

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

DOUGLAS G. DOSENBERG
(CRD No. 5631343),

Respondent.

Disciplinary Proceeding
No. 2009017124601

Hearing Officer - MC

DEFAULT DECISION

November 10, 2010

Respondent violated FINRA Conduct Rule 2010 and Article V, Section 2 of FINRA's By-Laws by willfully failing to disclose his criminal history on his Form U4. Respondent also violated Conduct Rule 2010 and Procedural Rule 8210 by failing to respond to requests for information issued by FINRA staff pursuant to Rule 8210. For these violations, Respondent is barred from associating with any FINRA member firm in any capacity.

Appearances:

Pamela L. Shu, Senior Regional Counsel, and Mark A. Koerner, Regional Chief Counsel, Chicago, IL, for the Department of Enforcement.

No appearance by or on behalf of Respondent Douglas G. Dosenberg.

DECISION

I. Introduction

The Department of Enforcement filed the attached two-cause Complaint on June 23, 2010. The First Cause of Action charges Respondent Douglas G. Dosenberg with violating FINRA Conduct Rule 2010 and Article V, Section 2 of FINRA's By-Laws by willfully failing to disclose his criminal history on his Uniform Application for Securities Industry Registration or Transfer ("Form U4"). The Second Cause of Action charges Dosenberg with violating FINRA

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Conduct Rule 2010 and Procedural Rule 8210 by failing to respond to requests for information made by FINRA staff pursuant to Rule 8210.¹

Enforcement served the Complaint, Notice of Complaint, and Second Notice of Complaint upon Dosenberg at his last known residential address listed in the Central Registration Depository (“CRD address”). Dosenberg failed to file an Answer to the Complaint. Consequently, on September 9, 2010, Enforcement filed a Motion for Entry of Default Decision (“Default Motion”) supported by the Declaration of Pamela L. Shu and 12 exhibits.²

II. Findings of Fact and Conclusions of Law

A. Jurisdiction

Dosenberg’s brief career in the securities industry spanned the three weeks and one day he was associated with FINRA member firm Edward Jones Investments (“Edward Jones” or the “Firm”). It began on January 5, 2009, and ended on January 27, 2009, when Edward Jones terminated Dosenberg’s employment. Since then, Dosenberg has not been associated with any FINRA member firm.³

The misconduct alleged in the First Cause of the Complaint occurred while Dosenberg was associated with a FINRA member firm. The misconduct alleged in the Second Cause of the Complaint occurred within two years of the termination of Dosenberg’s association with Edward Jones. The Complaint was filed within two years after Dosenberg ceased to be associated with a

¹ The rules are available at www.finra.org/rules.

² Enforcement’s exhibits will be referred to as “CX-___” with the appropriate exhibit and page numbers; the Declaration of Pamela L. Shu will be referred to as “Decl.” or “Shu Declaration” with citation to specific paragraphs.

³ Decl. ¶ 5; CX-1, p. 3.

FINRA member. Thus, FINRA retains jurisdiction over Dosenberg for the purposes of this disciplinary proceeding.⁴

B. Default

Enforcement served Dosenberg with the Complaint and Notice of Complaint on June 23, 2010, by first-class and certified mail at his CRD address. The certified mailing receipt was returned to Enforcement with an illegible signature on June 26, 2010.⁵

Enforcement served Dosenberg with the Complaint and Second Notice of Complaint on July 23, 2010, again by first-class and certified mail, and again at Dosenberg's CRD address.⁶ The certified mailing was returned unclaimed on August 13, 2010.⁷ Dosenberg has not filed an Answer or any other response to the Complaint.⁸

By serving Dosenberg with the Complaint at his CRD address, Enforcement complied with the requirements of Rule 9134 and provided him with constructive notice that the Complaint had been filed.⁹ By failing to file an Answer, Dosenberg has defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2) and, for the reasons set forth below, the Default Motion is granted.¹⁰

⁴ Article V, Section 4, FINRA By-Laws.

⁵ Decl. ¶ 6; CX-3.

⁶ CX-4.

⁷ Decl. ¶ 7; CX-5.

⁸ Decl. ¶ 8.

