

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

GILES ANTHONY HOAGLAND
(CRD No. 4160185),

Respondent.

Disciplinary Proceeding
No. 2011027456401

Hearing Officer – SNB

DEFAULT DECISION

May 6, 2013

Respondent is barred from associating with any FINRA registered firm in any capacity for misappropriating insurance premium payments, in violation of FINRA Rule 2010, and for failing to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2010. In light of the bars, no further sanctions are imposed for Respondent's failure to timely amend his Form U4 to disclose material information, in violation of Article V, Section 2 of the FINRA By-Laws and FINRA Rules 2010 and 1122.

Appearances

Miranda Chatelain, Esq., for the Department of Enforcement.

No appearance by or on behalf of Giles Anthony Hoagland.

DECISION

I. Introduction

The FINRA Department of Enforcement ("Enforcement") filed the attached Complaint with the Office of Hearing Officers on November 14, 2012. The Complaint charges Respondent Giles Anthony Hoagland ("Respondent") with (1) misappropriating insurance premium payments, in violation of FINRA Conduct Rule 2010; (2) failing to disclose material information on his Uniform Application for Securities Industry Registration or Transfer (Form U4), in violation of Article V, Section 2 of the FINRA

By-Laws¹ and FINRA Rules 2010 and 1122; and (3) failing to appear for testimony as requested by FINRA Staff ("Staff"), in violation of FINRA Rules 8210 and 2010.

Respondent did not answer the Complaint. Accordingly, on February 21, 2013, Enforcement filed a Motion for Entry of Default Decision and Request for Sanctions ("Default Motion"), together with the declaration of Miranda Chatelain, Esq. ("Decl.") and 40 exhibits.² For the reasons set forth below, the Hearing Officer found Respondent in default and granted Enforcement's Default Motion.

II. Procedural History

On November 14, 2012, Enforcement served the Complaint and the First Notice of Complaint on Respondent by mailing them to his most recent address recorded in the Central Registration Depository ("CRD").³ In addition, Enforcement served the Complaint and First Notice of Complaint on Respondent at three alternate addresses Enforcement obtained during its investigation. Enforcement sent each mailing by Express Mail. The mailing to the CRD address and two of the alternate addresses was returned unclaimed.⁴ The mailing to a third alternate address, a business address, was delivered.⁵

On December 20, 2012, Enforcement served the Complaint and a Second Notice of Complaint on Respondent by mailing it to Respondent's CRD address and the three alternate addresses.⁶ Enforcement sent the mailings by Express Mail.⁷ The mailings

¹ The Complaint also charged a violation of the NASD By-Laws. However, the NASD By-Laws were not operative during the conduct at issue. Accordingly, this matter is decided only on the FINRA By-Laws.

² Enforcement's exhibits are labeled CX-1 through CX-40.

³ Decl. ¶ 59; CX-30 - CX-33.

⁴ Decl. ¶ 61; CX-31-CX-33.

⁵ Decl. ¶ 62; CX-34.

⁶ Decl. ¶ 64; CX-35.

⁷ *Id.*

were returned to Staff unclaimed.⁸ To date, Respondent has not answered or otherwise responded to the Complaint.⁹

Based on Respondent's default, the Hearing Officer deemed the allegations in the attached Complaint admitted pursuant to Rules 9215(f) and 9269(a).

III. Findings of Fact and Conclusions of Law

A. Background

Respondent entered the securities industry in March 2000. Respondent was registered with FINRA through CFD Investments, Inc. (the "Firm") between March 2004 and April 2011.¹⁰ On April 25, 2011, the Firm filed a Uniform Termination Notice for Securities Industry Registration (Form U5) with FINRA, which disclosed that the Firm discharged Respondent on April 21, 2011, for failing to notify the Firm that an insurance company alleged that he misappropriated disability insurance premiums from a non-Firm customer.¹¹ Respondent has not been registered with FINRA since that time.¹²

B. Jurisdiction

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 after Respondent's FINRA registration terminated, and (2) the Complaint charges him with misconduct that occurred while he was associated with a FINRA registered firm, and with failing to respond to Enforcement's requests for testimony made during the two-year period following the termination of his FINRA registration.¹³

⁸ Decl. ¶ 66-67.

⁹ Decl. 68.

¹⁰ CX-1.

¹¹ CX-2.

¹² Decl. ¶ 7; CX-1.

¹³ 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").

