

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

KEVIN JOSEPH JAHNER
(CRD No. 3187721),

Respondent.

Disciplinary Proceeding
No. 2011028824001

Hearing Officer – LBB

DEFAULT DECISION

Date: November 23, 2012

Respondent is barred from associating with any FINRA member firm in any capacity for violating FINRA Rules 8210 and 2010 by failing to respond to requests for documents and information.

Appearances

Joel T. Kornfeld, Esq., Senior Regional Counsel, Los Angeles, California, 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 27, 2012, charging Respondent Kevin Joseph Jahner with failing respond 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 October 19, 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 27, 2012, Enforcement served the Notice of Complaint and Complaint on Respondent, by first-class and certified mail, at his residential address listed in the Central Registration Depository ("CRD"), and an alternate address the staff found through a public records search. Kornfeld Decl. ¶ 3; CX-3. The first-class mailings were not returned. The staff received a return receipt dated July 30, 2012, signed by "Kevin Jahner," for the certified mailing to Respondent's CRD address. The certified mailing to the alternate address was returned by the Postal Service. Respondent did not answer or otherwise respond to the Complaint. Kornfeld Decl. ¶¶ 4, 5; CX-4, CX-5.

On August 27, 2012, Enforcement served a Second Notice of Complaint and Complaint on Respondent by first-class and certified mail at his CRD address and the alternate address. Neither first-class mailing was returned by the Postal Service. The staff received a receipt, dated August 29, 2012, signed by "Kevin Jahner," for the certified mailing to Respondent's CRD address. The certified mailing to the alternate address was returned by the Postal Service. Respondent again failed to answer or otherwise respond to the Complaint. Kornfeld Dec. ¶¶ 6, 7; CX-7, CX-8.

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 includes declarations by a FINRA examiner and counsel, and supporting documentation. The examiner's declaration, the Declaration of Michael Hegeman in Support of Motion for Entry of Default and Default Decision, is cited herein as "Hegeman Decl. ¶ ____." Counsel's declaration, the Declaration of Joel T. Kornfeld, is cited as "Kornfeld Decl. ¶ ____." The supporting documentation is cited as "CX-____."

Enforcement served the Complaint and the Notices of Complaint on Respondent in accordance with FINRA Procedural Rule 9134, giving him actual and constructive notice of this proceeding. By failing to respond, he defaulted.

II. Jurisdiction

Respondent was registered with FINRA from February 1999 until August 1, 2011. The events that were the subject of FINRA's Rule 8210 requests occurred while Respondent was registered through World Group Securities, Inc., where he was registered from April 12, 2002, until August 1, 2011. Hegeman Decl. ¶ 2; CX-1.

Although Respondent has not been registered with a member firm since August 1, 2011, 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 registration with a member firm, and it charges him with failure to respond to Rule 8210 requests that were issued within two years after the termination of his registration with a member firm.

III. Respondent Violated FINRA Rules 8210 and 2010

On a Uniform Termination Notice For Securities Industry Registration (Form U5) filed on August 1, 2011, World Group reported that Respondent was permitted to resign while the firm was performing a review of an outside business activity involving the purchase of real estate. Complaint ¶ 5.

In August and October 2011, a FINRA investigator with the Central Review Group of FINRA's Office of Fraud Detection and Market Intelligence sent preliminary inquiries to Respondent, pursuant to Rule 8210, seeking information about an outside business activity. After Respondent responded to both inquiries, the Central Review Group recommended further review of the matter. The matter was referred to Member Regulation staff in FINRA District 2 for further investigation. Complaint ¶ 6. Member Regulation staff determined that it required

substantial additional information because the evidence suggested possible misconduct involving investor funds. Complaint ¶ 7.

On February 7, 2012, the staff sent Respondent a request for documents and information, pursuant to FINRA Rule 8210, directing him to produce a variety of documents relating to the outside business activity, the use of investor funds received in connection with the activity, and financial information. The request was sent by first-class and certified mail to Respondent's CRD address. Respondent did not respond to the request by February 22, 2012, the due date set forth in the request. Complaint ¶¶ 8, 9.

On February 27, 2012, FINRA staff sent a second request for the same documents and information to Respondent at his CRD address, pursuant to FINRA Rule 8210. The request was again sent by first-class and certified mail. Respondent did not provide the documents and information. Complaint ¶¶ 9, 10.

These allegations, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to respond to requests for documents and information, in violation of FINRA Rule 8210. A violation FINRA Rule 8210 is also a violation of FINRA Rule 2010.²

IV. Sanctions

The FINRA Sanction Guidelines recommend a bar as the standard sanction where a respondent fails to respond in any manner to a request for information issued pursuant to Rule 8210.³ Where mitigation exists, the Guidelines recommend consideration of a suspension in all capacities of up to two years. Respondent failed to respond to two requests for documents and

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

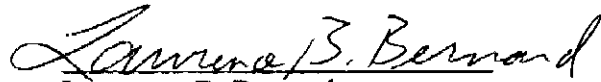
³ *FINRA Sanction Guidelines* at 33 (2011) ("Guidelines").

information. There are no mitigating factors. The importance of the information is an aggravating factor. The requests sought documents and information relating to potential violations for which there was evidence that Respondent had may have misused investor funds in an outside business activity.⁴

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.

V. Conclusion

Respondent Kevin Joseph Jahner is barred from associating with any member firm in any capacity for failure to provide documents and information, in violation of FINRA Rules 8210 and Rule 2010. The bar will become effective immediately if this decision becomes FINRA's final disciplinary action in this proceeding.