⁹ *Dep't of Enforcement v. Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (NAC Dec. 9, 2003) (Rule 9134(b)(1) allows for constructive notice by mailing a complaint to the respondent's most recent CRD address) (citing *Lubeck v. SEC*, 1998 U.S. App. LEXIS 18849, at *20 (9th Cir. Aug. 12, 1998)).

¹⁰ The factual determinations in this Default Decision are based on the allegations of the attached Complaint, which are deemed admitted, as well as the Shu Declaration, and the exhibits filed by Enforcement.

C. Dosenberg Willfully Failed to Disclose His Criminal History on His Form U4

Years before applying to Edward Jones, on September 21, 1998, Dosenberg was arrested and charged with the felony of grand larceny. Dosenberg subsequently entered a plea of guilty to a charge of petit larceny, a misdemeanor, and was convicted.¹¹

In the process of being hired by Edward Jones, Dosenberg signed a Form U4.¹² Question 14(A)(1)(b) on the Form U4 asked whether he had ever been charged with any felony. Dosenberg answered “No” to the question.¹³ Question 14(B)(1)(a) on the Form U4 asked whether he had ever been convicted of, or entered a plea of guilty or no contest to, a misdemeanor involving, among other things, “wrongful taking of property.” Again, Dosenberg answered “No.”¹⁴

Upon receiving a Department of Justice report with the record of Dosenberg’s arrest and guilty plea, Edward Jones asked Dosenberg to explain in writing why he had failed to disclose the information on the Form U4 and to the Firm.¹⁵ Dosenberg wrote that he had hoped his arrest and conviction had occurred sufficiently long ago that they would “not be an issue.”¹⁶

These facts, as alleged in the Complaint and supported by the Shu Declaration and Enforcement’s exhibits, are sufficient to establish for the purposes of this Default Decision that

¹¹ Decl. ¶¶ 10-11; CX-6, p. 3.

¹² Decl. ¶ 12; CX-7, p. 12. The date next to Dosenberg’s signature on the Form U4 is January 6, 2009.

¹³ CX-7, p. 8.

¹⁴ *Id.*

¹⁵ CX-8, p. 3. Edward Jones had given Dosenberg its own form to fill out when he applied for employment. The form contained questions almost identical to the questions on the Form U4, inquiring whether he had ever been charged with a felony or convicted of a misdemeanor involving wrongful taking of property. To both questions, Dosenberg falsely answered “No.” CX-8, p. 7.

¹⁶ CX-8, p. 5.

Dosenberg willfully failed to disclose his criminal history on his Form U4, in violation of FINRA Conduct Rule 2010 and Article V, Section 2 of the FINRA By-Laws.¹⁷ The information Dosenberg omitted is important, material background information that FINRA member firms are entitled to know when they consider hiring a registered representative. Because Dosenberg's failure to disclose was willful, he is statutorily disqualified.¹⁸

D. Dosenberg Failed to Respond to Requests for Information

When FINRA staff learned that Edward Jones had filed a Form U5 reporting Dosenberg's termination for failing to disclose his criminal record, it sent Dosenberg a notice pursuant to Procedural Rule 8210, dated April 2, 2009, requesting that he provide a written explanation of the circumstances.¹⁹ The staff sent the notice by first-class and certified mail to Dosenberg's CRD address. The return receipt for the certified mailing was returned to FINRA with the signature "Doug Dosenberg" and indicated that the mailing was delivered on April 10, 2009.²⁰ Subsequently, on October 21, 2009, FINRA staff sent a second notice under Rule 8210, again by first-class and certified mail to Dosenberg's CRD address, making the same request.²¹ The return receipt for the certified mailing was returned to FINRA with the signature "Devin

¹⁷ Decl. ¶ 14. "To support a finding that [Respondent] acted willfully, we need not find that [he] intended to violate NASD rules but only find that [he] intended to commit the act that constitutes the violation--completing the Form U4." *Dep't of Enforcement v. Knight*, C10020060, 2004 NASD Discip. LEXIS 5, at *9-10 (NAC Apr. 27, 2004).

¹⁸ Pursuant to Sections 3(a)(39) and 15(b)(4)(A) of the Securities Exchange Act of 1934, a person who has willfully "omitted to state" in any application for association with a member of a self-regulatory organization "any material fact" is subject to statutory disqualification.

