

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

REGINALD JENKINS
(CRD No. 5504647),

Respondent.

Disciplinary Proceeding
No. 2008013113401

Hearing Officer – RSH

DEFAULT DECISION

December 3, 2009

The Respondent was barred for violating Conduct Rules 2110 and 2010 and Procedural Rule 8210 by failing to respond in any manner to requests for information. Because of the bar, the Respondent was not sanctioned further for violating Conduct Rule 2110 and IM-1000-1 by failing to disclose a criminal conviction on his Form U4.

Appearances

Naveen Zaidi, Senior Counsel; Myles L. Orosco, Director, New York, NY
for the FINRA Department of Enforcement.

No appearance by or for Reginald Jenkins.

DECISION

I. Introduction

The FINRA Department of Enforcement filed a Complaint in this proceeding on June 10, 2009. In its Complaint, Enforcement charged that the Respondent, Reginald Jenkins, violated Procedural Rule 8210 and Conduct Rules 2110 and 2010 by failing to respond to requests for information.¹ Enforcement also charged that Jenkins violated

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. Rules 2110 and 2010 are substantially identical.

Conduct Rule 2110, Membership and Registration Rule Interpretive Material ("IM") 1000-1, and Article V, Section 2 of FINRA's By-Laws by failing to disclose a criminal conviction on his Uniform Application for Securities Industry Registration or Transfer ("Form U4").

Jenkins did not answer or otherwise respond to the Complaint. Consequently, on October 5, 2009, Enforcement filed a Motion for Entry of Default Decision, supported by the Affidavit of Naveen Zaidi and five exhibits. Jenkins did not reply to the motion.²

II. Jurisdiction and Origin of the Complaint

From March 17, 2008, through April 9, 2008, Jenkins was registered with FINRA as a Series 63 Registered Representative through an association with member firm Vanguard Marketing Corporation.³

Although Jenkins is not currently registered with FINRA, FINRA has jurisdiction over this disciplinary proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years following the termination of his registration with FINRA, and (2) the Complaint charges him with misconduct that occurred while he was associated with a FINRA member firm, and with failing to respond to requests for information made within two years after he was registered with a member firm.⁴

The investigation leading to the filing of the Complaint began when FINRA received a Form U5 filed by Vanguard stating that it had terminated Jenkins'

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 Zaidi Affidavit ("Aff.") ¶ 6; Complainant's Exhibit ("CX")-2.

⁴ 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").

employment because he had failed to disclose a criminal conviction on his employment application and on Form U4.⁵

III. Respondent's Default

On June 10, 2009, Enforcement sent the Complaint and Notice of Complaint to Jenkins by first-class and certified mail (return receipt requested) to his residential address recorded in the Central Registration Depository ("CRD Address"). The first-class mailing was not returned; however, the certified mailing was returned marked "Return to Sender. Unclaimed."⁶ Jenkins did not respond to the Complaint.

On August 3, 2009, Enforcement served Jenkins with the Complaint and Second Notice of Complaint, by first-class and certified mail, to his CRD Address. The first-class mailing was not returned; however, the certified mailing was returned marked "Unclaimed." The Second Notice of Complaint required Jenkins to file an answer to the Complaint by August 20, 2009. To date, Jenkins has not filed an answer with the Office of Hearing Officers or otherwise responded to the Complaint.⁷

Jenkins defaulted by failing to answer the Complaint.⁸ 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.

⁵ Zaidi Aff., ¶ 6; CX-1.

⁶ Zaidi Aff., ¶ 8; CX-3.

⁷ Zaidi Aff., ¶¶ 10-11; CX-5.

⁸ *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)).

IV. Violations

A. Failure to Respond to Requests for Information

The Complaint alleges that Jenkins violated Procedural Rule 8210 and Conduct Rules 2110 and 2010 by failing to respond to five written requests, made pursuant to Procedural Rule 8210, for information concerning Vanguard's termination of his employment, and his failure to disclose a criminal conviction on Form U4.⁹

According to the Complaint, on April 25, 2008, FINRA Staff sent the first request for information by first-class and certified mail to Jenkins at his CRD Address. The return receipt for the certified mailing was returned to FINRA indicating that the letter was delivered and was signed by "R. Jenkins." The first-class mailing was not returned. Jenkins did not respond to the April 25 request.¹⁰

On June 5, 2008, FINRA Staff sent a second request for information to Jenkins 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 "Melissa Jenkins" had signed for it. The first-class mailing was not returned. Jenkins did not respond to the June 5 request.¹¹

On July 25, 2008, FINRA Staff sent a third request for information to Jenkins 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

⁹ Because the fifth request for information was sent after December 15, 2008, Jenkins' failure to respond to it violates Rule 2010, rather than 2110. See fn. 1.

