

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

HANSEL CLAYTON TOPPIN
(CRD No. 4188845),

Respondent.

Disciplinary Proceeding
No. 2011028819101

Hearing Officer – MC

DEFAULT DECISION

March 1, 2012

Respondent Hansel Clayton Toppin is barred from associating with any FINRA member firm in any capacity for failing to respond to requests for information, in violation of FINRA Conduct Rule 2010 and Procedural Rule 8210.

Appearances

Sean W. Firley, Senior Regional Counsel, Boca Raton, Florida, for the Department of Enforcement.

No appearance by or on behalf of Respondent.

DECISION

I. Introduction

After FINRA member firm Wells Fargo Advisors, LLC (“Wells Fargo”) filed a Uniform Termination Notice for Securities Industry Registration (Form U5), disclosing that Wells Fargo had terminated Respondent Hansel Clayton Toppin’s employment, FINRA staff issued requests for information to Toppin pursuant to Rule 8210. Toppin failed to respond to the requests.

The Department of Enforcement filed the attached single-cause Complaint on October 17, 2011. Despite being served with the Complaint, Notice of Complaint, and Second Notice of Complaint, Toppin has not filed an Answer or otherwise responded to the Complaint.

On January 9, 2012, Enforcement filed a Motion for Entry of Default Decision (“Default Motion”) supported by the Declaration of Sean W. Firley and three exhibits.¹

II. Findings of Fact and Conclusions of Law

A. Jurisdiction

Toppin was employed by and registered with Wells Fargo from July 2, 2008, through November 5, 2009. Since his termination by Wells Fargo, Toppin has not been associated with any FINRA member firm.² Because the Complaint was filed less than two years after the termination of his registration, and the Complaint charges him with failure to respond to requests for information issued pursuant to Rule 8210 less than two years after his termination, FINRA retains jurisdiction over Toppin for the purposes of this disciplinary proceeding pursuant to Article V, Section 4 of FINRA’s By-Laws.

B. Default

On October 17, 2011, Enforcement served the Complaint and Notice of Complaint on Toppin at his residential address listed in the Central Registration Depository (“CRD”) by certified and first-class mail. The postal service did not return the first-class mailing, but did return the certified mailing with the notation “return to sender, unclaimed, unable to forward.” On November 16, 2011, Enforcement served the Complaint and Second Notice of Complaint on Toppin at his CRD address by certified and first-class mail. Once again, the postal service did not return the first-class mailing, but it did return the certified mailing with the notation “return to sender, unable to forward.” In addition, the postal service’s tracking records indicate that the postal service attempted unsuccessfully to deliver the registered mailing of the Complaint and

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 the Declaration Supporting Motion for Entry of Default Decision, and the exhibits attached to the Declaration. The Declaration will be referred to as “Decl.” or “Firley Declaration.” The exhibits are referred to as “CX-___.”

² Decl. ¶ 6.

Second Notice of Complaint and left a notice of the attempt to deliver at Toppin's CRD address.³

Toppin has not filed an Answer or otherwise responded to the Complaint.

By serving the Complaint, Notice of Complaint, and Second Notice of Complaint upon Toppin by certified mail at his CRD address, Enforcement complied with the requirements of Rule 9134 and provided him with constructive notice that the Complaint had been filed.⁴ By failing to file an Answer, Toppin defaulted. Accordingly, pursuant to Rules 9215(f) and 9269(a)(2), and for the reasons set forth below, the Default Motion is granted.

C. Toppin Violated FINRA Conduct Rule 2010 and Procedural Rule 8210

To investigate allegations concerning cheating in continuing education classes, on August 9, 2011, FINRA staff sent a letter requesting documents and information pursuant to Rule 8210 to Toppin by certified and first-class mail at his CRD address. The postal service left notice of the certified mailing at Toppin's CRD address, but Toppin never claimed the mailing. The postal service did not return the first-class mailing to FINRA. Toppin did not respond to the request by the deadline of August 23, 2011.⁵

On September 2, 2011, Toppin contacted FINRA staff by telephone, confirmed that he had received the Rule 8210 request, and claimed that he would respond by e-mail later that day. However, he did not do so.⁶

On September 27, 2011, FINRA staff sent a second letter pursuant to Rule 8210 to Toppin requesting the same documents and information as in the previous letter. Once again, FINRA staff sent the request by certified and first-class mail to Toppin at his CRD address. The

³ Decl. ¶¶ 12-18.

⁴ *Dep't of Enforcement v. Verdiner*, No. CAF020004, 2003 NASD Discip. LEXIS 42, at *5 (N.A.C. 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)).

⁵ Complaint ¶¶ 5-8.

⁶ Complaint ¶ 9.

staff gave Toppin a deadline of October 11, 2011, for his response. This time, the postal service returned the receipt for the certified mailing signed “Clay Toppin.” Nevertheless, Toppin has not responded to the request for information. His failure to do so has impeded FINRA’s investigation.⁷

By failing to respond to the two requests for information issued pursuant to Rule 8210, as set forth in the Complaint and the Firley Declaration, Toppin violated FINRA Conduct Rule 2010 and Procedural Rule 8210.

III. Sanctions

Enforcement requests the imposition of a bar for Toppin’s failure to respond to the two Rule 8210 requests FINRA staff issued to him.

FINRA’s Sanction Guidelines support Enforcement’s request for a bar. The Guidelines state that in the absence of mitigation, a bar should be the standard sanction for a failure to respond in any manner to a request for information.⁸ In this case, no mitigating factors are present. Instead, it is an aggravating factor that Toppin called FINRA staff, acknowledged receipt of the initial request for information, and falsely promised to respond to it that day. Toppin’s call eliminates any doubt that he was cognizant of precisely what he was required to do.

