

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

JAMES PATRICK CROSS
(CRD No. 1946579),

Respondent.

Disciplinary Proceeding
No. 2010025127301

Hearing Officer – RSH

DEFAULT DECISION

June 2, 2011

For failing to respond to requests for information and documents, in violation of Rules 8210 and 2010, the Respondent was barred from associating with any FINRA-regulated firm in any capacity.

Appearances

Sean W. Firley, Senior Regional Counsel, and David B. Klafter, Deputy Regional Chief Counsel, Boca Raton, Florida, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

I. Introduction

The FINRA Department of Enforcement filed the Complaint against Respondent James Patrick Cross after he failed to respond to two requests for information that FINRA staff had sent to him. In its Complaint, Enforcement charged that, by failing to respond to FINRA's requests for information and documents, Cross violated Rules 8210 and 2010.¹

Enforcement filed the Complaint with the Office of Hearing Officers on January 12, 2011. Cross did not answer or otherwise respond to the Complaint. Consequently,

¹ The FINRA Rules are available at www.finra.org/Rules.

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on April 5, 2011, Enforcement filed a Motion for Entry of Default Decision, supported by the Affidavit of Sean W. Firley and three exhibits. Cross did not reply to the motion.²

II. Jurisdiction

Cross first became registered as a General Securities Representative with a FINRA-regulated firm in April of 1989. Between April 2004 and March 2009, Cross was registered with former FINRA-regulated firm Stanford Group Company ("Stanford"). Stanford filed its withdrawal from FINRA on Form BDW on March 12, 2009. On March 30, 2009, Stanford filed a Uniform Termination Notice for Securities Industry Registration ("Form U5") for Cross, terminating his registration with the firm as of March 6, 2009. Cross has not been associated with any FINRA-regulated firm since his termination from Stanford.³

Although Cross is not currently registered with a FINRA-regulated firm, 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 a FINRA-regulated firm and (2) the Complaint charges him with failing to respond to FINRA's requests for information made during the two-year period following the termination of his registration with a FINRA-regulated firm.⁴

III. Cross's Default

On January 12, 2011, Enforcement sent the Notice of Complaint and Complaint by first-class mail and FEDEX to Cross at his residential address recorded in FINRA's Central Registration Depository ("CRD Address"). The first-class mailing was not

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 Complainant's Exhibit ("CX")-1; Firley Aff. ¶ 6.

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").

returned to Enforcement; however, a FEDEX receipt shows that the mailing was not delivered because it was "refused by recipient." Cross did not respond to the Complaint by February 9, 2011, the deadline specified in the Notice of Complaint.⁵

On February 14, 2011, Enforcement sent the Second Notice of Complaint and Complaint by first-class mail and FEDEX to Cross at his CRD Address. The first-class mailing was not returned to Enforcement; however, a FEDEX receipt shows that the mailing was not delivered because "customer not available or business closed." Cross did not respond to the Complaint by March 3, 2011, the deadline specified in the Notice of Complaint.⁶

To date, Cross has not filed an Answer with the Office of Hearing Officers or otherwise responded to the Complaint.

By failing to answer the Complaint, Cross defaulted. 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 Default Decision.

IV. Violation

The Complaint alleges that Cross violated Rules 8210 and 2010 by failing to provide information and documents as requested by FINRA.

In a letter dated September 8, 2010, FINRA staff requested, pursuant to Rule 8210, that Cross provide documents and information concerning Cross's sale of Stanford International Bank Certificates of Deposit. FINRA sent the letter by first-class mail to Cross at his CRD address, and requested that Cross comply by September 22, 2010. After Cross failed to respond, FINRA sent a second letter, dated October 7, 2010,

⁵ Firley Aff. ¶¶ 12-15; CX-2.

⁶ Firley Aff. ¶¶ 16-19; CX-3.

requesting the same documents and information. The October 7 letter was sent to Cross at his CRD Address by first-class mail and FEDEX. The first-class mailing was not returned; however, a FEDEX receipt indicates that the mailing was not delivered because it was "refused by recipient." FINRA staff does not know of any address for Cross that is more current than his CRD Address. To date, Cross has failed to provide any of the requested information or documents.⁷

The facts alleged in the Complaint establish that, for purposes of this default decision, Cross failed to provide information and documents requested by FINRA, and thereby violated Rule 8210. A violation of Rule 8210 is also a violation of Rule 2010.⁸

V. Sanction

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.⁹ When an individual fails to provide information, FINRA's ability to perform its regulatory functions is subverted.¹⁰ For these reasons, the FINRA Sanction Guidelines recommend a bar when a respondent fails to respond in any manner to a request for information issued pursuant to Rule 8210.¹¹ Cross failed to respond in any manner to two requests for information and documents from FINRA. There is no evidence of any mitigating facts that would justify a sanction less than a bar.