¹⁰ Complaint, ¶¶ 11-12.

¹¹ Complaint, ¶¶ 13-14.

“Melissa Jenkins” had signed for it. The first-class mailing was not returned. Jenkins did not respond to the July 25 request.¹²

On August 15, 2008, FINRA Staff sent a fourth request for information to Jenkins 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 “Reginald Jenkins” had signed for it. The first-class mailing was not returned. Jenkins did not respond to the August 15 request.¹³

On February 26, 2009, FINRA Staff sent a fifth request for information to Jenkins 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; however, the signature was illegible. The first-class mailing was not returned. Jenkins did not respond to the February 26 request.¹⁴

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this Default Decision, that Jenkins failed to respond in any manner to five requests for information, thereby violating Procedural Rule 8210. A violation of Rule 8210 is also a violation of Rules 2110 and 2010.¹⁵

¹² Complaint, ¶¶ 15-16.

¹³ Complaint, ¶¶ 17-18.

¹⁴ Complaint, ¶¶ 21-22.

¹⁵ *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).

B. Failure to Disclose a Criminal Conviction on Form U4

The Complaint alleges that Jenkins violated Conduct Rule 2110, IM-1000-1, and Article V, Section 2 of FINRA's By-Laws by failing to disclose a criminal charge and conviction on his Form U4.

According to the Complaint, on December 10, 1991, Jenkins was convicted of petit larceny of less than \$200 and was fined \$249. On March 17, 2008, in connection with his employment at Vanguard, Jenkins completed and signed a Form U4, which was sent to FINRA's CRD. Form U4 requires the applicant to disclose any "charge" or "conviction" for any misdemeanor involving "wrongful taking of property."¹⁶ Nevertheless, Jenkins failed to disclose his petit larceny charge and conviction.

Conduct Rule 2110 and IM-1000-1 require associated persons to disclose accurately and fully information required in the Form U4 and to observe high standards of commercial honor and just and equitable principles of trade.¹⁷ The accuracy of an applicant's Form U4 "is critical to the effectiveness" of a self-regulatory organization's ability "to monitor and determine the fitness of securities professionals."¹⁸

The allegations in the Complaint are sufficient to establish, for purposes of this Default Decision, that Jenkins failed to disclose information requested on his Form U4, as required by FINRA By-Laws. Accordingly, the Hearing Officer finds that by failing

¹⁶ Complaint, ¶ 6; CX-2, Q. 14B(1)(a),(b).

¹⁷ IM-1000-1 provides that the filing of registration information that "is incomplete or inaccurate so as to be misleading ... or the failure to correct such filing after notice thereof, may be deemed to be conduct inconsistent with just and equitable principles of trade" in violation of Rule 2110. *See also Thomas R. Alton*, 52 S.E.C. 380, 382 (1995).

¹⁸ *Rosario R. Ruggiero*, 52 S.E.C. 725, 728 (1996) (citing *Alton*, 52 S.E.C. at 382); *see also Guang Lu*, Exchange Act Rel. No. 51047, 2005 SEC LEXIS 117, at *19-20 (Jan. 14, 2005) (recognizing that "the candor and forthrightness of applicants is critical to the effectiveness of the screening process").

to disclose his petit larceny charge and conviction, Jenkins violated FINRA's By-Laws, NASD Conduct Rule 2110, and IM-1000-1.

V. Sanctions

A. Failure to Respond to Requests for Information

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 without subpoena power.¹⁹ When an individual fails to provide information, FINRA's ability to perform its regulatory functions is subverted.²⁰ 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 8210.²¹ Jenkins failed to respond in any manner to five 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 Jenkins should be barred from associating with any FINRA member in any capacity for violating Procedural Rule 8210 and Conduct Rules 2110 and 2010.

B. Failure to Disclose a Criminal Conviction on Form U4

FINRA Sanction Guidelines governing sanctions for false and misleading Forms U4 direct adjudicators to consider the nature and significance of the information at issue when determining sanctions.²² Jenkins's criminal conviction was for a nearly 17 year-old, relatively minor offense. Enforcement has not charged that the failure to disclose it

¹⁹ *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).

²⁰ *Joseph P. Hannan*, Exchange Act Rel. No. 40438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998).

²¹ FINRA Sanction Guidelines 35 (2007), www.finra.org/sanctionguidelines.

²² *Id.*, 73.

on the Form U4 was material or willful. Consequently, Jenkins' violation would merit a sanction in the lower range of those recommended by the Sanction Guidelines. Because Jenkins is being barred for his more serious violation of Rule 8210, the Hearing Officer will not impose any additional sanction for his failure to disclose his conviction on Form U4.

