

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

TAMMY LYN BOHNERT
(CRD No. 2671147),

Respondent.

Disciplinary Proceeding
No. 2010022579802

Hearing Officer—Andrew H. Perkins

DEFAULT DECISION

December 14, 2011

Respondent is barred from associating with any FINRA registered firm in any capacity for failing to respond to requests for information, in violation of Rules 8210 and 2010.

Appearances

For the Department of Enforcement, Complainant, Sandra J. Harris,
FINRA, DEPARTMENT OF ENFORCEMENT, Los Angeles, CA.

Tammy Lyn Bohnert, Respondent, did not appear.

DECISION

I. INTRODUCTION

The Department of Enforcement (“Enforcement”) filed a Complaint with the Office of Hearing Officers on August 15, 2011, charging Respondent Tammy Lyn Bohnert (“Respondent”) with: (1) fabricating an Annuity/Settlement Option Withdrawal Service Request form and submitting the false document to her firm, Thrivent Investment Management, Inc. (“Thrivent”), in violation of NASD Conduct Rule 2110; and (2) failing

to respond to FINRA staff's requests for information concerning her possible alteration of customer documents at Thrivent, in violation of FINRA Rules 8210 and 2010.¹

Respondent failed to answer the Complaint. Accordingly, the Hearing Officer found Respondent in default and granted Enforcement's Motion for entry of Default Decision ("Default Motion").²

II. PROCEDURAL HISTORY AND RESPONDENT'S DEFAULT

Enforcement served the Complaint and Notice of Complaint on August 15, 2011, by first-class certified mail, return receipt requested, sent to Respondent at her residential address recorded in the Central Registration Depository ("CRD").³ The United States Postal Service returned the mailing to Enforcement because it could not be delivered as addressed.

On September 13, 2011, Enforcement served the Complaint and Second Notice of Complaint by first-class certified mail, return receipt requested, sent to Respondent at her CRD address.⁴ Enforcement received the receipt for this mailing, which was signed by a person other than Respondent on September 21, 2011.⁵ There is no evidence that the recipient had authority to accept service of the Complaint on Respondent's behalf.

¹ Following consolidation of NASD and the member regulation, enforcement, and arbitration functions of NYSE Regulation into FINRA, FINRA began developing a new "Consolidated Rulebook" of FINRA Rules. The first phase of the consolidated rules became effective on December 15, 2008. *See* FINRA Regulatory Notice 08-57, 2008 FINRA LEXIS 74 (Dec. 8, 2008). Because the Complaint in this case was filed after December 15, 2008, the procedural rules that apply are the FINRA rules of procedure. The conduct rules that apply are those that existed at the time of the conduct at issue.

² Enforcement filed a declaration signed by Sandra J. Harris ("Decl.") and six exhibits in support of the Default Motion. Enforcement's exhibits are labeled CX-1 through CX-6.

³ Decl. ¶ 5; CX-3.

⁴ Decl. ¶ 6.

⁵ CX-6.

Procedural Rule 9269 allows a Hearing Officer to enter a default after Enforcement serves first and second notices of the Complaint and the respondent fails to file an answer or otherwise respond after a specified time.⁶ Here, Enforcement properly served Respondent with the first and second notices of the Complaint at her CRD address.⁷ I therefore find that Respondent had valid constructive notice of the Complaint.⁸

Based on Respondent's default, I have deemed the factual allegations in the Complaint admitted and granted Enforcement's Default Motion.⁹

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Jurisdiction

Respondent was registered with FINRA as an Investment Company and Variable Contracts Products Representative through Thrivent, a FINRA-registered firm, from November 1995 until June 8, 2010.¹⁰

FINRA's By-Laws provide for retained jurisdiction over former members and associated persons for initiating disciplinary actions. Under Article V, Section 4 of the FINRA By-Laws,¹¹ a former associated person remains subject to the filing of a FINRA complaint for two years after termination based on conduct that commenced prior to the termination, or based on the person's failure to respond to a request for information issued by FINRA during the period of retained jurisdiction.

⁶ *Dep't of Enforcement v. Merhi*, No. E072004044201, 2007 NASD Discip. LEXIS 9, at *13 (Feb. 16, 2007).

⁷ See Procedural Rule 9134(b)(1) (allowing for service at CRD address).

⁸ See *Merhi*, 2007 NASD Discip. LEXIS 9, at *13.

⁹ See FINRA Rules 9215(f) and 9269. A copy of the Complaint is attached to this Decision.

