 the rule consolidation, NASD Rule 2110 was renumbered to FINRA Rule 2010. The findings in this Default Decision refer to the rules that were in effect at the time of the violations.

² The Complaint also charged Respondent with engaging in private securities transactions without firm approval, in violation of NASD Rules 3040 and 2110. In order to establish a violation of Rule 3040, the Hearing Officer must find that the promissory notes are securities. The Hearing Officer found that there was insufficient information in the Complaint and the declaration supporting the motion for the entry of a default decision to make that determination. Therefore, the Hearing Officer afforded Enforcement an opportunity to supplement the record. Enforcement responded that it had no further information to establish that the promissory notes were securities. Therefore, the Hearing Officer dismissed this charge.

³ Enforcement's exhibits are labeled CX-1 through CX-6.

requested. Decl. ¶ 31; CX-2. The mailings were returned to Enforcement because they were undeliverable. Decl. ¶ 33; CX-3. Respondent did not answer or otherwise respond to the Complaint. Decl. ¶ 34.

On February 18, 2011, Enforcement served a Second Notice of Complaint and a copy of the Complaint on Respondent by mailing them to his CRD address by first-class and certified mail, return receipt requested. Decl. ¶ 35; CX-4. Again, the mailings were returned to Enforcement because they were undeliverable. Decl. ¶ 37. Respondent did not answer or otherwise respond to the Complaint. Decl. ¶ 38.

On April 4, 2011, Enforcement served a Third Notice of Complaint and a copy of the Complaint on Respondent by mailing them to his CRD address by first-class and certified mail, return receipt requested. Decl. ¶ 39; CX-6. Respondent did not answer or otherwise respond to the Complaint.⁴ Decl. ¶ 42.

To date, Respondent has not answered or otherwise responded to the Complaint. Accordingly, the Hearing Officer holds the Respondent in default and deems the allegations in the attached Complaint admitted pursuant to Rules 9215(f) and 9269(a).

III. Findings of Fact and Conclusions of Law

A. Background

Respondent was registered with AIG Financial Advisors, Inc. and its predecessors (now doing business as Sagepoint Financial, Inc.) ("the Firm") from 1996 through April 2008. CRD Supplement; Decl. ¶ 4. The Firm filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") disclosing that Respondent was terminated for recommending an unapproved investment to a client, failing to disclose that he was the subject of a civil suit by the client in connection with the unapproved investment, and

⁴ The Declaration does not indicate whether the mailings were delivered or returned.

failing to disclose tax liens. Decl. ¶ 5. In June 2008, he was briefly registered with another member firm. CRD Supplement; Decl. ¶ 6.

On December 17, 2009, the Firm filed an amendment to Respondent's Form U5 disclosing a new customer complaint regarding the early surrender of variable annuity contracts to purchase equivalent contracts. *Id.*; CX-1.

B. Jurisdiction

Although Respondent is not currently registered with a FINRA member firm, FINRA has jurisdiction for purposes of this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years following the Firm's filing of an amended Form U5 disclosing Respondent's possible misconduct, and it charges him with failing to respond to Rule 8210 requests for information while he was subject to FINRA's jurisdiction.⁵

C. Origin of Proceeding

FINRA staff ("Staff") commenced the investigation that led to this proceeding in March 2010 after it received a Form U5 disclosing Respondent's termination from the Firm for recommending an unapproved investment to a client, failing to disclose that he had been sued in connection with this unapproved investment, and failing to disclose tax liens. Decl. ¶ 7.

D. Outside Business Activity

The Complaint alleges that Respondent violated NASD Conduct Rules 3030 and 2110 by failing to disclose an outside business activity to the Firm. Specifically, Respondent failed to disclose to his firm that, beginning in May 2005 and continuing

⁵ 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").

throughout the remainder of his employment with the Firm, he served as Chief Financial Officer and Director of Shoreline Investments, Inc. ("Shoreline"). Decl. ¶ 10.

