

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

DEPARTMENT OF ENFORCEMENT,

Complainant,

v.

BRENT K. DEVINEY
(CRD No. 2131402),

Respondent.

Disciplinary Proceeding
No. 2012031125701

Hearing Officer – SNB

DEFAULT DECISION

June 18, 2012

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

Appearances

Michael A. Gross, Esq., Boca Raton, Florida, for the Department of Enforcement.

No appearance by or for Respondent.

DECISION

The Department of Enforcement (“Enforcement”) filed a one-cause Complaint in this disciplinary proceeding on February 24, 2012, charging Brent K. Deviney (“Respondent”) with failing to respond to requests for information and documents, and failure to appear for on-the-record testimony, thereby violating FINRA Rule 8210 and Conduct Rule 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 and Imposition of Sanctions on April 27, 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. Jurisdiction

Respondent became a registered representative with a FINRA member firm in 1991, and continued to be employed as a registered representative by member firms through January 2012. He joined FINRA member firm Newbridge Securities (the "Firm") as a registered representative in April 2006, and remained employed there until January 30, 2012, when the Firm terminated his employment.²

Although Respondent has not been registered with a member firm since January 2012, 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 while he was registered or within two years after the termination of his registration with a member firm.

II. Respondent's Default

On February 24, 2012, Enforcement served the Complaint and Notice of Complaint on Respondent by certified and first-class mail at his residential address as listed in the Central Registration Depository ("CRD address"), and by email to him at his personal email address.³ The certified mailing receipt was returned, signed by "D. Deviney." The first-class mailing was

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 include the Declaration in Support of Motion for Entry of Default Decision, signed by counsel for Enforcement, and supporting documentation that is attached to counsel's declaration. Counsel's declaration is cited herein as "Decl. ¶ ___." The supporting documentation is cited herein as "CX-___."

² CX-1; Decl. ¶¶ 5-7.

³ CX-2.

not returned. The Notice of Complaint stated that Respondent was required to answer the Complaint by March 23, 2012. Respondent did not file an answer or otherwise respond.⁴

On March 26, 2012, Enforcement served the Complaint, Notice of Complaint, and Second Notice of Complaint on Respondent by certified and first-class mail at his CRD address and by email.⁵ The certified mailing receipt was returned to Enforcement with the signature of “Brent K. Deviney.”⁶ The first-class mailing was not returned.⁷ The Second Notice of Complaint stated that Respondent was required to answer the Complaint by April 12, 2012. Respondent has not filed an answer or otherwise responded.⁸

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

III. Respondent Violated FINRA Rule 8210 and Conduct Rule 2010 by Failing to Appear for On-the-Record Testimony and Failing to Provide Documents and Information

A. Failure to Testify

In 2012, FINRA Staff (“Staff”) was investigating allegations that Respondent had converted funds and forged documents to do so. In connection with this investigation, on January 27, 2012, Staff sent a Rule 8210 request to Respondent at his CRD address requesting that he appear for on-the-record testimony on February 3, 2012. The request was sent by certified mail, FedEx, and email. The certified mailing receipt was returned, indicating that Respondent received it. The FedEx mailing was also delivered. In conversations with Staff, Respondent

⁴ Decl. ¶ 16.

⁵ *Id.* ¶ 17; CX-3.

⁶ Decl. ¶ 18; CX-3.

⁷ Decl. ¶ 19.

⁸ Decl. ¶¶ 19-20.

acknowledged that he received the request. Nonetheless, Respondent failed to appear for testimony.⁹

Accordingly, on February 3, 2012, Staff sent a second request to testify to Respondent. Staff sent the request to Respondent's CRD address by certified and first-class mail, and also by email. The certified mailing receipt was returned, indicating that Respondent received it. The first-class mailing was not returned. Again, Respondent failed to appear for testimony.¹⁰

B. Failure to Provide Information and Documents

As part of its investigation, on January 27, 2012, Staff also sent Respondent a Rule 8210 request for information and documents. Staff sent the request to Respondent's CRD address by certified mail and email. Staff requested a response by February 10, 2012. The certified mailing receipt was returned, indicating that Respondent received it. The first-class mailing was not returned. Respondent failed to respond.¹¹

The allegations of the Complaint, which are deemed admitted, are sufficient to establish, for purposes of this default decision, that Respondent failed to provide information and documents requested by FINRA staff, and failed to appear for an on-the-record interview, in violation of FINRA Rule 8210. A violation of FINRA Rule 8210 is also a violation of FINRA Conduct Rule 2010.¹²

IV. Sanctions

The FINRA Sanction Guidelines recommend a bar where a respondent fails to respond in any manner to a request for information, documents, or testimony pursuant to Rule 8210.¹³

Respondent completely failed to respond to requests for information, documents, and testimony.

⁹ Complaint ¶¶ 8-12.

¹⁰ Complaint ¶¶ 18-21.

¹¹ Complaint ¶¶ 13-17.

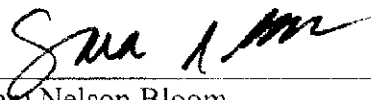
¹² *Dep't of Enforcement v. Hoeper*, No. C02000037, 2001 NASD Discip. LEXIS 37, at *5 (N.A.C. Nov. 2, 2001) (violation of NASD Procedural Rule 8210 was a violation of NASD Conduct Rule 2110).

¹³ *FINRA Sanction Guidelines* 33 (2011).