As has often been observed, “Conduct Rule [2010] 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 further states that no member or person shall fail to provide such information.” Concerning

⁷ Decl. ¶¶ 10-14.

⁸ *FINRA Sanction Guidelines* at 33 (2011).

sanctions for violating Rule 8210, “[t]he Guidelines treat a failure to respond ... as egregious.”⁹

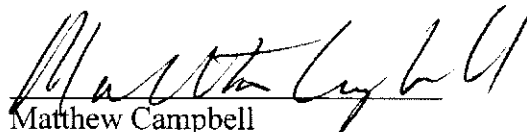
Here, FINRA staff properly sought to meet its regulatory responsibilities by investigating a potentially serious matter involving allegations of cheating in continuing education classes.

Toppin’s knowing failure to respond to the staff’s requests for information impeded FINRA’s investigation. To deter such misconduct on the part of Toppin and others similarly situated, a bar is the appropriate sanction.

IV. Conclusion

Respondent Hansel Clayton Toppin is barred from associating with any FINRA member firm in any capacity for violating FINRA Conduct Rule 2010 and Procedural Rule 8210 by failing to respond to requests for information issued to him by FINRA staff pursuant to Rule 8210, as charged in the Complaint.

If this decision becomes FINRA’s final disciplinary action, the bar shall be effective immediately.


Matthew Campbell
Hearing Officer

Copies to:

Hansel Clayton Toppin (*via overnight courier and first-class mail*)
Sean W. Firley, Esq. (*via e-mail and first-class mail*)
Mark P. Dauer, Esq. (*via e-mail*)
David R. Sonnenberg, Esq. (*via e-mail*)

⁹ *Dep’t of Enforcement v. Masceri*, No. C8A040079, 2006 NASD Discip. LEXIS 29, at *35-36, *41 (N.A.C. Dec. 18, 2006).

**FINRA
OFFICE OF HEARING OFFICERS**

DEPARTMENT OF ENFORCEMENT,

Complainant,

vs.

HANSEL CLAYTON TOPPIN
(CRD No. 4188845),

Respondent.

Disciplinary Proceeding
No. 2011028819101

Hearing Officer – TBD

COMPLAINT

The Department of Enforcement alleges:

Summary

1. Hansel Clayton Toppin (“Toppin”) failed to respond to requests for information and documents from FINRA staff, in violation of FINRA Rules 8210 and 2010.

Respondent and Jurisdiction

2. Toppin entered the securities industry in May 2000 when he became associated with a FINRA member. From July 2, 2008 until November 6, 2009, Toppin was associated with Wells Fargo Advisors, LLC (“Wells Fargo”). Since he was last associated with Wells Fargo, Toppin has not been associated with another FINRA member.

3. Under Article V, Section 4 of FINRA’s By-Laws, FINRA retains jurisdiction over Toppin until November 5, 2011, two years after he was last associated with Wells Fargo.

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 Toppin's possible involvement in cheating on long term care continuing education classes, on August 9, 2011, FINRA staff ("Staff") sent a letter to Toppin, pursuant to FINRA Rule 8210, requesting that he provide various documents and information ("First Request").

6. The First Request was sent by certified and first class mail to Toppin's residential address reflected in FINRA's Central Registration Depository ("CRD Address") and required Toppin's response on or before August 23, 2011.

7. The First Request sent by first class mail was not returned to FINRA. As reflected by online records at www.usps.com, the United States Postal Service left notice of the First Request at Toppin's CRD Address on August 17, 2011; however, the letter was never picked up.

8. To date, Toppin has not responded to the First Request.

9. On September 2, 2011, Toppin contacted the Staff by telephone and confirmed his address and receipt of the First Request. Toppin indicated during the telephone call that he was going to respond to the First Request via email later that day. Despite promising to respond to the First Request, Toppin did not respond.

10. On September 27, 2011, the Staff sent a second letter to Toppin, pursuant to FINRA Rule 8210, requesting that he provide the same documents and information that had been requested in the First Request ("Second Request").

11. The Second Request was sent by certified and first class mail to Toppin's CRD Address and required Toppin's response on or before October 11, 2011.

12. The Second Request sent by first class mail was not returned to FINRA. As reflected by online records at www.usps.com, the Second Request was delivered on October 8, 2011. In addition, the green certified card for the certified mailing was returned to FINRA bearing the signature of "Clay Toppin."

13. To date, Toppin has not responded to the Second Request.

14. Toppin's failure to respond to the First and Second Requests has impeded the Staff's investigation.

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

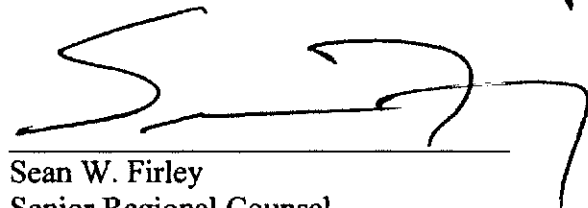
Relief Requested

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: October 17, 2011



Sean W. Firley
Senior Regional Counsel
FINRA - Department of Enforcement
Crystal Corporate Center
2500 N. Military Trail, Suite 302
Boca Raton, FL 33431-6324
561-443-8120; 561-443-7998 (fax)
sean.firley@finra.org

David B. Klafter
Deputy Regional Chief Counsel
FINRA - Department of Enforcement
Crystal Corporate Center
2500 N. Military Trail, Suite 302
Boca Raton, FL 33431-6324
561-443-8110; 561-443-7998 (fax)
david.klafter@finra.org

Andrew A. Favret
AVP/Regional Chief Counsel
FINRA - Department of Enforcement
1100 Poydras Street
Energy Centre, Suite 850
New Orleans, LA 70163
504-412-2402; 202-721-6527 (fax)
andrew.favret@finra.org