Shoreline's business included the purchase of a bar and grill. *Id.* This employment was outside the scope of his work at the Firm. *Id.* Respondent failed to provide the Firm with written notice of his position at Shoreline, and the Firm did not approve it. *Id.*

NASD Rule 3030 prohibits any person associated with a member firm from being "employed by, or accept[ing] compensation from, any other person as a result of any business activity, other than a passive investment, outside the scope of his relationship with his employer firm, unless he has provided prompt written notice to the member." The rule was "intended to improve the supervision of registered personnel by providing information to member firms concerning outside business activities of their representatives."⁶ Member firms are to receive "prompt notification of *all outside business activities* of their associated persons so that the member's objections, if any, to such activities [can] be raised at a meaningful time and so that appropriate supervision [can] be exercised."⁷

The Hearing Officer finds that the facts alleged in the Complaint are sufficient to establish that Respondent violated NASD Conduct Rules 3030 and 2110 by failing to provide the Firm with written notice of an outside business activity.

E. Failure to Disclose a Customer Complaint and Tax Liens

The Complaint also alleges that Respondent willfully failed to disclose a customer complaint and tax liens on his Form U4. Specifically, in September 2007, two customers

⁶ NASD Notice to Members 88-86 (Nov. 1988).

⁷ *Id.* (emphasis added); see also *Dep't of Enforcement v. Schneider*, No. C10030088, 2005 NASD Discip. LEXIS 6, at *13 (N.A.C. Dec. 7, 2005) (explaining that NASD Rule 3030's reach extends to all outside business activity, not just securities-related activity).

filed a complaint against Respondent alleging fraud and conversion of funds relating to the sale of promissory notes, resulting in damages of over \$120,000. Decl. ¶ 13.

Respondent admitted to Staff that he was aware of the complaint and knew that he should have disclosed it to the Firm and reported it on his Form U4. *Id.*

In addition, Respondent admitted to Staff that in October 2007, he became aware of tax liens totaling over \$1 million and should have disclosed the liens on his Form U4. Decl. ¶ 12.

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." IM-1000-1 requires FINRA members and their associated persons to file, in connection with membership or registration as a registered representative, complete and accurate information.⁸ This requirement applies to the Form U4, which FINRA and other self-regulatory organizations use to screen applicants and monitor their fitness for registration within the securities industry.⁹ Failing to amend a Form U4 when required violates IM-1000-1 and the high standards of commercial honor and just and equitable principles of trade to which FINRA holds its members and their associated persons under NASD Rule 2110.¹⁰

Based on the allegations in the Complaint, the Hearing Officer finds that Respondent violated NASD Conduct Rule 2110, IM-1000-1 and Article V, Section 2 of

⁸ IM-1000-1 states that membership or registration information "which is incomplete or inaccurate so as to be misleading, or which could in any way tend to mislead, or the failure to correct such filing after notice thereof, may be deemed to be conduct inconsistent with just and equitable principles of trade and when discovered may be sufficient cause for appropriate disciplinary action."

⁹ *Jason A. Craig*, Exchange Act Rel. No. 59137, 2008 SEC LEXIS 2844, at *8 (Dec. 22, 2008); *Dep't of Enforcement v. Zayed*, No 2006003834901, 2010 FINRA Discip. LEXIS 13, at *13 (N.A.C. Aug. 19, 2010).

¹⁰ NASD Rule 2110 states "[a] member, in the conduct of its business, shall observe high standards of commercial honor and just and equitable principles of trade." NASD Rule 2110 applies with equal force to FINRA members and their associated persons pursuant to NASD Rule 0115(a).

FINRA's By-Laws by willfully failing to disclose a customer complaint and tax liens on his Form U4.

The Hearing Officer further finds that Respondent is subject to statutory disqualification because his failure to disclose a customer complaint and tax liens was willful. A person is subject to a "statutory disqualification" under Article III, Section 4 of FINRA's By-Laws and Section 3(a)(39)(F) of the Securities Exchange Act of 1934 ("Exchange Act") if, among other things, "such person ... has willfully made or caused to be made in any application ... to become associated with a member of, a self-regulatory organization, ... any statement which was at the time, and in 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 ... any material fact which is required to be stated therein."