C. Misappropriation

The First Cause of Action alleges that Respondent misappropriated insurance premiums. Specifically, at some point prior to April 2009, Respondent sold an insurance policy to the local chapter of a workers' union (the "Union"). In April 2009, Respondent began using the Union's monthly insurance premiums to pay his personal expenses. Respondent then paid the Union's premiums with his mortgage commissions until August 2009, when he was unable to do so. From August 2009 to January 2010, Respondent continued to collect premiums from the Union, but failed to pay the insurance company. Consequently, the Union's insurance was cancelled in January 2010 for non-payment of \$5,148.52 in premiums.

Despite the policy cancellation, from January to September 2010, Respondent continued to charge and collect premiums from the Union totaling \$12,575.02.

The Hearing Officer finds that the foregoing facts establish that Respondent converted¹⁴ insurance premiums, in violation of FINRA Rule 2010, which requires members and associated persons to observe high standards of commercial honor and just and equitable principles of trade in the conduct of their business.

D. Failure to Timely Amend Form U4

Article V, Section 2 of FINRA's By-Laws requires that persons who apply for registration with FINRA must provide "such ... reasonable information with respect to the applicant as [FINRA] may require." FINRA Rule 1122, in turn, prohibits applicants from filing registration information that is incomplete or inaccurate so as to be

¹⁴ The Complaint characterizes Respondent's intentional taking of funds as "misappropriation." The Hearing Officer finds that the misconduct amounts to conversion, the wrongful exercise of dominion over the personal property of another. *Dep't of Enforcement v. Paratore*, No. 2005002570601, 2008 FINRA Discip. LEXIS 1, at *10 (NAC Mar. 7, 2008) (citations omitted).

misleading. Applicants are required to amend their Form U4 to disclose, among other things, whether they have filed for bankruptcy. Such amendments must be filed “not later than 30 days after learning of the facts or circumstances giving rise to the amendment.” Failing to amend a Form U4, when necessary to make the Form U4 accurate, may be deemed conduct inconsistent with just and equitable principles of trade.¹⁵

The Second Cause of Action alleges that Respondent failed to timely amend his Form U4 to disclose the filing of a bankruptcy petition. Specifically, on October 22, 2010, Respondent filed for bankruptcy, but failed to amend his Form U4 to reflect the bankruptcy until April 18, 2011.

Based on the allegations in the Complaint, the Hearing Officer finds that Respondent violated Article V, Section 2 of the FINRA By-Laws and FINRA Rules 2010 and 1122.

E. Failure to Provide Information

The Third Cause of Action alleges that Respondent failed to respond to Staff requests that he appear for testimony. Specifically, on June 27, 2012, Staff sent Respondent a request to appear for testimony, following earlier requests for information, regarding the allegation that Respondent misappropriated insurance premiums. Staff sent the request by Express Mail, certified mail, and first-class mail to Respondent at his CRD address. Respondent did not appear for testimony or otherwise respond to the request.

On July 17, 2012, Staff sent Respondent a second request to appear for testimony. Staff sent the request by Express Mail and first-class mail to Respondent at his CRD

¹⁵ See *Scott Mathis*, Exchange Act Rel. No. 61120, 2009 SEC LEXIS 4376, at *16 (Dec. 7, 2009), *aff'd sub nom.*, *Mathis v. SEC*, 671 F.3d 210 (2d Cir. 2012).

address and three alternate addresses. Respondent did not appear for testimony or otherwise respond to this request.

Based on the allegations in the Complaint, the Hearing Officer finds that Respondent violated Rules 8210 and 2010 by failing to respond to Staff's requests to appear for testimony.

IV. Sanctions

The FINRA Sanction Guidelines state that a bar is the standard sanction for conversion and for a complete failure to respond to a Rule 8210 request for information.¹⁶ The Hearing Officer finds that a bar is the appropriate sanction for each of these violations. There are no mitigating factors that would warrant consideration of lesser sanctions. Accordingly, the Hearing Officer will bar Respondent from associating with any FINRA member firm in all capacities.¹⁷ In light of these bars, no further sanctions are imposed for Respondent's failure to timely amend his Form U4 to disclose material information, in violation of Article V, Section 2 of the FINRA By-Laws and FINRA Rules 2010 and 1122.

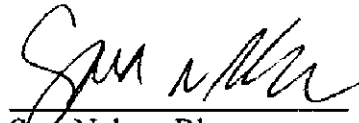
V. Order

Respondent is barred from associating with any FINRA registered firm in any capacity for misappropriating insurance premium payments, in violation of FINRA Rule 2010, and for failing to respond to requests for information, in violation of Procedural Rule 8210 and Conduct Rule 2010. In light of the bars, no further sanctions are imposed for Respondent's failure to timely amend his Form U4 to disclose material information, in violation of Article V, Section 2 of the FINRA By-Laws and FINRA Rules 2010 and

¹⁶ FINRA Sanction Guidelines 33, 36 (2011), www.finra.org/sanctionguidelines.