¹⁹ CX-9, p. 1.

²⁰ CX-9, p. 4.

²¹ CX-10, p. 1.

Bonnette” and showed that the mailing was delivered on October 26, 2009.²² Dosenberg failed to respond in any manner to the two requests for information.²³

These facts, as alleged in the Complaint and supported by the Shu Declaration and Enforcement’s exhibits, are sufficient to establish, for the purposes of this Default Decision, that Dosenberg willfully failed to respond to FINRA requests for information, in violation of FINRA Conduct Rule 2010 and Procedural Rule 8210.

III. Sanctions

For the misconduct described in each cause of action of the Complaint, Enforcement seeks the imposition upon Dosenberg of a bar from associating with any FINRA member firm in any capacity.

A. Form U4 Violations

For an individual who files false, misleading, or inaccurate information on his Form U4, FINRA’s Sanction Guidelines call for a suspension for five to 30 business days, and fines ranging from \$2,500 to \$25,000. In an egregious case, the Guidelines recommend consideration of a suspension for up to two years, or a bar, and fines up to \$50,000.²⁴

To determine the appropriate sanctions, the Guidelines enumerate three factors to weigh: (i) the nature and significance of the information unreported or inaccurately disclosed; (ii) whether the inaccurate or misleading disclosure led to a statutorily disqualified person being associated with a firm; and (iii) whether the inaccurate Form U4 resulted in harm to a person or firm.²⁵ There is no evidence implicating the latter two factors in this case.

²² Decl. ¶ 18; CX-10, p. 3.

²³ Decl. ¶ 19.

²⁴ *FINRA Sanction Guidelines*, pp. 73-74 (2007).

²⁵ *Id.*, at p. 73.

However, the information Dosenberg failed to disclose on his Form U4 was significant. That Dosenberg had been charged with a felony and convicted of petit theft are facts important to securities firms, to customers, and to FINRA.

For these reasons, a bar is the necessary and appropriate sanction to reflect the seriousness of Dosenberg's failure to disclose his criminal history on his Form U4, as alleged in the First Cause of the Complaint, and to deter him and others from ignoring this important responsibility.

B. Failure to Respond Violations

The Sanction Guidelines recommend a bar when a respondent fails to respond in any manner to a request for information issued pursuant to Procedural Rule 8210. If there are mitigating factors, the Guidelines recommend consideration of a suspension in any or all capacities for up to two years.²⁶

Here, the Staff made two attempts to obtain information from Dosenberg in its effort to investigate the circumstances of his termination from Edward Jones. The record shows that Dosenberg received the first information request. Although someone else signed for the second request, the record shows that it was delivered to Dosenberg's CRD address. Still, he did not respond.

It is axiomatic that "Conduct Rule 2110 and Procedural Rule 8210 are crucial components of [FINRA's] examinations and investigations ... Procedural Rule 8210 gives [FINRA] the right to require a member or person associated with a member to provide information, orally or in writing, in connection with an examination or investigation. The Rule

²⁶ *Guidelines*, at p. 35.

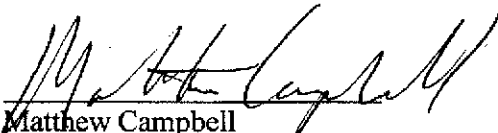
further states that no member or person shall fail to provide such information.”²⁷ Concerning sanctions for violating Rule 8210, “[t]he Guidelines treat a failure to respond ... as egregious.”²⁸

A bar, therefore, is the appropriate sanction for Dosenberg’s violations of Conduct Rule 2010 and Procedural Rule 8210 by failing to respond in any manner to the two requests for information issued by Enforcement pursuant to Rule 8210, as alleged in the Second Cause of the Complaint.

IV. Order

Respondent Douglas G. Dosenberg is barred from associating in any capacity with any FINRA member firm for willfully failing to disclose his criminal history on his Form U4, in violation of Conduct Rule 2010, and for failing to respond to requests for information issued by FINRA staff pursuant to Rule 8210, in violation of Conduct Rule 2010 and Procedural Rule 8210.

If this Default Decision becomes FINRA’s final disciplinary action, the bars shall be effective immediately.