The allegations in the Complaint and the evidence submitted by Enforcement in support of the Motion for Entry of Default Decision are sufficient to establish that Respondent acted "willfully" in failing to disclose "material" information on his Form U4. A willful violation of the federal securities laws means merely "that the person charged with the duty knows what he is doing."¹¹ Respondent need not have intended to violate FINRA rules to find that he acted willfully.¹² Here, Respondent's willfulness is clear – Respondent admitted to FINRA that he was aware of the customer complaint and tax liens, and he should have disclosed them in his Form U4. The nature of the omitted information – a customer complaint alleging fraud and conversion, and over \$1 million in tax liens – also supports the determination that Respondent acted "willfully" because the

¹¹ *Wonsover v. SEC*, 205 F.3d 408, 414 (D.C. Cir. 2000).

¹² *Dep't of Enforcement v. Mathis*, No. C10040052, 2008 FINRA Discip. LEXIS 49, at *18 (N.A.C. Dec. 12, 2008).

information was so significant that his failure to disclose it could not have been inadvertent.

In addition, the evidence supports the finding that the omitted information was material for purposes of disclosure on Respondent's Form U4. "Because of the importance that the industry places on full and accurate disclosure of information required by the Form U4, [FINRA] presume[s] that essentially all the information that is reportable on the Form U4 is material."¹³ "The test for materiality is whether the omitted information would have 'significantly altered the total mix of information made available.'"¹⁴ In this case, disclosure of a customer complaint alleging fraud and conversion, and over \$1 million in tax liens "most certainly would have significantly altered the landscape of information available to FINRA, other regulators, broker-dealers, and investors."¹⁵

F. Failure to Respond to Requests for Information and Testimony

The Complaint also alleges that Respondent failed to respond to requests for information and testimony. The requests were issued pursuant to Rule 8210, which requires member firms and persons subject to FINRA's jurisdiction to provide information requested by FINRA.

In April 2008, Respondent answered an initial request for information. Decl. ¶ 15. In a telephone call in November 2009, Respondent informed Staff that he had moved from his CRD address and he provided an alternate address ("the Alternate address"). *Id.*

¹³ *Dep't of Enforcement v. Knight*, No. C10020060, 2004 NASD Discip. LEXIS 5, at *13 (N.A.C. Apr. 27, 2004) (citing *Tager v. SEC*, 344 F.2d 5, 8 (2d Cir. 1965)).

¹⁴ *Scott Mathis*, Exchange Act Rel. No. 61120, 2009 SEC LEXIS 4376, at *29 (quoting *TSC Indus., Inc. v. Northway, Inc.*, 426 U.S. 438, 449 (1976)).

¹⁵ *Dep't of Enforcement v. Neaton*, No. 2007009082902, 2011 FINRA Discip. LEXIS 1, at *22. (N.A.C. Jan. 7, 2011).

On February 22, 2010, Staff sent a Rule 8210 request for information to Respondent at the Alternate address by first-class and certified mail, return receipt requested. Decl. ¶ 16. Respondent received the request and informed Enforcement that he was moving from the Alternate address. *Id.* He did not provide a new address. *Id.* On March 15, 2010, Respondent's attorney telephoned and requested an extension of time to respond to the request. Decl. ¶ 17. Staff agreed to extend the deadline to respond until April 1, 2010. *Id.* However, Respondent did not respond. *Id.*

On May 4, 2010, Staff sent a Rule 8210 request to Respondent to appear for testimony on May 20, 2010. Decl. ¶ 20. Staff sent the request to the Alternate address by first-class and certified mail, return receipt requested. This time, the certified mailing was returned as undeliverable. *Id.* Respondent did not appear to testify. *Id.*

On June 1, 2010, Staff sent another Rule 8210 request to Respondent to appear for testimony on June 14, 2010. Decl. ¶ 21. This time, Staff sent the request to Respondent's CRD address by first-class and certified mail, return receipt requested. *Id.* Both mailings were returned as undeliverable. *Id.* Again, Respondent did not appear for testimony. Decl. ¶ 24.

The Hearing Officer finds that the foregoing facts establish that Respondent violated Rule 8210 by failing to respond to the requests for information and testimony. A violation of Rule 8210 is also a violation of Rule 2010.¹⁶

¹⁶ *Dep't of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001).