¹⁰ CX-1, at 4. On June 8, 2010, FINRA received the Uniform Termination Notice for Securities Industry Registration (Form U5) Thrivent filed on Respondent's behalf. CX-2.

¹¹ Article V, Sec. 4, FINRA By-Laws, available at www.finra.org/Rules (then follow "FINRA Manual" hyperlink to "Corporate Organization: By-Laws").

FINRA has jurisdiction over this proceeding because (1) Enforcement filed the Complaint within two years after her registration terminated, and (2) the Complaint alleges misconduct that occurred while she was registered and with failing to respond to requests for information FINRA staff issued while she was subject to FINRA's continued jurisdiction.

B. Fabrication and Submission of Annuity Withdrawal Form

In December 2008, Respondent fabricated an Annuity/Settlement Option Withdrawal Service Request form to withdraw \$3,000 from customer EKG's fixed deferred annuity. Respondent fabricated the form by attaching the signature page from another form that EKG had signed for a different transaction and then altering the date next to her signature to make it appear that she had signed the form on December 11, 2008. Respondent then submitted the fabricated form to Thrivent for processing on December 12, 2008.¹²

The allegations in the Complaint establish that Respondent violated NASD Conduct Rule 2110. "Falsifying documents is a prime example of misconduct that adversely reflects on a person's ability to comply with regulatory requirements and ... [is] a practice inconsistent with just and equitable principles of trade."¹³

C. Failure to Respond to Requests for Information

Rule 8210 authorizes FINRA staff to require members and persons subject to its jurisdiction to "to provide information orally, in writing, or electronically ... with respect

¹² Compl. ¶¶ 5-6.

¹³ *Dep't of Enforcement v. Taylor*, No. C8050027, 2007 NASD Discip. LEXIS 11, at *22-23 (NAC Feb. 27, 2007).

to any matter involved in [an] investigation, complaint, examination, or proceeding” authorized by the FINRA By-Laws or rules.¹⁴

The Complaint alleges that FINRA staff sent Respondent two requests for information in the course of the investigation into Respondent’s fabrication and submission of false account documents while she was associated with Thrivent. FINRA staff sent the requests on May 26 and June 14, 2011, to Respondent at her CRD address by first-class certified mail, return receipt requested.¹⁵ In addition, the Complaint alleges that the Postal Service delivered both mailings and that Respondent signed the receipt for the request dated May 26.¹⁶ Respondent did not respond to either request in violation of Rules 8210 and 2010.

IV. SANCTIONS

A. Failure to Respond to Requests for Information

For failing to respond to FINRA Rule 8210 requests for information, the FINRA Sanction Guidelines (“Guidelines”) provide that a bar should be “standard” when there is a complete failure to respond.¹⁷ In addition, the Guidelines instruct adjudicators 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.

¹⁴ Rule 8210(a).

¹⁵ Compl. ¶¶ 9-11.

¹⁶ *Id.* ¶¶ 10-11.

¹⁷ FINRA Sanction Guidelines 33 (2011), www.finra.org/sanctionguidelines.

¹⁸ *Id.*

FINRA staff was investigating serious misconduct. A bar remedies the risk that Enforcement will not be able to obtain information necessary to the protection of investors and will serve to deter others from failing to provide Enforcement with information requested under Rule 8210 at the time such requests are made. Accordingly, the Hearing Officer will bar Respondent from associating with any FINRA member firm in all capacities for her refusal to respond to the Rule 8210 requests for information.

B. Fabrication and Submission of Annuity Withdrawal Form

The Guidelines governing sanctions for forgery and/or falsification of records recommend a fine of \$5,000 to \$100,000 and a suspension for up to two years where mitigating factors exist, or a bar in egregious cases.¹⁹ The principal considerations in determining sanctions for this violation are: (1) the nature of the documents falsified; and (2) whether respondent had a good-faith belief of express or implied authority.²⁰

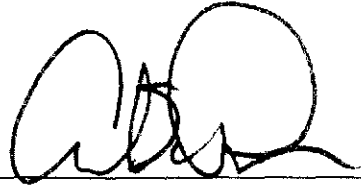
The customer's death and Respondent's refusal to cooperate prevented Enforcement from completing its investigation into the facts and circumstances surrounding Respondent's fabrication and submission of the annuity withdrawal form to her firm. Nonetheless, the Hearing Officer concludes that Respondent engaged in serious misconduct. Respondent's conduct is inconsistent with her having had a *good-faith belief* that she had authority to effect the transaction on the customer's behalf. Moreover, there is no evidence of mitigating factors. For these reasons, if Respondent were not to be barred for her failure to respond to FINRA staff's Rule 8210 requests, I would suspend Respondent for one year and fine her \$20,000. However, in light of the bar imposed on the other violation, I will not impose additional sanctions for this violation.