¹⁷ Restitution will not be ordered because Respondent repaid the Union.

1122. The bars shall become effective immediately if this Default Decision becomes the final disciplinary action of FINRA.



Sara Nelson Bloom
Hearing Officer

Copies to: Giles Anthony Hoagland (*via FedEx and first-class mail*)
 Miranda Chatelain, Esq. (*via electronic and first-class mail*)
 Myles L. Orosco, Esq. (*via electronic mail*)
 Jeffrey Pariser, Esq. (*via electronic mail*)
 Richard R. Best, Esq. (*via electronic mail*)

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

Department of Enforcement,

Complainant,

v.

Giles Anthony Hoagland
(CRD No. 4160185),

Respondent.

DISCIPLINARY PROCEEDING
No. 2011027456401

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

From April 2008 to April 2011, Giles Anthony Hoagland ("Hoagland" or the "Respondent") violated FINRA Rule 2010 by misappropriating a local labor union's disability insurance premium payments to pay for his personal and business expenses. Hoagland also violated FINRA Rule 2010 by failing to amend his Uniform Application for Securities Industry Registration and Transfer ("Form U4") to reflect a bankruptcy filing. Lastly, he violated FINRA Rules 8210 and 2010 by failing to appear and provide testimony to FINRA as requested.

RESPONDENT(S) AND JURISDICTION

1. Hoagland entered the securities industry in March 2000 and was employed as a registered representative for two FINRA regulated entities before joining CFD Investments, Inc. (the "Firm") on March 24, 2004. On April 25, 2011, the Firm filed a Uniform Termination Notice for Securities Industry Registration with FINRA,

reporting Hoagland's termination of employment on April 21, 2011 because Hoagland failed to notify the Firm that an insurance company alleged that he misappropriated disability insurance premiums from a non-Firm customer.

2. Hoagland is not employed with a FINRA regulated firm, however, he remains subject to FINRA's jurisdiction pursuant to FINRA By-Law Article V, Section 4, 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 member.

FIRST CAUSE OF ACTION

Misappropriation of Insurance Premiums (FINRA Rule 2010)

3. The Department realleges and incorporates by reference paragraphs 1 and 2 above.
4. Hoagland, formerly a Series 6 registered independent contractor with the Firm, conducted business through Midwest Financial Services LLC ("Midwest"). Midwest was an independent company that Hoagland formed to offer insurance products, investment services and mortgage financing, for which Hoagland received mortgage commissions.
5. Midwest sold securities products through Hoagland's affiliation with the Firm. It also offered insurance products through an insurance company (the "Insurance Company") and brokered mortgages. The Insurance Company appointed Hoagland to sell insurance products for HLIC, an unaffiliated insurance company.
6. Hoagland sold an HLIC insurance policy to BLE, the local chapter of a workers' union (the "Union"). In order to pay the Union's insurance premium payments, Union

officials signed checks payable to Midwest. Midwest then remitted the premium payments to HLIC.

7. In April 2009, Hoagland began using the Union's monthly premium payments to pay his personal and business expenses.
8. Hoagland used his Midwest mortgage commissions to pay the Union's premium payments until August 2009, when he was unable to pay the premium.
9. From August 2009 to January 2010, Hoagland continued to collect the premium payments from the Union, but failed to remit the premium payments to HLIC.
10. In January 2010, HLIC canceled the Union's policy for non-payment of \$5,148.52 in insurance premiums.
11. Despite the policy cancellation, from January to September 2010, Hoagland continued to bill the Union for HLIC insurance premiums each month. By September 2010, Hoagland had received \$12,575.02 in Union premium payments that he failed to remit to HLIC.
12. When HLIC's Investigative Services questioned Hoagland on December 29, 2010, Hoagland admitted that he withheld the Union's premium payments. Hoagland did not have permission or authority to withhold the Union's premium payments, and on December 31, 2010, he refunded the Union the un-remitted insurance premium payments.
13. By virtue of this conduct, Hoagland violated FINRA Rule 2010.

SECOND CAUSE OF ACTION

Failure to Amend Form U4

(Article V, Section 2 of NASD and FINRA By-Laws, and FINRA Rules 1122 and 2010)

14. The Department realleges and incorporates by reference paragraphs 1 to 13 above.
15. On October 22, 2010, Hoagland filed for bankruptcy.
16. Hoagland did not amend his Form U4 to reflect the bankruptcy filing until April 18, 2011.
17. By virtue of this conduct, Hoagland violated Article V, Section 2 of NASD and FINRA By-Laws, and FINRA Rules 1122 and 2010.