IV. Sanctions

A. Failure to Respond to Requests for Information and Testimony

For failing to respond to FINRA Rule 8210 requests for information and testimony, the FINRA Sanction Guidelines (“Guidelines”) provide that a bar should be “standard” when there is a complete failure to respond.¹⁷ The Guidelines for failing to respond to requests for information list principal considerations for adjudicators to assess in determining appropriate sanctions. Adjudicators are instructed to consider the importance of the information requested as viewed from FINRA’s perspective.¹⁸

The Hearing Officer finds that a bar from associating with any FINRA member firm in all capacities is an appropriately remedial sanction given all of the facts and circumstances, including a lack of mitigating factors that would warrant a lesser sanction. The information and testimony that Staff sought were important. Staff was investigating Form U5 disclosures indicating fraud and conversion. A bar remedies the risk that Enforcement will not be able to obtain information necessary for the protection of investors and will serve to deter others from failing to provide Enforcement with information and testimony requested under Rule 8210 at the time such requests are made.

B. Willful Failure to Disclose Material Information on a Form U4

For filing a false, inaccurate, misleading or late Form U4, the Guidelines recommend a suspension of five to 30 business days and a fine of \$2,500 to \$50,000. In egregious cases, such as those involving repeated inaccurate filings, or a failure to disclose matters which would create a statutory disqualification, or where the failure to disclose delayed regulatory investigation or termination for cause, the Guidelines

¹⁷ Guidelines at 33 (2011) www.finra.org/sanctionguidelines.

¹⁸ *Id.*

recommend a longer suspension or a bar and a fine of \$5,000 to \$100,000. Here, the customer complaint alleging fraud and conversion, and over \$1 million in tax liens were highly material. Respondent's failure to disclose these events delayed a regulatory investigation and his termination for cause. The Hearing Officer finds the misconduct egregious, warranting a bar.

C. Outside Business Activity

The Guidelines for failure to disclose outside business activities recommend a suspension for up to 30 business days where aggravating conduct is not involved. In cases involving aggravating conduct, the Guidelines recommend a suspension of up to one year.¹⁹ In egregious cases, the Sanction Guidelines provide for consideration of a longer suspension or a bar.²⁰ Here, Respondent failed to disclose an outside business activity for almost three years. The Hearing Officer finds this aggravating, and finds that a suspension in the range of three to six months would be warranted. However, in light of the bars for Respondent's other violations, no further sanctions are imposed.²¹

V. Order

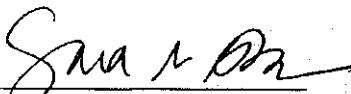
Respondent is barred from associating with any FINRA-registered firm in any capacity for failing to respond to requests for information and testimony, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 2010, and willfully failing to disclose a customer complaint and tax liens on a Form U4, in violation of NASD Conduct Rule 2110, IM-1000-1, and Article V, Section 2 of FINRA's By-Laws. In light of the bars, no additional sanctions are imposed for failing to disclose outside business activities, in violation of NASD Conduct

¹⁹ Guidelines at 13.

²⁰ *Id.*

²¹ As noted above, Respondent is subject to statutory disqualification for this violation.

Rules 3030 and 2110. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.


Sara Nelson Bloom
Hearing Officer

Copies to: Bradley Keith Vercnocke (*via courier and first-class mail*)
Laura A. Cooper, Esq. (*via electronic and first-class mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

**BRADLEY KEITH VERCNOCKE
CRD No. 2582090,**

Respondent.

**DISCIPLINARY PROCEEDING
No. 20080131019**

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Bradley K. Vercnocke (Vercnocke), formerly a registered representative employed by AIG Financial Advisors, Inc. doing business as SagePoint Financial, Inc. (the Firm), violated NASD Rules 3040 and 2110 by selling promissory notes without his Firm's approval during the period July 2004 to December 2005. Vercnocke also violated NASD Rules 3030 and 2110 during the period May 2005 to March 2008 by failing to disclose to his Firm employer that he was acting as chief financial officer of a corporation. During the period September 2007 to March 2008, Vercnocke violated Article V, Section 2(c), of FINRA's By-Laws, NASD Rule 2110 and IM 1000-1 by failing to file supplementary amendments to his Uniform Application For Securities Industry

Registration and Transfer Form U4 within 30 days of learning of a tax lien and a customer complaint alleging fraud and conversion, among other things. Further, during the period February 2010 to the present, Vercnocke violated FINRA Rule 8210 and FINRA Rule 2010, by failing to comply with requests to provide documents and testimony in connection with FINRA's investigation of his conduct during his employment with the Firm.