Matthew Campbell
Hearing Officer

Copies to:

Douglas G. Dosenberg (via FedEx and first-class mail)
Pamela L. Shu, Esq. (via electronic and first-class mail)
Mark P. Dauer, Esq. (via electronic mail)
David R. Sonnenberg, Esq. (via electronic mail)

²⁷ *Dep’t of Enforcement v. Gregory R. Masceri*, No. C8A040079, 2006 NASD Discip. LEXIS 29, at *35-36 (NAC Dec. 18, 2006).

²⁸ *Id.*, at *41.

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Douglas Gordon Dosenberg,
CRD No. 5631343

Respondent

DISCIPLINARY PROCEEDING
NO. 20090171246

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

Douglas Dosenberg violated FINRA Rule 2010 and By-Law Article V Sec. 2(a) by willfully failing to maintain an accurate Uniform Application for Securities Industry Registration or Transfer by knowingly failing to disclose his criminal background. In connection with FINRA's inquiry into Dosenberg's actions, Dosenberg failed to respond to FINRA's requests for information, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

1. On January 13, 2009, Douglas Gordon Dosenberg (Dosenberg) applied for registration with Edward Jones, A FINRA registered firm. He was terminated on February 24, 2009 when Edward Jones filed a Uniform Termination Notice (Form U5).

2. Although Dosenberg has not been associated with a FINRA firm since February 24, 2009, 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 after the date upon which he ceased to be associated with a FINRA member and (2) the Complaint charges him with misconduct committed while he was associated with a FINRA firm and with failing to respond to FINRA requests for information during the two-year period after the date upon which he/she ceased to be associated with a FINRA firm.

FIRST CAUSE OF ACTION

FINRA Conduct Rule 2010 and FINRA By-Laws Article V Section 2: Failure to Disclose Criminal History on Form U4.

3. The Department realleges and incorporates by reference paragraphs 1 and 2 above.
4. On or about January 13, 2009, Dosenberg completed, signed and submitted his Uniform Application for Securities Industry Registration or Transfer (Form U4).
5. In that Form U4, Dosenberg replied "No" to question 14A which inquired if he had ever been *charged* with any *felony*.
6. In the same Form U4, Dosenberg replied "No" to question 14B which inquired, in relevant part, if he had ever been convicted or pled guilty or nolo contendere ("no contest") in a domestic court to a *misdemeanor involving*: any fraud or wrongful taking of property.
7. In 1998, Dosenberg was charged in Rochester, New York with Grand Larceny, a Class D Felony and subsequently pleaded guilty to a reduced Misdemeanor charge of Petit Larceny.
8. Dosenberg was required to disclose both the Grand Larceny Felony charge and the Petit

Larceny Misdemeanor guilty plea on his Form U4.

9. At the time of filing his Form U4, Dosenberg knew of these charges and knowingly failed to disclose the criminal charge against him and his conviction.
10. Based on the foregoing, Dosenberg willfully violated FINRA Conduct Rule 2010 and FINRA By-Laws Article V Section 2.

SECOND CAUSE OF ACTION

FINRA Rules 2010 and 8210: Failure to Respond

11. The Department realleges and incorporates by reference paragraphs 1 through 10 above.
12. On April 2, 2009, FINRA staff sent Dosenberg a request for information regarding his non-disclosure of his criminal history, pursuant to FINRA Rule 8210, via certified and first class mail, to the address listed on the Central Registry Depository. The certified mail receipt that was returned to FINRA was signed by "Doug Dosenberg" and dated April 10, 2009. The first class mail was not returned to FINRA.
13. FINRA staff sent a second request, via certified and first class mail, to his CRD address on October 21, 2009. The certified mail receipt that was returned to FINRA was signed by "Devin Bonnette" and dated October 26, 2009. The first class mail was not returned to FINRA.
14. To date, Dosenberg has failed to respond to FINRA's written requests for information in any manner.
15. Based on the foregoing, Dosenberg violated FINRA Rules 2010 and 8210.

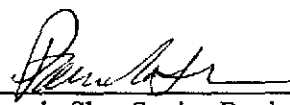
RELIEF REQUESTED

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'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 23, 2010


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