

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

BRIAN CAMPBELL
(CRD No. 2297936),

Respondent.

Disciplinary Proceeding
No. 2010023065601

Hearing Officer – SNB

DEFAULT DECISION

February 5, 2013

Respondent is barred from associating with any FINRA member firm in any capacity for failing to provide a complete response to requests for documents and information, in violation of FINRA Rules 8210 and 2010.

Appearances

Sandra J. Harris, Esq., for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

The Department of Enforcement filed the Complaint in this disciplinary proceeding on July 11, 2012, charging Respondent Brian Campbell with failing to provide a complete response to requests for documents and information, in violation of FINRA Rules 8210 and 2010.

Despite being properly served with the Complaint, Notice of Complaint, and Second Notice of Complaint, Respondent has not filed an answer or otherwise responded to the Complaint. Enforcement filed a Motion for Entry of Default Decision on December 14, 2012, to which Respondent did not respond. Accordingly, pursuant to FINRA Procedural Rules 9215(f)

and 9269, the allegations in the Complaint are deemed admitted, and Enforcement's motion is granted.¹

I. Respondent's Default

On July 11, 2012, Enforcement served the Notice of Complaint and Complaint on Respondent's counsel, by first-class mail, overnight mail, and email, after counsel agreed to accept service on Respondent's behalf. Decl. ¶ 5; CX-3. The mailings were not returned. Respondent did not answer or otherwise respond to the Complaint. Decl. ¶ 5.

On August 9, 2012, Enforcement served a Second Notice of Complaint and Complaint on Respondent's new counsel ("New Counsel"), by first-class mail and email, after New Counsel agreed to accept service on Respondent's behalf. Decl. ¶ 6; CX-4. Respondent again failed to answer or otherwise respond to the Complaint. *Id.*

Although New Counsel confirmed that he had received the Second Notice of Complaint and Complaint, Enforcement served an Amended Second Notice of Complaint on New Counsel on October 8, 2012, by first-class mail, certified mail, and email, to comply with one of the methods of service required by Rule 9134.² Decl. ¶ 6.

Enforcement served the Complaint and the First Notice and Amended Second Notice of Complaint on Respondent's counsel in accordance with FINRA Rules 9131 and 9134, giving Respondent valid notice of this proceeding. By failing to respond, he defaulted.

II. Jurisdiction

Respondent was first registered with FINRA in 1992. Since that time, he has been registered through several FINRA member firms. Between April 20, 2009, and July 13, 2010,

¹ The factual determinations in this decision are based on the allegations of the attached Complaint and the materials Enforcement filed with its default motion, which included exhibits CX-1 – CX-6, and the Declaration of Sandra J. Harris ("Decl.").

² Rule 9134 requires that a complaint be served in person or by certified mail, express mail, or courier.

Respondent was registered as a General Securities Principal and General Securities Representative with FINRA member firm Madison Avenue Securities Inc. CX-1.

Although Respondent has not been registered with a FINRA since July 13, 2010, he remains subject to FINRA's jurisdiction, pursuant to Article V, Section 4 of FINRA's By-Laws, because the Complaint was filed within two years after the termination of his FINRA registration, and it charges him with failure to respond to Rule 8210 requests that were issued within two years after the termination of his registration.

III. Origin of Proceeding

FINRA staff commenced the investigation leading to this proceeding in June 2010, after receiving a regulatory tip that Respondent had been arrested and charged in a federal criminal proceeding concerning an alleged improper diversion of funds.

IV. Violation - FINRA Rules 8210 and 2010

FINRA staff issued two letters to Respondent pursuant to FINRA Rule 8210 as part of its investigation into allegations that he improperly diverted commissions and fees belonging to a bank-affiliated corporation while he was associated with a FINRA member firm. Complaint ¶ 5.

On July 23, 2010, FINRA staff sent its first request for information and documents. The request was sent by first-class and certified mail to Respondent's CRD address. Even though Respondent was granted an extension to respond until August 13, 2010, he did not provide a response to the first letter. *Id.* ¶¶ 6, 7.