Lawrence B. Bernard
Hearing Officer

Copies to: Kevin J. Jahner (*via overnight courier and first-class mail*)
Joel T. Kornfeld, Esq. (*via electronic and first-class mail*)
Scott M. Anderson, Esq. (*via electronic mail*)
Mark P. Dauer, Esq. (*via electronic mail*)
David R. Sonnenberg, Esq. (*via electronic mail*)

⁴ See Principal Consideration No. 1 for Rule 8210 violations, *Guidelines* at 33.

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DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

KEVIN JOSEPH JAHNER
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Respondent.

DISCIPLINARY PROCEEDING
No. 2011028824001

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Former World Group Securities, Inc. representative Kevin J. Jahner failed to respond to the staff's requests for information pertaining to his outside business activity that involved soliciting investors (including Firm customers) to participate in real estate transactions away from his Firm. By failing to respond to the information requests, Jahner violated FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. From April 12, 2002 through August 1, 2011, Jahner was associated with former FINRA member World Group Securities, Inc. ("WGS" or "the Firm") as an Investment Company Products/Variable Contracts Representative (Series 6) and an Investment Company Products/Variable Contracts Principal (Series 26).

3. Although Jahner is not currently 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 the FINRA By-Laws, because the Complaint was filed within two years after the effective date of termination of Jahner's registration with WGS, namely, August 1, 2011, and the Complaint charges him with failing to respond 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 Respond to Requests for Information
(FINRA Rules 8210 and 2010)

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

5. On a Form U5 filed August 1, 2011, WGS reported that Jahner was permitted to resign while the Firm was performing a review of an outside business activity involving raising funds for real estate purchases. The Form U5 further stated that "[t]his activity was originally disclosed by the representative to WGS, and the necessary consent was obtained from an authorized employee of the Firm. However, such activity is prohibited by Firm policy and should have been denied. The Firm's recent review of this matter determined that the representative had raised funds from clients of the Firm to support this outside business activity. The representative had not sought, nor received permission to solicit funds from these individuals."

6. In August 2011 and later in October 2011, a FINRA investigator with OFDMI – Central Review Group ("CRG") sent, to Jahner, preliminary inquiries, pursuant to Rule 8210, seeking information about his outside business activity, Oak Tree Property Investors ("Oak Tree"). After Jahner responded to both inquiries, CRG recommended

further review of the matter. Accordingly, in December 2011, this matter was referred to FINRA Member Regulation staff in District 2 for further investigation.

7. After reviewing Jahner's written responses and the documentary evidence that the Firm produced, Member Regulation staff determined that additional information and documents were required from Jahner because there was evidence that suggested possible misconduct involving investor funds. Some of the issues and transactions that, at the very least, merited further investigation and explanation, included the following:

- The proceeds from an April 7, 2011 investment (totaling \$9,000.00) appeared to have been deposited into Jahner's personal bank account rather than an Oak Tree account;
- Deposits totaling about \$28,500.00 into an Oak Tree account did not correspond to any of the investor documents that Jahner provided;
- There were unexplained transfers between an Oak Tree account and a Jahner personal account;
- There were transfers from an Oak Tree account to accounts for which the staff did not have bank statements;
- A public records search showed that title to certain properties purportedly purchased by Oak Tree were held by individuals (Jahner and a former colleague) rather than by Oak Tree;
- Jahner had asserted that certain investors had been repaid but the staff had no evidence to support that claim; and
- Jahner's residential address, as identified on CRD from July 2005 through December 2010, was identified as an Oak Tree property on promissory notes provided to two investors.

- Some notes appear to be issued by “Oak Tree Property Investors” while others appear to be issued by “Oak Tree Property Investors Inc.” Both “Oak Tree Property Investors” and “Oak Tree Property Investors Inc.” notes were signed by “Kevin Jahner” as the “Borrower” and as the “Guarantor.”

8. On February 7, 2012, the staff sent Jahner a request for information (“First Request”), pursuant to FINRA Rule 8210, seeking information relating to Oak Tree. Among other things, the First Request sought: (i) Oak Tree offering documents; (ii) letters of solicitation; (iii) evidence that Oak Tree actually purchased certain properties; (iv) evidence that certain of the Oak Tree issued promissory notes were secured by particular properties referenced on the notes; (v) evidence relating to the use of investor proceeds; (vi) evidence of repayment to investors; (vii) personal bank account statements; and (viii) Oak Tree bank account statements.

9. This First Request was sent by first class and certified mail to Jahner’s CRD residential address of record, located in Bakersfield, CA. Jahner’s response was due no later than February 22, 2012. Jahner did not respond to the First Request.

10. On February 27, 2012, FINRA staff sent Jahner a Second Request, pursuant to Rule 8210, seeking the same information. The Second Request was sent by first class and certified mail to Jahner’s CRD residential address of record. Jahner’s response was due no later than March 12, 2012. Jahner did not respond to the Second Request.

11. By failing to respond to the staff’s requests for information dated February 7, 2012 and February 27, 2012, Jahner violated FINRA Rules 8210 and 2010.

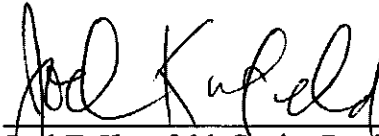
RELIEF REQUESTED

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.
- C. 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: July 27, 2012



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