The requests were important, especially in light of the allegations under investigation - conversion and forgery. There are no mitigating factors. A bar is the appropriate sanction.

V. Conclusion

Respondent is barred from associating with any member firm in any capacity for failing to respond to requests for information, documents, and testimony, in violation of FINRA Procedural Rule 8210 and FINRA Conduct Rule 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: Brent K. Deviney (via first-class mail and overnight courier)
Michael A. Gross, Esq. (via first-class and electronic mail)
David R. Sonnenberg, Esq. (via electronic mail)

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vs.

BRENT K. DEVINEY
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Respondent.

Disciplinary Proceeding
No. 2012031125701

FEB 24 2012

COMPLAINT

The Department of Enforcement alleges:

SUMMARY

1. Brent K. Deviney failed to provide investigative testimony, documents, and information requested by FINRA staff, in violation of FINRA Rules 8210 and 2010.

RESPONDENT AND JURISDICTION

2. Deviney acquired a Series 63 license in March 1991 and a Series 6 license in May 1993. After his Series 63 license had lapsed, he reacquired the license in September 2006.

3. From February 1991 through January 2012, Deviney was associated with several FINRA members.

4. Most recently, he was associated with FINRA member Newbridge Securities Corp. On April 11, 2006, Newbridge filed a Form U4 for Deviney, commencing his association with the firm as of that date. On February 1, 2012, Newbridge filed a Form U5 for Deviney, terminating his association with it as of January 30, 2012.

5. Deviney currently is not associated with a FINRA member.

6. Although Deviney 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: (a) the Complaint was filed within two years after the effective date of termination of his registration with Newbridge, namely February 1, 2012; and (b) the Complaint charges him with failing to provide investigative testimony, documents, and information which were requested during the two-year period after the date when he ceased to be registered or associated with a member.

FACTS

The Genesis of the Investigation

7. In 2012, FINRA staff was investigating allegations that Deviney had converted funds and had forged documents to do so.

Deviney's Failure to Provide Testimony on February 3, 2012

8. On January 27, 2012, in connection with the investigation of the foregoing allegations and pursuant to FINRA Rule 8210, the staff sent a letter to Deviney, wherein the staff requested that he provide investigative testimony at the FINRA Florida District Office ("Office") on February 3, 2012 ("Request for Testimony").

9. The staff sent the Request for Testimony to Deviney at his residential address reflected in the CRD ("CRD Address"), the most current address that the staff has for him, by certified mail and Federal Express. The staff also e-mailed the Request for Testimony to Deviney at his Newbridge e-mail address.

10. The receipt for the certified mailing was returned to the Office; it appears to have been signed by Deviney. Records from Federal Express' website reflect that Federal Express left the Request for Testimony at the front door of Deviney's CRD Address on January 30th.

11. In conversations with the staff on January 31st and February 2nd, Deviney acknowledged receipt of the Request for Testimony.

12. Deviney did not appear for, or provide, testimony on February 3, 2012.

Deviney's Failure to Provide Documents and Information

13. On January 27, 2012, pursuant to FINRA Rule 8210, the staff sent another letter to Deviney, wherein the staff requested that he provide it with certain documents and information for the investigation by February 10, 2012 ("Request for Information").

14. The staff sent the Request for Information to Deviney at his CRD Address by certified mail. The staff also e-mailed the Request for Information to Deviney at his Newbridge e-mail address.

15. The receipt for the certified mailing of the Request for Information was returned to the Office; it appears to have been signed by Deviney.

16. In a January 31st conversation with the staff, Deviney said that he had received the Request for Testimony but that he had yet to receive the Request for Information. That same day, the staff e-mailed the Request for Information to Deviney at his personal e-mail address.

17. Deviney has not provided the requested documents and information or otherwise responded to the Request for Information.

Deviney's Failure to Provide Testimony on February 22, 2012

18. On February 3, 2012, in connection with the investigation and pursuant to FINRA Rule 8210, the staff sent a letter to Deviney, wherein the staff requested that he provide investigative testimony at the Office on February 22, 2012 ("Second Request for Testimony").

19. The staff sent the Second Request for Testimony to Deviney at his CRD Address by certified and first class mail. The staff also e-mailed the Second Request for Testimony to Deviney at his personal e-mail address.

20. The receipt for the certified mailing was returned to the Office; it appears to have been signed by Deviney. The United States Postal Service has not returned the first class mailing of the Second Request for Testimony to the Office.

21. Deviney did not appear for, or provide, testimony on February 22, 2012.

22. Deviney's failure to provide the requested testimony, documents, and information has materially impeded the staff's investigation.

CAUSE OF ACTION
(Failure to Provide Testimony, Documents, and Information)

23. The Department incorporates paragraphs 1 through 22 herein by reference.

24. FINRA Rule 8210 requires persons associated with a member and others subject to its jurisdiction to provide documents, information, and investigative testimony to FINRA in connection with, among other things, an investigation or examination.

25. FINRA Rule 2010 requires associated persons, in the conduct of their business, to "observe high standards of commercial honor and just and equitable principles of trade."

26. Deviney failed to provide investigative testimony on February 3, 2012 and again on February 22, 2012, as requested by the staff in accordance with, and pursuant to, FINRA Rule 8210.

27. Deviney also failed to provide the documents and information sought in the Request for Information, as requested by the staff in accordance with, and pursuant to, FINRA Rule 8210.

28. As a result of the foregoing, Deviney has 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 Deviney 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 Deviney 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: February 24, 2012

Michael A. Gross

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