THIRD CAUSE OF ACTION

Failure to Provide Testimony (FINRA Rules 8210 and 2010)

18. The Department realleges and incorporates by reference paragraphs 1 to 17 above
19. On May 2, 2011, FINRA's Central Review Group sent a letter to Hoagland at his last known residential address as reflected in the Central Registration Depository (the "CRD Address"). The letter requested that, pursuant to FINRA Rule 8210, Hoagland submit a written statement addressing allegations that he misappropriated insurance premium payments, settled a customer complaint away from the Firm, and failed to disclose his bankruptcy on his Form U4.
20. The letter was sent via certified mail and return receipt requested. A copy of the letter was also sent by first class mail to the same address.
21. FINRA subsequently received the return receipt signed by a third-party and dated May 6, 2011. The letter sent by first class mail was not returned to FINRA.

22. In an email sent to FINRA's Central Review Group on May 17, 2011, Hoagland stated that he believed he was required to disclose his bankruptcy filing after it was discharged. Hoagland also attached to the email a written statement that he provided to the Indiana Department of Insurance ("IDOI"), in which he admitted to misappropriating the Union's insurance premiums payments.
23. On January 11, 2012, Enforcement sent a letter, via certified mail and return receipt requested, to Hoagland at the CRD Address. The letter requested, pursuant to FINRA Rule 8210, that Hoagland provide documents and information related to any bankruptcy, outstanding liens and judgments filed against him. A copy of the letter was also sent by first class mail at the same address.
24. The letter notified Hoagland that his response was due no later than January 31, 2012 and that his failure to adhere to FINRA Rule 8210 requests could subject him to sanctions, including a bar.
25. The letter sent via certified mail and return receipt requested was returned to FINRA unclaimed, but the letter sent via first class mail was not returned to FINRA.
26. Hoagland neither submitted a written response nor provided the requested documents and information.
27. On June 27, 2012, Enforcement sent a letter, via Express Mail, to Hoagland at the CRD Address. The letter requested that, pursuant to FINRA Rule 8210, Hoagland provide testimony to FINRA on July 10, 2012 at FINRA's office located at 200 Liberty Street, 11th floor in New York City.

28. The letter notified Hoagland that his failure to adhere to FINRA Rule 8210 requests could subject him to sanctions, including a bar.
29. Copies of the letter were also sent by certified mail, return receipt requested, and by first class mail to the same address.
30. The letter sent via Express Mail was returned marked "Return to Sender." The letter sent via certified mail, return receipt requested, was returned marked "Unclaimed, Unable to Forward." The letter sent via first class mail was not returned to FINRA.
31. On July 10, 2012, Hoagland neither appeared nor contacted Enforcement to request an adjournment of his scheduled testimony.
32. On July 17, 2012, Enforcement sent a letter, via Express Mail, to Hoagland at the CRD Address. A copy of the letter was also sent via first class mail to the same address. The letter requested that, pursuant to FINRA Rule 8210, Hoagland provide testimony to FINRA on July 26, 2012 at FINRA's Office located at 200 Liberty Street, 11th Floor in New York City.
33. The letter notified Hoagland that his failure to adhere to FINRA Rule 8210 requests could subject him to sanctions, including a bar.
34. Copies of the letter were also sent to Hoagland's residential address as reflected in a Lexis database (the "Alternate Address") via Express Mail and first class mail.
35. Copies of the letter were also sent via first class mail to Hoagland's a prior residential address as reflected in Financial Adviser Questionnaires that Hoagland submitted to the Firm in 2008 and 2009 (the "Secondary Address"); Hoagland's business address at Midwest (the "Business Address"); and Hoagland's business email address.

36. The letters sent to the CRD Address and the Alternate Address via Express Mail was returned marked "Return to Sender." The letters sent to the CRD Address and the Alternate Address via first class mail was not returned to FINRA. The letter sent to Hoagland's business email address was returned as undeliverable. The letter sent via first class mail to the Business Address was returned to FINRA. The letter sent via first class mail to the Secondary Address was not returned to FINRA.
37. Hoagland neither appeared on July 26, 2012 nor contacted Enforcement to request an adjournment of his scheduled testimony.
38. By virtue of this conduct, Hoagland 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) be imposed, including that Respondent be required to disgorge fully any and all ill-gotten gains and/or make full and complete restitution, together with interest;
- C. order that Respondent bears such costs of proceeding as are deemed fair and appropriate under the circumstances in accordance with FINRA Rule 8330.

FINRA DEPARTMENT OF ENFORCEMENT

Date:

11/14/12



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