VI. Order

Reginald Jenkins 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 Rules 2110 and 2010. In light of the bar, no additional sanction is imposed for failing to disclose his criminal conviction on Form U4, in violation of Conduct Rule 2110, IM-1000-1 and Article V, Section 2 of FINRA's By-Laws. 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: Reginald Jenkins (*via overnight courier and first class mail*)
Naveen Zaidi, Esq. (*via electronic and first class mail*)
Myles L. Orosco, 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.
Reginald Jenkins (CRD No.5504647),
RESPONDENT.

DISCIPLINARY PROCEEDING
NO. 2008013113401

COMPLAINT

The Department of Enforcement alleges:

RESPONDENT

1. Reginald Jenkins ("Jenkins") was born in [REDACTED] and began employment in the securities industry in March 2008 when he obtained employment as a Client Relationship Associate at Vanguard Marketing Corporation, Inc. ("Vanguard" or the "Firm"). Jenkins was registered with Vanguard, a FINRA member firm, from March 17, 2008 to April 9, 2008, when the Firm terminated Jenkins' employment.
2. Jenkins remains subject to FINRA's jurisdiction pursuant to Article V, Section 4 of FINRA's By-Laws, which provides that a person who is no longer associated with a member is still subject to FINRA's rules for a period of two years after the effective date that the person ceases association with the member.

FIRST CAUSE OF ACTION
NASD Rule 2110, IM 1000-1, and FINRA By-law Article V, Section 2

Failure to Disclose a Criminal Conviction on His Uniform Application for Securities Industry Registration or Transfer ("Form U4") and his Vanguard application for employment

3. The Department realleges and incorporates by reference paragraphs 1 through 2 above.
4. Jenkins failed to disclose a 1991 conviction for petty larceny on his application for employment at Vanguard in violation of NASD Rule 2110 and on the Form U4 filed with FINRA.
5. On February 11, 2008, Jenkins completed an application for employment for a Client Relationship Associate position. On the application, Jenkins stated that he had never been convicted of or pleaded guilty to any felony, or any criminal offense involving money. However, Jenkins' criminal record reflects that he was charged with petit larceny in connection with an incident that occurred on December 9, 1991 in Orangeburg County, South Carolina.
6. The Form U4 requires the application for registration to disclose any "conviction" or "charge" of any felony or any "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" (emphasis in original).
7. Jenkins filed a Form U4 with the Firm on March 17, 2008 and failed to disclose his charge and conviction of petit larceny.
8. The Case Offense Disposition form filed on December 10, 1991 with the Orangeburg County Magistrate states that Jenkins was fined \$249 for petit larceny of less than \$200.
9. The foregoing conduct constitutes a violation of NASD Rule 2110, IM 1000-1, and FINRA By-law Article V, Section 2.

SECOND CAUSE OF ACTION
NASD Rule 8210 and NASD Rule 2110

Failure to Provide a Written Response in Violation of NASD
Rules 8210 and 2110

10. The Department realleges and incorporates by reference paragraphs 1 through 9 above.
11. By letter dated April 25, 2008, sent to Jenkins' Central Registration Depository ("CRD") address¹ via certified mail, return receipt requested and a copy by first class mail, Enforcement notified Jenkins that it was investigating Jenkins' termination from Vanguard for the falsification of his employment application. In the letter, Enforcement requested pursuant to NASD Rule 8210 that Jenkins provide a detailed written explanation of the reasons surrounding his termination of employment from Vanguard. In the letter, Enforcement notified Jenkins that his failure to comply with the request could result in the institution of formal disciplinary action in the form of a permanent bar.
12. Enforcement received the return receipt for the letter dated April 25, 2008 that was sent to Jenkins via certified mail. The receipt was signed "R. Jenkins." The copy of the first class mail letter sent to Jenkins via first class mail was not returned to Enforcement. Enforcement did not receive a response to its April 25, 2008 request which was due on May 23, 2008.
13. By letter dated June 5, 2008, Enforcement sent Jenkins a second request via certified mail, return receipt requested and a copy by first class mail to Jenkins' CRD address, requesting, pursuant to NASD Rule 8210, a detailed explanation of the events surrounding his termination of employment from Vanguard. In the letter, Enforcement noted that Jenkins had failed to respond to its June 5, 2008 request and notified Jenkins that his failure to comply with the request could result in the institution of disciplinary action.
14. Enforcement received the return receipt for the letter dated June 5, 2008 that was sent to Jenkins via certified mail. The receipt was signed "Melissa Jenkins." The copy of the first class

¹ Jenkins' CRD address is: [REDACTED]

mail letter sent to Jenkins via first class mail was not returned to Enforcement. Enforcement did not receive a response to its June 5, 2008 request from Jenkins, which was due on June 19, 2008.