Accordingly, the Hearing Officer finds that Cross should be barred from associating with any FINRA-regulated firm in any capacity.

⁷ Firley Aff. ¶¶ 10-11.

⁸ *Department of Enforcement v. Hooper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (NAC Nov. 2, 2001).

⁹ *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).

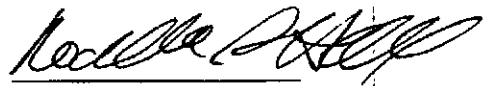
¹⁰ *Joseph P. Hannan*, Exchange Act Rel. No. 40438, 1998 SEC LEXIS 1955, at *9 (Sept. 14, 1998).

¹¹ *FINRA Sanction Guidelines*, 33 (2011 ed).

VI. Order

For failing to provide requested information and documents, in violation of Rules 8210 and 2010, James Patrick Cross is barred from associating with any FINRA-regulated firm in any capacity. The bar shall become effective immediately if this Decision becomes the final disciplinary action of FINRA.

SO ORDERED.



Rochelle S. Hall
Hearing Officer

Copies to: James Patrick Cross (via overnight courier)
Sean W. Firley, Esq. (via electronic and first-class mail)
Mark P. Dauer, Esq. (via electronic mail)
David R. Sonnenberg, Esq. (via electronic mail)

**FINRA
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

vs.

JAMES PATRICK CROSS (CRD No.
1946579),

Respondent.

Disciplinary Proceeding
No. 2010025127301

Hearing Officer – TBD

COMPLAINT

The Department of Enforcement alleges:

Summary

1. James Patrick Cross ("Cross") failed to respond to requests for information and documents from FINRA staff ("Staff"), in violation of FINRA Rules 8210 and 2010.

Respondent and Jurisdiction

2. Cross entered the securities industry in April of 1989 when he became associated with a FINRA member. Between April 2004 and March 2009, Cross was associated with former FINRA member Stanford Group Company ("Stanford").¹ On March 30, 2009, Stanford filed a Form U5 for Cross, terminating his association with the firm as of March 6, 2009. Cross has not been associated with any FINRA member since his termination from Stanford. Cross holds Series 7 and 63 licenses.

3. Under Article V, Section 4 of FINRA's By-Laws, FINRA retains jurisdiction over Cross until March 5, 2011, two years after he was last associated with Stanford.

¹ Stanford filed Form BDW on March 12, 2009.

Cause of Action
Failure to Respond to Requests for Documents and Information
Violations of FINRA Rules 8210 and 2010

4. The Department realleges and incorporates Paragraphs 1 through 3 by reference.
5. In order to investigate Cross's sale of Stanford International Bank, Ltd. Certificates of Deposit, on September 8, 2010, the Staff sent a letter to Cross, pursuant to FINRA Rule 8210, requesting that he provide various documents and information ("First Request").
6. The First Request was sent by first class mail to Cross's residential address reflected in FINRA's Central Registration Depository ("CRD Address") and required Cross's response on or before September 22, 2010.
7. To date, Cross has not responded to the First Request and it has not been returned to FINRA.
8. On October 7, 2010, the Staff sent a second letter to Cross, pursuant to FINRA Rule 8210, requesting that he provide the same documents and information that were requested in the First Request ("Second Request").
9. The Second Request was sent by first class mail and Federal Express to Cross's CRD Address and required Cross's response on or before October 18, 2010.
10. The Second Request sent by first class mail was not returned to FINRA.
11. The Second Request sent by Federal Express was returned to FINRA. Online records at www.fedex.com reflect the following delivery exceptions: "refused by recipient" on October 12, 2010 and "returned to shipper" on October 18, 2010.
12. Federal Express records do not reflect a more current address for Cross and the Staff is not aware of a more current address for Cross.
13. To date, Cross has not responded to the Second Request.

14. By failing to respond to the First and Second Requests, Cross violated FINRA Rules 8210 and 2010.

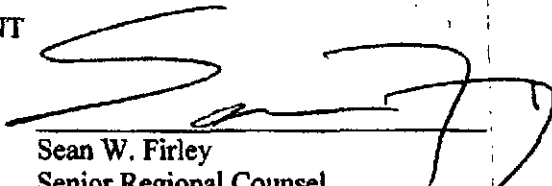
Relief Requested

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 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

Dated: January 12, 2011



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