On August 24, 2010, FINRA staff sent a second request for the same documents and information to Respondent, pursuant to FINRA Rule 8210. The request was again sent to his CRD address by first-class and certified mail. At the request of Respondent's counsel, FINRA staff extended the response due date to September 14, 2010. *Id.* ¶¶ 8, 9.

In a September 15, 2010, letter, Respondent's counsel provided some written responses and offered to make certain responsive documents available for inspection and copying, at FINRA's expense. *Id.* ¶ 10. However, Respondent did not provide all of the requested information. *Id.* ¶¶ 11-15. For example, Respondent refused to answer questions concerning the circumstances surrounding his felony criminal charges and compensation arrangement at the Firm. *Id.*

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to provide a complete response to requests for documents and information, in violation of FINRA Rule 8210. A violation of FINRA Rule 8210 is also a violation of FINRA Rule 2010.³

V. Sanctions

The FINRA Sanction Guidelines recommend a bar as the standard sanction where a respondent fails to provide a complete response to a request for information issued pursuant to Rule 8210, unless a respondent can demonstrate that the information provided substantially complied with all aspects of the request.⁴ Where mitigation exists, the Guidelines recommend consideration of a suspension in all capacities of up to two years.

Here, Respondent did not substantially comply with the request. He omitted crucial information regarding allegations that Respondent improperly diverted commissions and fees. The importance of this omitted information is an aggravating factor.⁵ There are no mitigating factors. A bar is the appropriate sanction under the facts and circumstances of this case for Respondent's violations of FINRA Rule 8210 and Conduct Rule 2010.

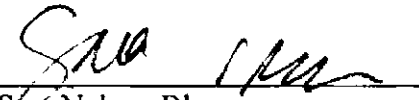
³ *Dep't of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (NAC Nov. 2, 2001) (violation of NASD Procedural Rule 8210 was a violation of NASD Conduct Rule 2110).

⁴ *FINRA Sanction Guidelines* at 33 (2011) ("Guidelines").

⁵ See Principal Consideration No. 1 for Rule 8210 violations, *Guidelines* at 33.

VI. Conclusion

Respondent Brian Campbell is barred from associating with any FINRA member firm in any capacity for failing to provide a complete response to requests for documents and information, in violation of FINRA Rules 8210 and 2010. The bar will become effective immediately if this decision becomes FINRA's final disciplinary action in this proceeding.


Sara Nelson Bloom
Hearing Officer

Copies to: Brian Campbell *(via overnight courier 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.

Brian Campbell (CRD No. 2297936),

Respondent.

DISCIPLINARY PROCEEDING
No. 2010023065601

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. In connection with FINRA's investigation concerning allegations of improper diversion of funds from a bank-affiliated entity, Respondent Brian Campbell failed to provide a complete response 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 a FINRA member firm (the Firm) beginning on April 20, 2009. Until July 13, 2010, he was registered as a General Securities Principal and a General Securities Representative. He entered the securities industry in 1992. Since that time, he has been associated with several FINRA member firms.

3. Although Respondent is no longer registered or associated with a FINRA member, he remains subject to FINRA's jurisdiction for purposes of this proceeding, pursuant to Article V, Section 4 of FINRA's By-Laws, because (1) the Complaint was filed within two years

after the effective date of termination of Respondent's registration with the Firm, namely, July 13, 2010, and (2) the Complaint charges him with failing to provide a complete response to FINRA requests for information during the two-year period after the date upon which he ceased to be registered or associated with a FINRA member.