15. On July 25, 2008, Enforcement sent Jenkins a third request via certified mail, return receipt requested and a copy by first class mail to Jenkins' CRD address, requesting, pursuant to NASD Rule 8210, a written response to the allegations that Jenkins failed to disclose his 1991 petty larceny conviction to Vanguard on his Form U4 and employment application. Enforcement noted that Jenkins had failed to respond to its earlier requests dated April 25, 2008 and June 5, 2008. In the letter, Enforcement notified Jenkins that his failure to comply with the request could result in the institution of formal disciplinary action in the form of a permanent bar.

16. Enforcement received the return receipt for the letter dated July 25, 2008 that was sent to Jenkins via certified mail. The receipt was signed "Reginald Jenkins." The copy of the first class mail letter sent to Jenkins via first class mail was not returned to Enforcement. Enforcement did not receive a response to its July 25, 2008 request which was due on August 8, 2008.

17. On August 15, 2008, Enforcement sent Jenkins a fourth request via certified mail, return receipt requested and a copy by first class mail to Jenkin's CRD address, requesting, pursuant to NASD Rule 8210, a statement to the allegations that Jenkins failed to disclose his 1991 petty larceny conviction to Vanguard on his Form U4 and employment application. In the letter, Enforcement noted that Jenkins had failed to respond to staff's earlier requests dated April 28, 2008, June 5, 2008, and July 25, 2008. In the letter, Enforcement notified Jenkins that his failure to comply with the request could result in the institution of formal disciplinary action in the form of a permanent bar.

18. Enforcement received the return receipt for the letter dated August 15, 2008 that was sent to Jenkins via certified mail. The receipt was signed "Reginald Jenkins." The copy of the first class mail letter sent to Jenkins via first class mail was not returned to Enforcement. Enforcement did not receive a response to its request which was due on August 29, 2008.

19. The foregoing conduct constitutes a violation of NASD Rules 8210 and 2110.

THIRD CAUSE OF ACTION
FINRA Rule 8210 and FINRA Rule 2010

Failure to Provide a Written Response in Violation of FINRA
Rules 8210 and 2010

20. The Department realleges and incorporates by reference paragraphs 1 through 19 above.
21. On February 26, 2009, pursuant to FINRA Rule 8210, Enforcement sent Jenkins a request via certified mail, return receipt requested and a copy by first class mail to Jenkin's CRD address, requesting a statement to the allegations that Jenkins failed to disclose his 1991 petty larceny conviction to Vanguard on his Form U4 and employment application. In the letter, staff noted that Jenkins had failed to respond to earlier requests dated April 28, 2008, June 5, 2008 and July 25, 2008. In the letter, Enforcement notified Jenkins that his failure to comply with the request could result in the institution of formal disciplinary action in the form of a permanent bar.
22. Enforcement received the return receipt for the letter dated February 26, 2009 that was sent to Jenkins via certified mail. The receipt's signature was illegible. The copy of the first class mail letter sent to Jenkins via first class mail was not returned to Enforcement. Enforcement did not receive a response to its February 26, 2009 which was due on March 19, 2009.
23. To date, Jenkins has not responded to Enforcement's requests.
24. The foregoing conduct constitutes a violation of FINRA Rule 8210 and 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 Respondent, as alleged in the First Cause of Action,, failed to disclose a criminal conviction of his Form U4 and an application for employment with a FINRA member firm in violation of NASD Rule 2110, IM 1000-1, and FINRA By-law Article V, Section 2.

D. Make specific findings that Respondent, as alleged in the Second Cause of Action, failed to respond to requests for information in violation of NASD Rule 8210 and NASD Rule 2110.

E. Make specific findings that Respondent, as alleged in the Third Cause of Action, failed to respond to requests for information in violation of FINRA Rule 8210 and FINRA Rule 2010.

FINRA DEPARTMENT OF ENFORCEMENT

Date: June 10, 2009


Myles L. Orosco
Enforcement Director
FINRA Department of Enforcement
14 Wall Street, 14th Floor
New York, NY 10005
Telephone: 646-315-7383
Facsimile: 202-689-3419

Naveen Zaidi
Senior Counsel
FINRA Department of Enforcement
14 Wall Street, 14th Floor
New York, NY 10005
Telephone: 646-315-7422
Facsimile: 202-689-3477
Email: naveen.zaidi@finra.org