RESPONDENT AND JURISDICTION

2. Vercnocke, CRD No. 2582090, first obtained a Series 7 in April 1995 when he was employed by American Express Financial Advisors Inc. In September 1996, Vercnocke became employed by SunAmerica Securities, Inc. which later merged with AIG Financial Advisors, Inc. in October 2005. He worked for AIG (which is now doing business as SagePoint Financial) until he was terminated in March 2008.

3. According to the Uniform Termination Notice for Securities Industry Registration (Form U5) filed by the Firm, Vercnocke was terminated on March 24, 2008, for recommending an unapproved investment to a client, failure to disclose he was the subject of a civil suit by the client in connection with the unapproved investment, and failure to disclose IRS liens.

4. Shortly thereafter, Vercnocke became briefly employed by Kovack Securities Inc. until his voluntary termination in June 2008.

5. Vercnocke is not currently associated with a FINRA registrant firm.

6. FINRA retains jurisdiction over Vercnocke pursuant to Article V, Section 4(a) of the FINRA By-Laws, because this Complaint has been filed within two years after the Firm filed an amendment dated December 17, 2009, to Vercnocke's Form U5, disclosing that Vercnocke may have engaged in conduct actionable under the securities laws by virtue of a new customer complaint against him.

FIRST CAUSE OF ACTION

ENGAGING IN PRIVATE SECURITIES TRANSACTIONS WITHOUT FIRM APPROVAL (NASD RULE 3040 AND 2110)

7. The Department of Enforcement re-alleges and incorporates by reference Paragraphs 1 through 6 above.

8. During the period July 2004 to December 2005, while employed with the Firm, Vercnocke engaged in the solicitation and sale of unregistered promissory notes in an entity called InterContiTech Corporation without written notification to or approval by the Firm.

9. InterContiTech – ICT – was a company that supposedly developed patents for future sales, including, among other things, a patent for a battery that was powered by water.

10. During the period July 2004 to December 2005, Vercnocke recommended an investment in ICT to seven of his customers, who invested a total of \$344,000. Vercnocke solicited the customers both in person and by telephone.

11. Payment for the investment was made, variously, by personal check to ICT handed to Vercnocke, personal check to Vercnocke, and wire transfer to Vercnocke's personal account.

12. Except for two customers, the other customers received promissory notes executed on behalf of ICT and notarized by Vercnocke's assistant.

13. Three of the customers received a total of \$7,500 in payments on their investment and otherwise have not received the return of their principal investment or the promised interest by the termination dates of the notes.

14. The following chart shows the name of the customer, payment method, amount invested, date of the promissory notes, terms of the notes (duration and interest), and whether any payments were made:

Name	Payment Method	Amount	Date of Note	Terms	Payment
AK and CK	Check to ICT	\$100,000	November 19, 2004	18 Months, 8%	\$4,000
SS	Check to Vercnocke	\$35,000	November 18, 2005	9 Months, 7%	\$1,500
CP	2 Checks to ICT	\$49,000	Information Not Available	Information Not Available	\$2,000
OP	Wire Transfer to Vercnocke	\$55,000	Information Not Available	Information Not Available	No payment
MH	Information Not Available	\$100,000	August 16, 2004	9 Months, 7%	No payment

BL and TL	Information Not Available	\$35,000	July 20, 2004	6 Months, 8%	No payment
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15. AK and CK handed their check made out to ICT personally to Vercnocke and received their promissory note by mail in an envelope from Vercnocke's office.

16. SS's \$35,000 investment in ICT was by personal check made out to Vercnocke.

17. OP wired the money for his \$15,000 investment in ICT directly to Vercnocke's personal bank account.

18. The ICT promissory notes described above were securities.

19. By soliciting individuals to purchase the ICT promissory notes, and receiving the funds for such investments, Vercnocke participated in private securities transactions. Vercnocke was therefore required to provide prior written notice to the Firm of his intention to solicit investments in ICT securities.