CAUSE OF ACTION
Failure to Provide a Complete Response to Rule 8210
Requests for Information and Documents
(Violation of FINRA Rules 8210 and 2010)

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

5. FINRA staff issued two letters to Respondent pursuant to FINRA Rule 8210 as part of an investigation concerning allegations that he improperly diverted commissions and fees belonging to a bank-affiliated corporation while he was the managing director of that corporation and was also associated with a FINRA member firm. The conduct at issue was the subject of a federal indictment filed against Respondent in 2010, in the U.S. District Court for the District of New Jersey. *United States of America v. Brian M. Campbell*, Crim. No. 10-372(DRD). On March 22, 2011, Respondent was convicted on 33 counts of mail fraud. On November 21, 2011, Respondent was sentenced to six months in prison, three years of supervised release, and ordered to forfeit \$571,114.86 and to pay \$300,758.35 in restitution.

6. On July 23, 2010, FINRA's New Jersey Member Regulation staff issued the first Rule 8210 request for information and documents to Respondent. The letter contained seven questions asking Respondent to produce documents and provide a written statement in response to certain questions. The letter was sent by first class and certified mail to Respondent's CRD residential address. The letter contained a response due date of August 6, 2010. The first class

letter was not returned. The certified mail receipt was signed by an individual other than Respondent.

7. At Respondent's request, FINRA staff extended the response due date to August 13, 2010. Respondent did not provide a response to the first request letter by August 13, 2010.

8. On or about August 24, 2010, FINRA's New Jersey 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 September 7, 2010. The first class letter was not returned. The certified mail letter was returned marked "Return to Sender, Unclaimed."

9. At the request of Respondent's counsel, FINRA staff extended the due date for Respondent's response to September 14, 2010.

10. In a letter dated September 15, 2010, Respondent's counsel provided some written responses to the questions contained in the July 23, 2010 Rule 8210 letter, and offered to make certain responsive documents available for inspection and copying, at FINRA's expense.

11. In response to several of the questions contained in the July 23, 2010 letter that asked Respondent to provide a signed statement or other written responses, Respondent did not provide the requested information.

12. In response to question 1, requesting a signed statement concerning the felony criminal charges, counsel stated, "As my client is under indictment I cannot permit him to submit a signed statement. I can, however, unequivocally state that my client denies every allegation of wrongdoing in the indictment."

13. In response to question 4, which requested a signed statement concerning the facts and circumstances surrounding a modification to Respondent's compensation, counsel stated,

“As stated above, I cannot permit my client to submit a signed statement but I assure you that Mr. Campbell denies any wrongdoing.”

14. In response to question 5, which requested documents and information concerning the payment of fees and commissions to Respondent, counsel stated that the “documents are available and part of the discovery we will make available to you” but Respondent did not provide a statement in response to the questions contained therein.

15. Question 6 requested, among other things, information concerning Respondent’s association with broker-dealers during the period of the alleged violative conduct; his compliance with broker-dealer policies and procedures concerning the receipt of fees and commissions and outside business activities; and the nature of any discussions between Respondent and his supervisors concerning fees and commissions and/or outside business activities. In response to question 6, Respondent’s counsel identified the broker-dealer with which Respondent was associated and stated that Respondent “was in full compliance with all policies and procedures”, but Respondent did not provide any other responsive information.

16. By failing to provide a complete response to the Rule 8210 letters dated July 23, 2010 and August 24, 2010, Respondent violated FINRA Rules 8210 and 2010.

RELIEF REQUESTED

WHEREFORE, the Department respectfully requests that the Panel:

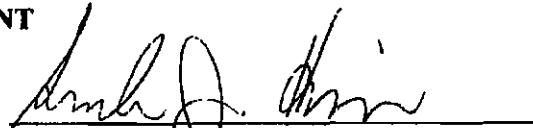
A. make findings of fact and conclusions of law that Respondent committed the violations charged and alleged herein;

B. order that one or more of the sanctions provided under FINRA Rule 8310(a), including monetary sanctions, be imposed; and

C. order that 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: July 11, 2012

A handwritten signature in dark ink, appearing to read 'Sandra J. Harris', is written over a horizontal line.

Sandra J. Harris
Senior Director, Policy & Expedited
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