¹⁹ Guidelines 37.

²⁰ *Id.*

V. ORDER

Respondent Tammy Lyn Bohnert 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 Rule 2010. The bar shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.

A handwritten signature in black ink, appearing to read 'A. Perkins', written over a horizontal line.

Andrew H. Perkins
Hearing Officer
For the Hearing Panel

Copies to:

Tammy Lyn Bohnert (*via FedEx next day delivery and first-class mail*)
Sandra J. Harris, Esq. (*via electronic and first-class mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

FINANCIAL INDUSTRY REGULATORY AUTHORITY

OFFICE OF HEARING OFFICERS

Department of Enforcement,

Complainant,

v.

Tammy Lyn Bohnert (CRD No. 2671147),

Respondent.

DISCIPLINARY PROCEEDING
No. 2010022579802

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Respondent Tammy Lyn Bohnert, while associated with a FINRA member firm, altered a firm document and submitted the document for processing, in violation of NASD Conduct Rule 2110. In addition, in connection with FINRA's investigation concerning possible additional violations by Respondent while she was associated with the Firm, Respondent failed to respond to the staff's Rule 8210 requests for information and documents, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Respondent was associated with FINRA member Thrivent Investment Management, Inc. (the Firm) from October 3, 1995 to May 25, 2010. Beginning in July 1999, she was associated with the Firm as an Investment Company Products/Variable Contracts Representative.

3. Although Respondent has not been associated with a FINRA member firm since May 25, 2010, she 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 she ceased to be associated with a FINRA member and (2) the Complaint charges her with failing to respond to FINRA requests for information during the two-year period after the date upon which she ceased to be associated with a FINRA member.

FIRST CAUSE OF ACTION
Document Alteration
(Violation of NASD Conduct Rule 2110)

4. The Department realleges and incorporates by reference paragraphs 1 through 3 above.

5. On or about December 12, 2008, Respondent caused a Firm Annuity/Settlement Option Withdrawal Service Request form for her customer, EKG, to be submitted to the Firm for processing. The form included a withdrawal request of \$3,000.00 from EKG's fixed deferred annuity account.

6. Respondent altered the signature page of the Service Request form in the following manner. Respondent reused the signature page from a prior Service Request form for EKG that contained EKG's signature, and that Respondent had submitted to the Firm on or about May 27, 2008, for a separate transaction. Respondent then added the date "12/11/08" next to EKG's signature, attached the signature page to the December 12, 2008 form, and submitted the Form with the purported signature dated December 11, 2008, to the Firm for processing.

7. As a result of the foregoing conduct, Respondent violated NASD Conduct Rule 2110.

SECOND CAUSE OF ACTION
Failure to Respond to Rule 8210 Requests
for Information and Documents
(Violation of FINRA Rules 8210 and 2010)

8. The Department realleges and incorporates by reference paragraphs 1 through 7 above.

9. FINRA staff issued two letters to Respondent pursuant to FINRA Rule 8210 as part of an investigation concerning possible document alterations by Respondent while she was associated with the Firm.

10. On or about May 26, 2011, FINRA's Member Regulation staff issued the first Rule 8210 request for information and documents to Respondent. The letter was sent by first class and certified mail to Respondent's CRD residential address: [REDACTED]

[REDACTED] The letter contained a response due date of June 9, 2011. The first class letter was not returned. The certified mail receipt was signed by Respondent. Respondent did not respond to the May 26, 2011 letter.

11. On or about June 14, 2011, FINRA's Member Regulation staff issued the second Rule 8210 request for information and documents to Respondent. The letter was sent by first class and certified mail to Respondent's CRD address. The letter contained a response due date of June 28, 2011. The first class letter was not returned. The certified mail letter was delivered to Respondent's CRD address. Respondent did not respond to the June 14, 2011 letter.

12. By failing to respond to the Rule 8210 requests, Respondent violated FINRA Rules 8210 and 2010.

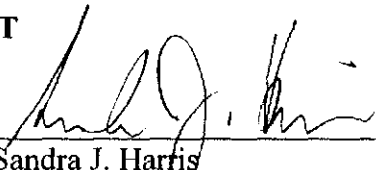
RELIEF REQUESTED

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; and
- 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.

FINRA DEPARTMENT OF ENFORCEMENT

Date: August 15, 2011



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