20. Vercnocke failed to provide the required prior written notice of the sale of the ICT promissory notes.

21. The Firm never approved Vercnocke's sale of the ICT promissory notes.

22. By virtue of the above acts, practices and conduct described above, Vercnocke violated NASD Rules 3040 and 2110.

SECOND CAUSE OF ACTION

FAILURE TO DISCLOSE OUTSIDE BUSINESS ACTIVITIES (NASD RULES 3030 AND 2110)

23. The Department of Enforcement re-alleges and incorporates by reference Paragraphs 1 through 22 above.
24. Beginning in May 2005 to his termination from the Firm in March 2008, Vercnocke served as the chief financial officer and director of Shoreline Investors, Inc.
25. Shoreline purchased Gallagher's Pub and Grill, which was managed by Vercnocke's brother.
26. Vercnocke's employment with Shoreline was outside the scope of his relationship with his Firm employer.
27. Vercnocke never provided written notice to his Firm employer of his position at Shoreline.
28. The Firm never approved Vercnocke's employment with Shoreline.
29. By virtue of the above acts, practices and conduct described above, Vercnocke violated NASD Rules 3030 and 2110.

THIRD CAUSE OF ACTION

**FAILURE TO DISCLOSE A CUSTOMER COMPLAINT
AND TAX LIEN ON FORM U4
(ARTICLE V, SECTION 2(C), OF FINRA'S BY-LAWS, NASD RULE 2110
AND IM 1000-1)**

30. The Department of Enforcement re-alleges and incorporates by reference Paragraphs 1 through 29 above.

31. On or about September 24, 2007, customers AK and CK filed a complaint against Vercnocke alleging fraud and conversion of funds relating to the sale of the ICT promissory notes and damages in the amount of over \$120,000. Vercnocke was required to disclose this complaint on an amended Form U4.

32. Vercnocke failed to amend his Form U4 to disclose the AK and CK complaint. Vercnocke also did not inform his Firm employer about the complaint.

33. In or about October 2007, the Internal Revenue Service placed a lien of over \$1 million on Vercnocke for unpaid taxes. Vercnocke was required to disclose the IRS lien on an amended Form U4

34. Vercnocke failed to amend his Form U4 to disclose the IRS lien. Vercnocke also did not inform his Firm employer about the lien.

35. Both the IRS lien and the AK and CK complaint were material to FINRA's and the Firm's ability to evaluate Vercnocke's fitness to continue as a registered representative and remain employed at the Firm.

36. Vercnocke knew about both the IRS lien and the AK and CK complaint and knew of his obligation to report both items on his Form U4. Thus, his failure to make the disclosure was willful.

37. By virtue of the above acts, practices and conduct described above, Vercnocke violated Article V Section 2(c) of FINRA's By-Laws, NASD Rule 2110, and IM 1000-1 during the period September 2007 to his termination in March 2008.

FOURTH CAUSE OF ACTION

FAILURE TO APPEAR TO GIVE TESTIMONY AND TO RESPOND TO A REQUEST FOR DOCUMENTS (FINRA RULES 8210 AND 2010)

38. The Department of Enforcement re-alleges and incorporates by reference Paragraphs 1 through 37 above.

39. In connection with FINRA's investigation, FINRA requested that Vercnocke provide documents and testimony, pursuant to NASD Rule 8210, as follows:

40. By letter dated April 17, 2008, FINRA requested information concerning the matters reported in the Form U-5. The April 17, 2008 letter was sent to Vercnocke's CRD address at [REDACTED]

[REDACTED] This address is still listed as his current address in CRD.

41. Vercnocke received and responded to the April 17, 2008 letter.

42. In a telephone call on or about November 20, 2009, Vercnocke informed Enforcement that he had moved from his CRD address at [REDACTED] [REDACTED] Vercnocke provided the following address for contacting him by mail: [REDACTED]

43. By letter dated February 22, 2010, FINRA requested documents pursuant to FINRA Rule 8210. The letter was sent to Vercnocke's address of [REDACTED]

44. Vercnocke received the February 22, 2010 letter and on or about March 11, 2010, he called to discuss the request. In that call, he informed Enforcement that he was moving from [REDACTED] [REDACTED] but that he did not know where he was moving to and did not provide a new address.

45. On or about March 15, 2010, Vercnocke's attorney representing him in a criminal action against him by the State of Nevada, called to request an extension of time to respond to the February 22, 2010 letter. The attorney said that while she was assisting Vercnocke in gathering records in response to FINRA's request, she did not represent Vercnocke in the FINRA matter. FINRA granted a two week extension from March 17, 2010, to April 1, 2010.

46. Vercnocke never responded to the February 22, 2010 FINRA Rule 8210 request.

47. On or about April 1, 2010, Enforcement sent further correspondence to [REDACTED] by

federal express, certified and return receipt mail, and first class mail. Both copies of the mailed letter were returned to Enforcement marked "Return to Sender – Not Deliverable as Addressed – Unable to Forward." The copy sent federal express was returned to Enforcement marked recipient moved. FINRA also sent a copy of that letter by federal express to a business address of a company of which Vercnocke was the chief financial officer. That copy was returned to Enforcement with the handwritten notation "Not at this address, Return."

48. On or about April 13, 2010, Enforcement called Vercnocke's cellular telephone number and left voicemail messages. The messages were not returned. Telephone calls made shortly thereafter reflected that the Vercnocke's telephone number was disconnected.

49. By letter dated May 4, 2010, FINRA sent a FINRA Rule 8210 request that Vercnocke appear and testify at FINRA's offices in Los Angeles on May 20, 2010. The May 4, 2010 letter was sent to his CRD address [REDACTED] by first class mail and another copy by first class mail return receipt requested. The letter sent U.S. First Class Mail was returned to Enforcement marked "Return to Sender – Not Deliverable as Address – Unable to Forward." The letter sent return receipt requested was returned to Enforcement marked "Return to Sender – Unclaimed - Unable to Forward."

50. The May 4, 2010 letter was also sent via Federal Express to Vercnocke's criminal defense attorney. The package was signed for by a "D."

Ficklin" on May 5, 2010. The cover letter to the criminal defense attorney requested that she forward the May 4, 2010 letter to Vercnocke.

51. Vercnocke did not appear to testify on May 20, 2010.

52. By letter dated June 1, 2010, FINRA sent a FINRA Rule 8210 letter requesting that Vercnocke appear for an OTR at FINRA's offices in Los Angeles on June 14, 2010. A second letter dated June 1, 2010 letter requested a response to the February 22, 2010 letter requesting documents. The letters were sent to Vercnocke's CRD address of [REDACTED]

[REDACTED] The letters were sent first class mail and a copy by first class mail return receipt requested. All the June 1, 2010 letters were returned to Enforcement marked either "Return to Sender – Not Deliverable As Addressed – Unable to Forward" or "Unable to Forward."

53. The June 1, 2010 OTR scheduling letter and the June 1, 2010 second request for documents and information called for in the letter dated February 22, 2010 was also sent via Federal Express to Vercnocke's criminal defense attorney. The cover letter to the attorney requested that she forward the June 1, 2010 letters to Vercnocke. The package was signed for by a "S. Register" on June 3, 2010.

54. On June 4, 2010, Enforcement received a letter dated May 30, 2010 from his counsel stating that she was not authorized to accept correspondence on behalf for Vercnocke in matters unrelated to his criminal case.

55. Vercnocke did not appear to testify on June 14, 2010.

56. To date, Vercnocke has failed to appear for testimony as requested by FINRA and failed to produce documents.

57. By virtue of the above acts, practices and conduct described above, during the period February 2010 to the present, Vercnocke violated and is continuing to violate FINRA Rule 8210, and has failed to observe high standards of commercial honor and just and equitable principles of trade, in violation of FINRA Rule 2010.

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.

C make specific findings that Vercnocke's conduct, as alleged in the Third Cause of Action, was willful; the omitted information was material; and, the omission to state material facts was on a Form U4 amendment.

FINRA DEPARTMENT OF ENFORCEMENT

Date: January 31, 2011



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